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*Southern Historical Quarterly*

# THE QUARTERLY

OF THE

# TEXAS STATE HISTORICAL ASSOCIATION

VOLUME I.

JULY, 1897, TO APRIL, 1898.

*47074*  

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AUSTIN, TEXAS:  
PUBLISHED BY THE ASSOCIATION.  
1898



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# The Texas State Historical Association.

*Organized March 2, 1897.*

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1870



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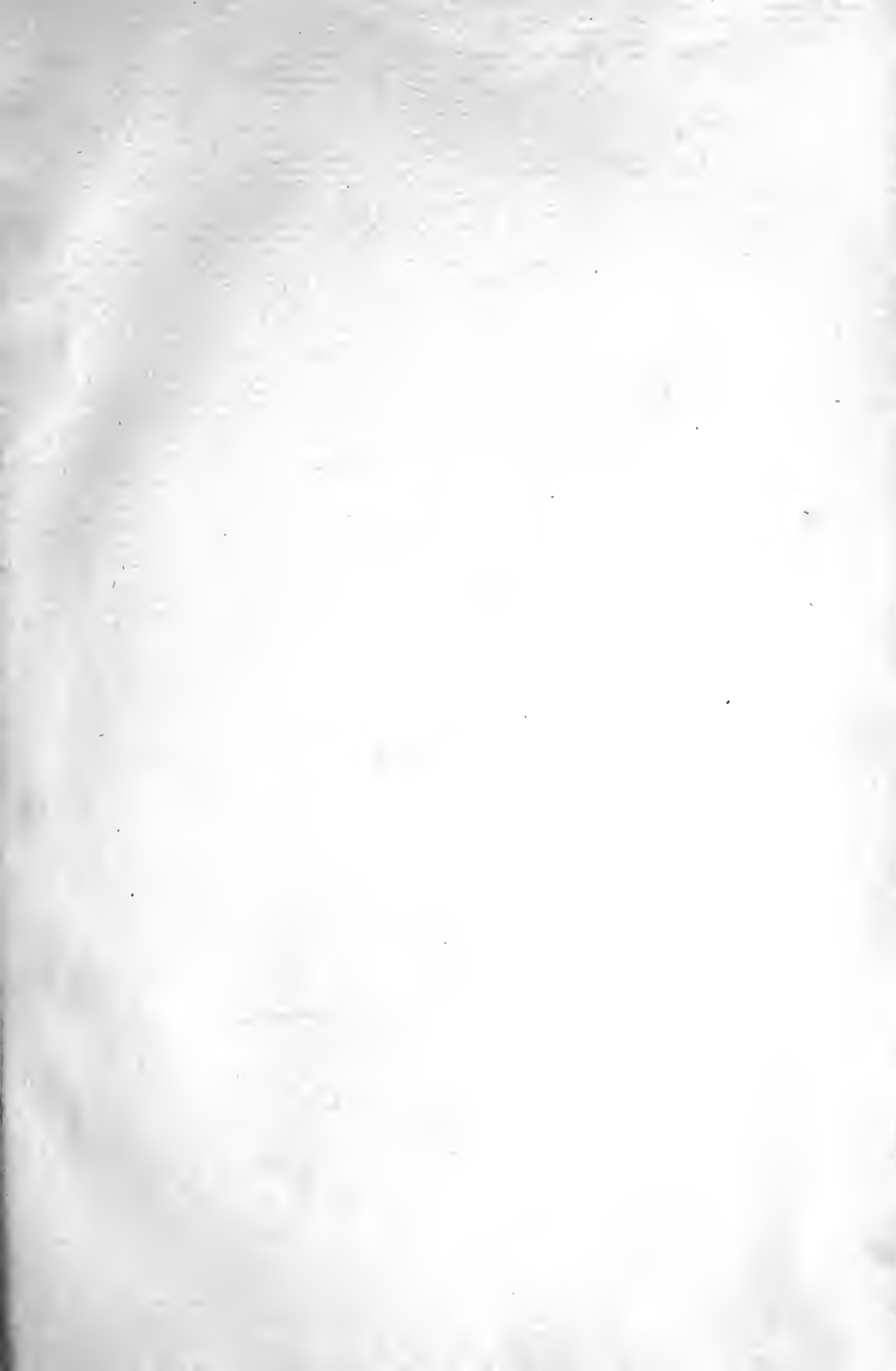
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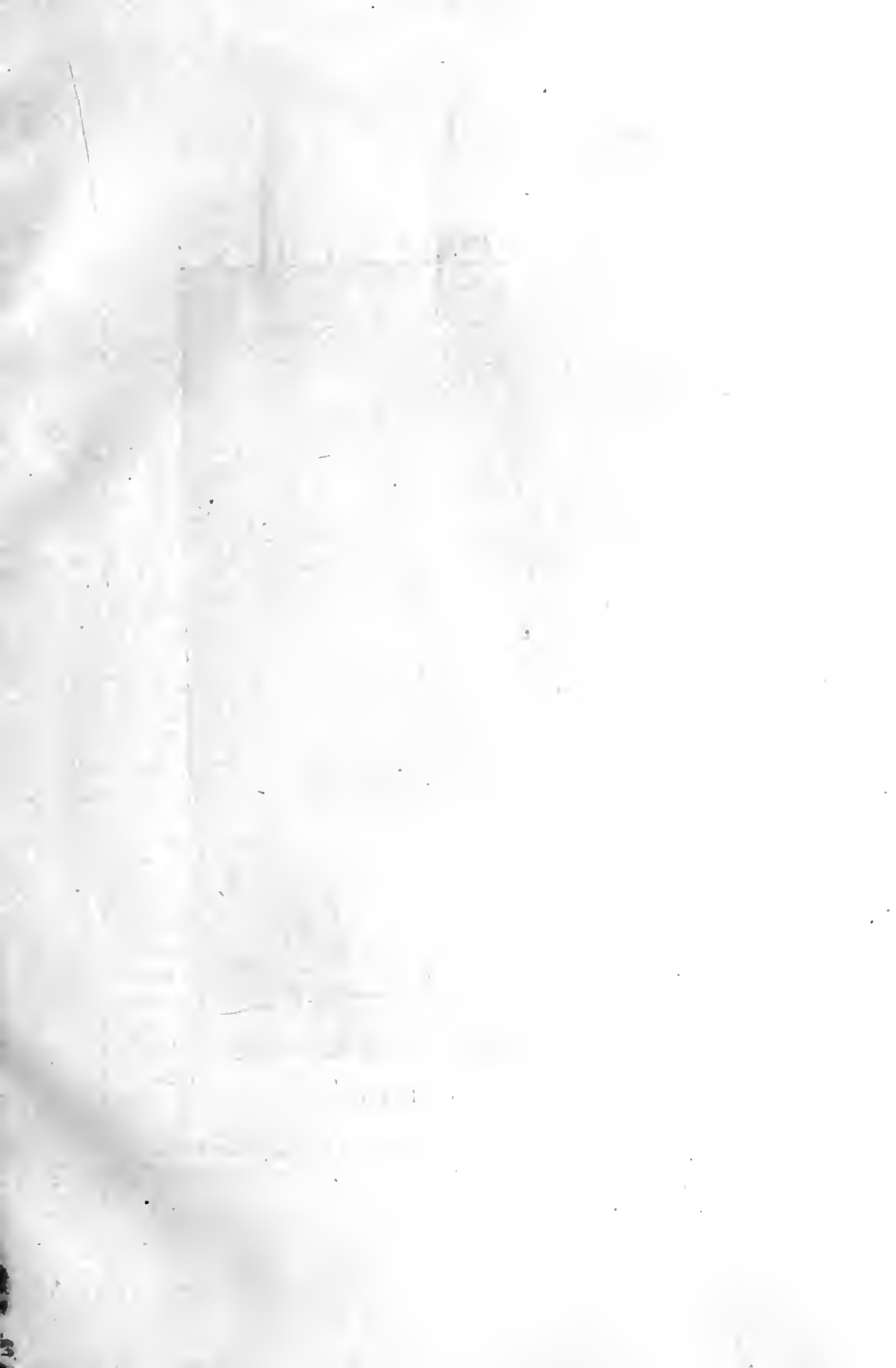
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JOHN CRITTENDEN DUVAL

# THE QUARTERLY

OF THE

## TEXAS STATE HISTORICAL ASSOCIATION.

Vol. I.

JULY, 1897.

No. 1.

### THE PROPER WORK OF THE ASSOCIATION.\*

O. M. ROBERTS.

The subject of my remarks upon this occasion is "The Uses of the Texas State Historical Association." There have been in the past two such associations instituted in the city of Austin, in which I participated, that failed to be continued in operation. It is to be hoped that this one has been organized under such circumstances as that it will be a permanent institution.

As declared in its constitution, "The objects of the Association shall be, in general, the promotion of historical studies; and, in particular, the discovery, collection, preservation, and publication of historical material, especially such as relates to Texas."

It is proper that the collection of the materials of history should not be confined exclusively to Texas, though they may be most important in forming a complete history of Texas. For being one of a number of associated States, in the same country, and under a common government, there will necessarily be subjects of a general character that will affect Texas in a way to become a part of its history, as well as those arising within its own territorial boundaries. Its objects are not so much to induce the writing of a connected and complete history as to furnish the facts for that object in the future. In a country like Texas, of a great diversity of conditions,

\* President's Address, read before the Association at its first annual meeting, June 17, 1897.

employments, and habits, it is beyond the capacity of one person to bring to view all the facts pertaining to each part of the country. Therefore, it is proper that there should be an association of persons, so situated as properly to co-operate in doing the work. Nor should their efforts be confined to literary and scientific subjects, but should embrace material developments and everything else that tends to form the habits, character, and actions of the people of every class and condition.

True history consists of a descriptive record of the people, their actions, and beliefs that prompt to action, in the whole range of human effort, during any given period and throughout a succession of periods of time up to the present. For the present is the matured product of the past, as every effect is the result of the contributory causes that produced it. One difficulty of our understanding the condition of things of the present time is the indefiniteness and generality of our information of the past, as well as of the present. For instance, we may look over our constitutions and statutory laws and inferentially learn that certain actions performed by some persons at certain times were by common sentiment deemed to be prejudicial to the good of society by the penal enactments of the time. And that other actions were performed at different times may be likewise inferentially learned by laws conferring the rights of person and property. Such information, so obtained, would be indefinite. So, too, the information about the past obtained from books of history, especially in a new country like Texas, is generally too indefinite to be entirely satisfactory; because such books for the most part give an account of the important actions of the government and of its changes, under the control of political parties, and of wars, and of institutions organized from time to time in obedience to public sentiment. Still, those accounts are usually of a very general character.

To illustrate the ideas sought here to be conveyed: We can learn from the laws and the public action of the government that a penitentiary was established in Texas at a certain time, and has since then been kept in operation. From those sources we would fail to learn what was the condition of things that created the public sentiment that caused it to be established, what have been the employment of the convicts, how they were confined and treated, and what has been its general result as a mode of punishment of crimes up



to the present time. All that would be its history as a part of the history of the country. We may learn from the laws and histories of Texas that Texas has had several state capitols, but they fail to inform us as to the reasons of its removal from one place to the other, what conveniences were afforded at each, what important events occurred in each, and especially the long struggle in the effort to keep it at Austin, together with a specific account of the steps taken for, and work performed in, the erection of the splendid granite capitol in which the State's offices are located, and the Legislature is held. This would bring to view a connected account of the subject from the early days of Texas, as a separate government, to the present time. A most abundant amount of the materials of history could be developed by an account being given in the same way, including the past reaching up to the present, of cities, towns, and counties of Texas. That of San Antonio and Bexar county would reach back into the last century, and the progress to its present large proportions would exhibit many remarkable events peculiar to itself, and numerous acts and characters of men, who have in various ways contributed to its growth and importance, who are unknown in general history, as well as those who are so known. The same in some degree may be said of Goliad and Nacogdoches, and Laredo and Ysleta. An account of Galveston, Velasco, Houston, San Augustine, Clarksville, and some other places, would reach back to an early part of this century. An account of Corpus Christi, Gonzales, Bastrop, Austin, Crockett, Palestine, Henderson, Marshall, Paris, Dallas, Sherman, and Fort Worth, would reach back within the first half of this century. Both before and after that time, numerous towns have been established, the founding and progress of which, in the regions of country in which they are situated, would furnish much material for history.

In addition to these partially local sources of historic material, there are many others, more general in their scope, that are available. Of such are waves of public sentiment that have passed over the country and moved the people to action, such as Know-Nothingism, Greenbackism, the Granger Lodges, the Alliances, the numerous fraternities, the labor unions, the spirit of combination in everything.

Whether they are permanent or ephemeral, the actions under

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them become facts of history, and leave their impress upon the people and the country.

Another prolific source is to be found in the immense growth of the objects of government, in the increase of its officers, its courts, its asylums, in its State frontier protection, its penitentiaries, its high schools of all grades, its system of new education in common schools, and in numerous other governmental affairs, whose operations and particular modes of proceedings, with their results, are but partially and generally indefinitely known now by the mass of people, an intelligible explanation of which would afford much data for history of the present.

There are existing subjects of a material and industrial character worthy of notice, such as the introduction and use of barbed wire and improved machinery, with their results upon production. The introduction and use of electricity as a power, and its probable extension and advantages. The use of water-power in machinery and irrigation; the extent of it in this State, and the manner in which it should be used when practicable, consistent with individual rights and the public good. The bicycle, its use and effects. Overflows of rivers, and the responsibility of governments to relieve the sufferers, who expose themselves to the danger of them with their persons and property. Storms, tornadoes, and cyclones, as they have prevailed in the different parts of Texas. Long drouths, with their causes and effects. Epidemics, and the quarantine in Texas. Prehistoric men and lower animals, their remains, and the evidences of their former existence in Texas. Mines and minerals, with their present development and probable extent in the future.

There are also subjects which may be considered, to some extent, speculative, that may furnish instructive studies for forming future sentiment, if properly presented. One of them is Paternalism in government, with the questions, what is it, to what extent has it entered the rule and operation of the government in Texas, to what extent can it be allowed to enter, consistently with personal liberty and the public good. Private corporations, their great increase in this State, and their effects. Life and fire insurances, and their effects. Municipal corporations, the reasons for their creation, and the extent of the powers permissible to be granted them by the state government, and the limitations of injurious action upon the citizens controlled by them. The state associations of teachers, of

the bar, and of officers, now being held annually, their origin and objects, with their results. The drummers, as a commercial institution, their origin and practice. Hypnotism, its proper and improper use. Amusements prevalent in the past and at present, with their effects on the social condition. Anecdotes, even, if properly presented and are illustrative of noble actions, important public transactions, or the characters of persons that have made themselves useful in life, may, and often do, enter into the general history of a country. Also, biographies of persons, of both men and women, in any sphere of life, whose conduct furnish a commendable example for the imitation of others, are instructive lessons in history.

Without further enumeration, it may be said that any and everything that the people do or think, that tends to form habits of life, or to build up prevailing institutions affecting society, constitute material for history, and may be properly presented to this Association as such.

It is not to be supposed, however, that this Association is designed to be made the arena of acrimonious discussions, or of personal criminations and recriminations of any kind. On the contrary, every contribution should, as is expected it will, assume a high tone of impartial philosophic exposition of every subject written and presented to it.

If this Association shall be perpetuated, with the full and efficient efforts of its members, until the materials for the past successive periods shall have been collected and brought up to the present time, then the work will be easy in bringing up to light the annual occurrences of each year as time passes. When that is accomplished, and some able historian of the future shall undertake to present to the public the complete history of Texas, it will be found that his work will fill four or five large volumes, instead of one or two volumes, as we are now accustomed to see it presented.

In conclusion, it may be remarked that as the events of the past history of the country enter into and aid in giving shape to the condition of things existing at the present time, the study of history is important in all branches of learning as a help to understand the present. Still, "the world moves," and new elements of human thought and action are being added, day by day as time passes, to

the already accumulated materials of history, which are difficult to be grasped and understood fully in their comprehensive details and significance by any one person. They constitute the proximate impulses to public and private conduct for the time, and their comprehension is of the first importance in every department of useful knowledge.

One of the greatest benefits that this Association can confer upon the country would be to cause the present state of things as they transpire to be developed intelligibly, so as to be generally understood.

## HISTORY OF TEXAS GEOGRAPHY.

Z. T. FULMORE.

The great diversity of jurisdiction exercised over the area embraced within what is now known as Texas, and the geographical changes consequent upon the many political vicissitudes through which it has passed, render the history of its political geography peculiarly interesting, though complicated, and in many respects puzzling.

It is probable that no part of the Western world has been subject to so many sovereignties, or has furnished so many bases for international contention.

All that part of its geographical history prior to 1819 is involved in an uncertainty and obscurity which has baffled the patience and genius of even so great an exploiter as Mr. H. H. Bancroft, and if we were to content ourselves with the progress he and other historians have made, and with the conclusions arrived at by them, many disconnected fragments and political coincidences would remain as idle excrescences upon the pages of our history, and among the accumulated piles of annals covering a period of over two hundred years.

As these fragments are gathered up, one by one, and classified in the order of their significance and logical relation to each other, it begins to dawn upon us that the various processes through which we have grown into our present proportions have followed each other in a somewhat orderly development, and that the time may come when it shall be possible for that interesting period of our history to be presented as a harmonious and philosophical story.

Unrequited individual effort has accomplished nearly all that has been accomplished along that line, but when we reflect upon the fact that much that is material to our history is buried among the tomes at Madrid, Mexico City, Guadalaxara, Zacatecas, San Luis Potosi, Queretaro, Saltillo, Arizpe, Chihuahua, and even in our own San Antonio, and all in a foreign language, the present generation may almost despair.

What is here contributed is intended as a pioneer effort to class-

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ify some of the most important events which go to make up our geographical history.

Prior to 1685, Spain had accumulated many evidences of a claim to title to most of what is now known as Texas, but no beneficial use or occupation having followed her various discoveries and explorations, her right was merely nominal. The discovery of America by Columbus in 1492, and the empty ceremony of a confirmation of her title to the whole of the Western continent, two years later, by Pope Alexander VI, constituted the beginning of Spain's claim. The discovery of the main land of the continent, bordering the Gulf of Mexico, and the formal assertion of Spanish dominion by Ponce de Leon in 1513, gave an additional claim to all that territory extending from the peninsula of Florida to Yucatan, named *Florida* by its discoverer. This was followed by the explorations of Pineda in 1518, Lucas Vasquez de Ayllon in 1525, and others; but the results were of no great practical importance until those under the auspices of Velasquez culminated in the conquest of Mexico by Cortez in 1521. By this conquest, Spanish occupation extended up the Gulf coast as far as the Panuco river, which became the western boundary of "Florida." Panfilo de Narvaez had been sent to Mexico to supplant Cortez before the final consummation of the conquest, but was defeated by Cortez, and, returning to Cuba, and afterward to Spain, he secured from Charles V a concession of "Florida" in 1526. In 1528, well equipped for the purpose, he landed at Tampa Bay and undertook an expedition which ended in disaster. The same concession was made to Ferdinand de Soto in 1537, and he was provided with the means for exploration and conquest. His expedition, though more successful than that of de Narvaez, also ended in disaster. A small remnant of de Narvaez's men, headed by Cabeza de Vaca, having escaped the perils of the sea, were stranded on the coast of what is now Texas, and, making efforts to reach Mexico, traversed a part of what is now Western Texas, while De Soto's expedition, after his death, traversed a small portion of what is now the extreme northeastern portion of Texas. In 1540, Coronado, in his expedition, touched the extreme western limit of Texas, and other explorers from time to time traversed the western limits of the country, but no effort was made towards a permanent occupation before 1690.

The descent of La Salle down the Mississippi river and his formal

assertion of French dominion in 1682, and the permanent occupation and use which followed after 1699, severed the claim of Spain to what was then called Florida. With this, perhaps the most important event in the history of the geography of the American continent, properly begins the history of the geography of Texas. Two hundred years had now elapsed since the discovery of Columbus. The splendid empire over which Charles V. and Philip II. had reigned had now dwindled into a second-rate monarchy, and the pretentious claims of Spain in the western world had been curtailed by certain international laws to whose operations she had been subjected by the nations of Europe. Her claims had been gradually pushed down to the southern border of the continent, and France now stood an impassable barrier between her possessions east and west of the Mississippi river. Florida had now lost its identity west of the Mississippi, and held a most slender tenure north of the 31st parallel and west of the Perdido river.

In parcelling out the American continent among the nations of Europe, two international laws had come to be regarded as binding: One provided that occupancy of the continent at the mouth of a river emptying into the sea entitled the occupant to all country drained by that river; the other provided that when two nations made discoveries on the same coast, the middle distance between them became the boundary. Under the former, France acquired her title to all the Mississippi river watershed, a title disputed later in other regions, and by virtue of other claims, the merits of which are immaterial to our subject.

La Salle named the country discovered, Louisiana. The French colony located there grew and prospered to such a degree that Antoine Crozat, the merchant prince of his day, sought and obtained the privilege of its exclusive commerce in 1714, and engaged St. Denis in furthering the enterprise. The establishment of a trade with Mexico enlisted the energies of St. Denis, and he soon began to project plans for a commercial connection with the inhabitants of that distant region. His first step was the establishment of a trading post at Natchitoches, on Red river. From that point he had surveyed and marked out a highway from Natchitoches to the Rio Grande, conspicuous in the subsequent history of the country as the "old San Antonio road." He visited the authorities of Mexico on the Rio Grande, and his negotiations finally resulted in the

policy, on the part of Spain, of taking possession of what had, then, become known as Texas.

The establishment of missions, presidios and settlements was then undertaken on a scale sufficient to insure Spanish dominion over the entire territory of Texas.

In the establishment of these settlements, due regard was had to the rights of France to Louisiana, by fixing the most easterly Spanish settlement at Adaes, about twenty miles west of the most westerly French settlement at Natchitoches. As that settlement was on the east bank of the Red river, the Spanish authorities located Adaes near the junction of several small streams which united and formed a tributary of Red river, and thus laid the foundation for a claim to all the Red river watershed on the west and south, and subsequently asserted their claim to the main stream of that river.

Shortly after these occurrences, a war broke out between the two nations, and French troops took advantage of the opportunity to invade Texas and drive the Spaniards west of Trinity river. The latter soon re-established their settlements, strengthening that at Adaes so as to be prepared for any further encroachments by the French. A peace was shortly afterwards declared, but the French declined to entirely give up the territory, and insisted upon having the Rio Grande as the western boundary of their claim, basing their right upon the discovery and attempted settlement on Matagorda bay by La Salle in 1685. Since the conquest of Cortez in 1521, Spain's dominion on the coast had not extended farther north than the Panuco river, and the French contended that as the Rio Grande was the middle distance between that river and Matagorda bay, the boundary of France properly extended to that river. No serious effort, however, was made to maintain that claim. Matters remained in *statu quo* between Natchitoches and Adaes until 1735, when the French moved their settlement from the east to the west side of Red river, several miles nearer Adacs. This action met with little opposition beyond a protest from the Spanish commandant at Adaes.

The opposing claims stood thus, each nation successfully resisting the further advance of the other, until 1762, when Louisiana was ceded to Spain by France. As this cession mentioned nothing as to the boundary between Louisiana and Texas, it remained unsettled until 1819. In 1800, Louisiana was retroceded to France,



just as France had ceded it to Spain, and in 1803 France sold it to the United States, with no specification as to the western boundary, thus devolving the responsibility of a final adjustment upon the United States and Spain.

After thus quieting all attempts at French invasion on the east, Spain realized the necessity of extending actual dominion over all the territory claimed by her, and especially over that unoccupied part of her territory exposed to the Gulf of Mexico. There was a scope of country north of the Panuco river, bounded by the provinces of Nuevo Leon on the west, Coahuila on the north and north-west, and Texas on the northeast, which had remained in possession of the native tribes of Indians ever since the conquest. The measures adopted for bringing that region under the jurisdiction of Spain finally culminated in the establishment of the province of Nuevo Santander, now the State of Tamaulipas, and in definitely fixing the western boundary of Texas.

No definite boundaries had been fixed to any of the provinces named contiguous to this vast country, for the reason that their colonial development had not required it, but the area extending 100 leagues north and 50 leagues west, extending from the Panuco river to the Rio Grande, was regarded generally as the limits of the new territory to be brought under the civil jurisdiction of Spain; in other words, the Rio Grande was regarded as the southwestern limit of the province of Texas, when the work of subjugating and civilizing this area was entrusted to Escandon.

In 1746 he subjugated most of the savage tribes inhabiting this region, and in 1748 was entrusted to complete the work and bring the region under the complete dominion of Spain. He proceeded with his forces as far east as the Rio Grande, and established missions and settlements. The Governor of Texas at that time was making Adaes his capital, under orders from the viceroy, in order that he might watch the movements of the French, and be in a position to guard the eastern boundary of the province against encroachment. Escandon dispatched a part of his forces in the early part of 1749 across the Rio Grande, and they proceeded as far east as the Rio Guadalupe, where they found the old mission, La Bahia del Espiritu Santo, virtually abandoned, and took charge of it. In going thus far, they exceeded the limit of the territory originally contemplated in the commission to Escandon—instead of stopping

when he had traversed the distance of 100 leagues, his forces went 185 leagues. When this was ascertained, he was ordered by the solicitor general of New Spain to move back to the San Antonio river. The doors, bells, and other movable appurtenances to the mission were taken down and carried to Santa Doretea (now Goliad), and the mission and presidio established there, and the San Antonio river was for a time regarded by the authorities of Nuevo Santander as the eastern boundary of that province.

Affairs were in this shape when the Governor of Texas resumed his residence at San Antonio, soon after the cession of Louisiana to Spain, and after all causes for French encroachment on the east had been removed. In the interim between 1750 and 1764, the authorities of Nuevo Santander issued titles to land as far east as the San Antonio river, and exercised jurisdiction in other ways. This brought about a conflict between the respective provinces. The territory of Coahuila and Nuevo Leon had also been encroached upon by the authorities of Nuevo Santander. To settle disputes as to the extent of the boundaries of Santander, and determine its jurisdiction over such territory as was contiguous to these provinces, and to protect the vested rights acquired within the disputed boundaries, the complaints of the Governors were laid before the proper authorities at Mexico City and Madrid. All disputed matters were adjusted by decrees, which were formulated into a royal cedula. To this cedula was attached a map designating the boundaries. It was filed among the archives in 1805, and photographic copies of this map have been used in judicial proceedings in the courts of Texas affecting titles to lands situated in the disputed territory. By this map, the western boundary of Texas began at the mouth of the Rio Nueces, thence up that river to its junction with Moros creek, thence in a northeasterly direction to near the Garza crossing of the Medina river, thence up that river to its source, thence in a direct line to the source of the San Saba river; thence northwesterly to the intersection of the 103d meridian of west longitude and the 32d parallel of north latitude, thence northeasterly to the intersection of Red river by the 100th meridian, thence down said river. The first call from the source of the Medina is northeasterly, but the source of the San Saba is the point aimed at. A previous map of Humboldt, compiled from an official map in use at Mexico, and used in the debate over the compromise measures pending before

the United States Congress in 1850, corresponded in many respects with this. The parallels and meridians of Humboldt's map were more than 170 miles from their true location, as since ascertained, but, taking the natural objects called for, they corresponded in most essentials, as far as the lines went, with the royal map of 1805.\*

Such were the western boundaries of Texas in 1803, when the dispute as to the eastern boundary of Texas was again taken up by the United States and Spain.

The sale of Louisiana was bitterly opposed by Spain, and formal delivery of possession of the territory had not been made when Napoleon sold it to the United States, and only twenty days elapsed between the delivery by Spain to France and the delivery by France to the United States.

Spanish forces were reluctantly withdrawn from New Orleans and transferred to the western border of Louisiana. Much diplomatic correspondence ensued touching the boundaries, but no practical results followed until late in 1806, when the United States mobilized troops west of Red river. To counteract this, Spanish troops were mobilized east of the Sabine, when, on the 5th of November, 1806, the two armies confronted each other. An armed conflict seemed imminent, when an armistice was agreed upon, by which hostilities were to cease until such time as the two nations should otherwise settle the question of boundary. It was agreed between the respective commanders that a strip of country, since famous as the "Neutral Ground," should not be encroached upon by either nation. The eastern limit of this neutral ground was a line equidistant between Adaes and the Arroyo Hondo, and the western limit the Sabine. Northern and southern limits were not fixed. The matter of the eastern boundary remained in this state for about thirteen years. Spain conceded nothing beyond what she had virtually conceded to France seventy years previously. In the

\*1. Prieto's *History of Tamaulipas* contains the map compiled by Escandon and deposited with his official report among the archives at Mexico in 1755.

2. The royal map of 1805 seems to be confined to natural objects, leaving the matter of meridians and parallels for further determination.

3. To Col. B. Coopwood, Laredo, Texas, I am indebted for the sources of much of the information concerning the western boundary of Texas.

meantime, the United States ignored Spain's claim to the main stream of Red river. Louisiana was admitted as a State in 1812. Civil jurisdiction was extended west of Red river below the neutral ground whenever the necessities of her increasing population demanded it. Arkansas Territory was cut off, and Indian Territory set aside as a reservation for the Cherokees and other Indians. Indian Territory embraced the Red river watershed west of Arkansas on the south, as well as north of Red river.

Spain had always claimed to the main stream of Red river, and had assigned the territory to Texas and New Mexico. On the other hand, Mr. Jefferson and his advisers and their successors claimed the Red river watershed on the south as well as north. Nacogdoches was the most northerly settlement in Texas, and Captain Pike's chart had located it about eighty miles south of the 32d parallel, and thus, with the aid received from Humboldt's map, fixed in his mind this parallel as a proper division line between Spain and the United States south of Red river. Before the ratification of the treaty of 1819, Cherokee Indians began to occupy Indian Territory, the treaty having been made with them in 1817, so that when the country was wrested from Spain by Mexico they had begun to occupy the country on both sides of the river. Finding themselves cut off by the treaty ratified in 1821 by Spain and in 1822 by Mexico, they applied to the latter for proprietary rights to the country north of the 32d parallel, south of Red river; but failing in this, they obtained a permissive occupancy. In the Fredonian war in 1826, this was agreed upon as a line between them and Edwards' colonists. In 1835, a treaty was made with them, recognizing their rights to the sovereignty of the soil; but, being provisional, it was repudiated by the Republic of Texas, which, though refusing to recognize them as constituents of the sovereignty, continued their permissive occupancy until their alliances with the enemies of the Republic of Texas forfeited that right, and they were driven from Texas.

By the treaty of 1819 (ratified by Spain in 1821, and by Mexico in 1822), boundary disputes between Spain and the United States were finally adjusted. By that treaty, the boundaries between the two nations were fixed as follows: Beginning at the mouth of the Sabine river, thence up its west bank to the point where it is crossed by the 32d parallel of north latitude; thence north to Red river;

thence up that stream to where it is intersected by the 100th meridian of longitude west from Greenwich; thence due north to the Arkansas river; thence up that river to its source; thence north to the 42d parallel of north latitude; thence west to the Pacific Ocean. This took from Spain all territory east of the Sabine, below the 32d parallel, and added it to Louisiana, while it took from the United States the whole of the Red river watershed on the south from Louisiana and Arkansas to the 100th meridian, and the whole of the Mississippi river watershed west of that meridian, south of the Arkansas river. Florida was purchased by the treaty, so that it was tantamount to an even exchange of territory. The feeble claim which the United States asserted to the Rio Grande was formally abandoned.

The United States had a valid claim to the Mississippi river watershed, extending to the Rocky Mountains, but De Onis, the Spanish minister who negotiated for Spain, by representing to Mr. Adams that the source of Red river was only a few leagues from Santa Fe, and that such proximity of the two nations might endanger their peace, and that the intermediate country was so impregnated with nitre as not to be susceptible of habitation, and, therefore, valueless, induced Mr. Adams to stop at the 100th meridian.

These were the limits to Texas when the country was wrested from Spain by Mexico in 1821, and the limits as recognized by Mexico in 1822.

Mexico having become a Republic, and adopted a constitution in 1824, consolidated the territory of Texas with that of Coahuila, and organized the two into one State, known as the State of Coahuila and Texas, with no change in boundaries while it remained under the sovereignty of Mexico.

Liberal colonization laws, a homestead exemption of 4428 acres of land to heads of families, and one-fourth that quantity to single persons, protection against debts contracted prior to removal to Texas, freedom from taxation for ten years, and many other inducements, soon brought an influx of Anglo-American population. After a prosperous growth of ten years, events began to transpire which had their culmination in the separation of Texas from Mexico, and its erection into an independent Republic in 1836.

The Congress of the Republic of Texas, on the 19th of December, 1836, fixed the western boundary at the Rio Grande, from its

mouth to its source, and from its source to the 42d parallel of north latitude.

The only area within this limit adversely occupied was the inhabited portion of New Mexico east of the Rio Grande, known as Santa Fe. With a view to establishing peaceful relations with that part of the country, President Lamar had fitted out an expedition in 1841. Upon their arrival in New Mexico, they were treated as public enemies, made prisoners, and sent to Mexican prisons.

During the next year, Mexico made two efforts to regain a portion of Texas, one in the spring, another in the fall of the year; but both were driven back across the Rio Grande. Nothing further had been done in the way of exercising jurisdiction over any unoccupied territory when the subject of annexation to the United States began to be agitated in both countries. Annexation was consummated in 1845 by Texas merging herself into the United States as a State. There were certain stipulations of the terms known as Articles of Annexation. One of them devolved upon the United States the responsibility of settling boundary disputes with other nations; another provided for the erection of four additional States out of her territory when the State desired; and another provided that the line of 36 degrees 30 minutes should be respected as to slavery.

At the time of the adoption of these articles of annexation, the only nation disputing the boundaries of Texas was Mexico, and that dispute was not as to any western boundary, but was as to the right of Texas to establish a boundary at the Sabine, Mexico still refusing to recognize her right as an independent nation to fix any boundary. Annexation was fully consummated in February, 1846, and the United States began to move her troops from the outposts of Louisiana to the western borders of Texas. This was regarded as a *casus belli*, and the troops of the United States were attacked by those of Mexico. War followed, and, after it, in 1848, came the treaty of Guadalupe Hidalgo. By this treaty, the boundary line between the two Republics began "in the Gulf of Mexico three leagues from land, opposite the mouth of the Rio Grande; \* \* \* thence up the middle of the river \* \* \* to the point where it strikes the boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico until it intersects

the first branch of the River Gila; \* \* \* thence down the middle of said branch and of said river until it empties into the Colorado; thence across the Colorado, following the division line between Upper and Lower California, to the Pacific Ocean."

The *southern* and *western* limits of New Mexico, mentioned in this article, are those laid down in the map entitled "Map of the United Mexican States, \* \* \* Published at New York in 1847 by J. Disturnel."

This treaty settled the only dispute as to boundaries which had previously existed between Texas and Mexico, but boundary troubles did not cease with this. The United States now raised the question of a boundary between Texas and New Mexico, the claim of Texas to all that portion of the States of Tamaulipas and Coahuila, east of the Rio Grande, being conceded. The title to Santa Fe was denied, and the matter furnished the basis for a long debate in both houses of the United States Congress. Senator Rusk's contention was that the old maps proved nothing, and afforded little or no light upon the subject, and took the position that the claim of Texas to the Rio Grande had its origin in the revolution of Texas, citing numerous official acts on the part of Mexico, beginning with the capitulation of General Cos at San Antonio in December, 1835, and ending with the address of the Mexican peace commissioners to the people of Mexico in 1848. Mr. Volney E. Howard, in the lower house of Congress, went more fully into the details of the errors of old maps, exposing most of them, and resting his claim mainly upon a proper construction of the Articles of Annexation, one of his strongest points being that as the United States, in one of the articles, had expressly recognized the right of Texas to territory north of 36 degrees 30 minutes, beyond and outside of any limit which either Spain or Mexico had ever assigned to Texas, the right of Texas to it differed in no wise from her right to Santa Fe, and both having been acquired by the same acts, one could not be recognized without the other; in other words, the language of the article included Santa Fe. The debate became sectional, and the views of the partisans culminated in the compromise act of November 25, 1850, by which Texas, in consideration of \$10,000,000, gave up all territory north of 36 degrees 30 minutes, and all west of the 103d meridian of west longitude as far south as the 32d parallel of north latitude. The area thus parted

with embraced more than 100,000 square miles, now included in New Mexico, Colorado, Wyoming, Kansas, and Oklahoma.

There was yet another adjustment to be made. The treaty of 1819 described the 100th meridian "as laid down on Melish's map." This meridian was more than 100 miles east of the true 100th meridian. In the act of December 19, 1836, the Republic of Texas made her eastern boundaries coterminous with the western boundary of the United States, as fixed by the treaty of 1819. The area between the true 100th meridian and the 100th meridian according to Melish's map, extended from Red river north to the parallel of 36 degrees 30 minutes, and was more than 100 miles in width, embracing an area of about 16,000 square miles. According to strict construction of the treaty of 1819, this strip belonged to Texas. It was held by the Supreme Court of the United States, however, that Texas was estopped from claiming this strip, for the following reasons:

1. Because, by the compromise act of 1850, wherein she ceded all territory north of 36 degrees 30 minutes and west of the 100th meridian, it meant the true meridian and not the Melish meridian.
2. In the creation of the counties of Lipscomb, Hemphill, and Wheeler, the true 100th meridian was made their eastern boundary.
3. The ascertainment of the true 100th meridian had been acquired in, recognized and treated as the true boundary by various acts of Texas, and that both governments had treated that as the proper boundary in the disposition they made of the territory involved, through a long series of years.

This view being virtually conceded as to all the strip, except 3840 square miles east of the true 100th meridian, and between the forks of Red river, the question for solution was, as contended by the United States, whether the line following the course of Red river eastward to the 100th meridian met the 100th meridian at the point where it intersected the lower fork of Red river, or whether it intended the upper fork, as contended by Texas. At the former place, the United States had erected a monument to indicate the intersection of Red river by said meridian, in 1857. On the same meridian, where it met the 36 degrees 30 minutes parallel, another monument was erected. In other words, which was the main stream of Red river? If the north fork, then the area was in Texas; if the south fork, it was outside of Texas.



This question was submitted to the Supreme Court of the United States, and by that tribunal was held as belonging to the United States.

Thus, it will be seen that Texas lost the territory which was regarded as belonging to her up to 1749, by the unauthorized expedition of Escandon east of the Rio Grande; lost all that portion of her territory east of the Sabine below the 32d parallel, and gained the Red river watershed on the south as far west as the 100th meridian, by the treaty of 1819; regained the country east of the Rio Grande which she lost in 1749, and acquired all of Coahuila and New Mexico, east of the Rio Grande, in 1836; compromised her claim to more than 100,000 square miles of territory, in 1850; and, by failing at the proper time to assert her claim, lost about 16,000 square miles between Red river and the parallel of 36 degrees 30 minutes between the 100th meridian and the line specified in the treaty of 1819, and formally claimed by the act of her Congress in December, 1836. As a province, her territory on the east and west was curtailed, and her northern boundary enlarged. As a separate political entity, she was merged into a State of Mexico, and virtually lost her political identity; marked her limits by the sword in 1836, and in 1850 sold about one-fourth of her domain to the United States, and by want of due diligence has conferred a prescriptive title to the 16,000 square miles upon the United States.

These are the main steps by which she has adjusted her outward form and assumed her present proportions. The processes by which her political subdivisions have developed towards fixity are somewhat less interesting, though peculiar, and, in their initial steps, different from those of any State of the American Union.

To get even a superficial comprehension of these, some knowledge of the political structure of the several sovereignties under which she has maintained her identity is necessary.

Exclusive of the ecclesiastical and military establishments, the civilized population of the country was not sufficient to require any sort of civil establishment until after San Antonio had been settled. About the year 1715, the municipality of Bexar was created to meet the needs of that settlement. Under the then status of population it was unnecessary, as well as impracticable, to assign any definite limits to that municipality. The functions of the officers of the municipality were judicial and executive only. Unlike the British-

American system, the citizen had no voice whatever in shaping the political policies of the country, even in the smallest details of local polity. In Florida, California, and other States where beginnings were Spanish, as well as in Texas, whatever local civil government existed, existed under the form of the municipality. When Florida passed under the sovereignty of the United States, the municipality lost its identity. Mexico adopted a constitution in 1824, and made a subdivision intended to be political, and called it the Department, but, except in Texas, colonial development was not sufficiently advanced to afford a test of its merits as a part of the machinery of republican government.

Texas began her existence as a separate province of Spain in 1727, and in the long interval that elapsed between that date and 1824 only two additional municipalities came into permanent existence—La Bahia and Nacogdoches.

Under the Constitution of 1824, the municipality was retained, with no radical changes of function, and, colonial development in Texas being rapid, the number of municipalities was increased, so that, at the meeting of the Consultation in 1835, the number was eighteen, and, to meet the needs of the settlements, five new ones were created, so that, at the date of the formation of the Constitution of the Republic, there were twenty-three.

Texas was annexed to Coahuila, and jointly they became the State of Coahuila and Texas, and the latter was constituted the Department of Bexar. Each department was to have an executive officer, called Political Chief. While he was doubtless intended to be an executive officer simply, the Constitution of Coahuila and Texas clothed him with many judicial powers. Each department was also entitled to a representative in the State Congress of Coahuila and Texas. This representative was chosen by a departmental electoral college, which had been previously elected by a college of ayuntamientos, elected by the direct votes of such suffragans as, under the rigid suffrage laws of the State, were entitled to the elective franchise. The ratio of representation in the Federal Congress was one to every 40,000 of population; and in the State Congress, one to every 7500. The inhabited area of Texas at that time extended from San Antonio in the west to Nacogdoches in the east, and to Red river in the northeast, and inland from the Gulf as far as the falls of the Brazos. The great diversity of interests implied

by this extent of area was intensified by the incongruity of the population inhabiting it. It goes without saying that this sort of political structure was wholly unsuited to the development of a truly republican system of government, and wholly out of harmony with the ideas of the Anglo-American republicans, who now began to realize the need of some efficient system of local government. To partially meet this want, the territory of Texas was about equally divided into two departments, Bexar and Nacogdoches, in 1831. With the exception of a small settlement around Nacogdoches, this virtually separated the Anglo-American and native Mexican population, and in 1834 a new department was created, mostly from the Department of Nacogdoches, and called the Department of Brazos. This was exclusively under the control of Anglo-Americans, and for the first time in the country's history an Anglo-American Political Chief was appointed. With the rapid increase in population came the greater necessity for a more efficient system of local government. This led the people, in 1832, to a concert of action to secure it. This resulted in an assembly constituted by representatives from the municipalities, so that each center of population might have a voice in formulating some political policy for the country. There was another meeting of the same sort in 1833.

The main object of these meetings was to secure separate statehood for Texas. This was refused. During the two years following, the President of Mexico assumed dictatorial powers, and the emergency for separate political action arose. The people again assembled in 1835, and by representatives from all the eighteen municipalities adopted a plan of government, inviting five other centers of population to participate, which they constituted municipalities. This assembly was known as the Consultation of 1835. Texas was constituted a separate State; the Political Chiefs of Nacogdoches and Bexar were ordered to cease their functions, and the Political Chief of the Department of Brazos was transformed into the Governor of Texas. This ended the department as a part of the political machinery of Texas, and the municipality took its place *eo instanti*, as the political unit. The only remnant of Mexican structure under this plan was the executive council selected to aid the Governor, which soon showed its want of adaptation to needs of representative government. The powers of this assembly being limited, a convention composed of representatives from all the mu-

municipalities, and clothed with plenary powers, was called to meet March 1, 1836. This convention promptly convened on that day, and, on the next, declared Texas independent, and framed the Constitution for the new Republic. That Constitution provided for dividing the territory into counties, to be not less than 900 square miles in area; a provisional government was organized; the Constitution submitted to and adopted by the people in September following. In October, the first Congress of the Republic of Texas assembled, and, instead of formally dividing the Republic into counties, recognized the existing municipalities as such, defined and adjusted their boundaries, subdivided them, and created new ones as circumstances required it, and provided such machinery as was requisite to an efficient system of local republican government. The ayuntamiento, the alcalde, and other relics of Spanish monarchy, gave way to the county court, the justice of the peace, the sheriff, and other insignia of a truly representative government. From 1836 to 1897, the process of subdivision has gone steadily on, until, from the twenty-three municipalities, with a vote of 4322, we have grown into 244 counties, 224 of which are organized, having a vote of 540,000, and in the peaceful enjoyment of all the blessings which a truly republican form of government vouchsafes.

What the future geography of our State will be, it is not the province of this paper to discuss. The basis for that article of annexation which provided for the erection of her territory into five States has long since ceased to exist, and the article itself stands upon the pages of our history as a mere relic, into which no magic of political ambition can ever infuse life; the memories of the Alamo, Goliad, and San Jacinto, are every year taking deeper hold in the minds and hearts of the people; her 750,000 school children march each year more proudly to the music of the battle songs of '36; the orator, poet, and historian are every year embalming the glories of the struggle which gave birth to the young empire. United from Sabine Pass to El Paso, and from Texarkana to Brownsville, by hands of steel, common and equal partners in an indivisible heritage of a university and other higher institutions of learning, in a common school endowment of \$12,000,000, and a landed endowment equal in area to the State of Indiana, all cementing her citizenship into one common policy, our unity becomes more compact as the years roll by.

Her political subdivisions, however, will continue. Areas which produced 350,628 bales of cotton in 1870, and 3,154,000 in 1894, 6,000,000 bushels of corn in 1850, and 107,000,000 in 1895; which had only 571 miles of railway in 1870, and 9500 in 1895, and have made giant strides in all those things that contribute to human happiness and human greatness, will allow no pent-up Utica to circumscribe their powers, but will continue to burst their bands and readjust themselves to the constant demands of new conditions as long as civilization shall endure.

## TRIBAL SOCIETY AMONG TEXAS INDIANS.

M. M. KENNEY.

When we seek to know the early stages of human society, we derive aid in the Old World from the light of written history, which discloses with more or less clearness the conditions existing in the past for some thousands of years, supplemented by a twilight of old tradition.

In the New World, however, the light of written history closes in sudden darkness only four centuries back, and is but feebly supplemented by obscure tradition of short duration. As to the peculiar race of men who inhabited these regions before that time, we are thrown upon the resources of natural history. The fragments of flint weapons and rude pottery which are here found buried in the soil, sometimes in deep strata, inform us that these continents were inhabited by savage people in very great antiquity. The mounds and traces of fortifications widely dispersed, and the so-called ruined cities of Mexico, Central America, and Peru, inform us that the builders were tribes, and that from time to time partial civilizations arose among them and progressed to the point of erecting great public structures and executing rudimentary works of art, and lapsed again into barbarism and savagery, as it has done in the Old World within recorded time.

But there is another trace, which we may say has been recently discovered, and which is both more ancient and more distinct than any mounds or ruins. The great advance in recent years in the science of Comparative Philology, or the science of language, has opened to us "vistas into the past hitherto undreamed of," and affords a record of great antiquity of many barbarous, unlettered tribes and nations. We are thus enabled to trace migrations which occurred long before the dawn of history, even in the Old World. In the western hemisphere we are enabled, by comparing the languages of the aborigines, to locate the grand divisions of the race in times much earlier than our histories of discovery disclose, or their traditions indicate, and to trace some of their wanderings long forgotten among them.

The region of North America which the fortunes of war and political council have now defined as the State of Texas was in the early years of this century inhabited by about thirty tribes of Indians. Twelve tribes of these spoke dialects of the Caddo language, which is an offshoot of the Pawnee stock, including the tribes of the Ricaree and Mandan far up the Missouri river, and farther north. The intervening region, more than a thousand miles in extent, was peopled by tribes alien in speech and unconnected with either. At what time the parent stocks parted company is unknown. But as their languages had diverged so much as to be not readily understood by each other, we know that the time had already been considerable when these tribes were first discovered.

The twelve tribes of the Caddo stock were the Caddos, Adaes, Bedaes, Keechies, Nacogdoches, Ionies, Anadarkos, Wacos, Tawakanees, Towash, and Texas. All inhabiting east of the Brazos, from about a hundred miles from the coast, northward nearly to the Arkansas river. Of course, there was no distinct boundary. The Indian tribes knew nothing of a country. They believed that they had a right to the land the same as to the air and water throughout the universe as known to them. The tribes above named hunted across the country as far west as the San Antonio river; but their permanent villages and habitual ranges were within the vague limits described. They had a tradition that they had formerly been confederated together, forming one nation; but whether they were at that time one tribe, from which smaller ones broke off, as bees swarm from the parent hive, is unknown. They were more advanced toward civilization than other tribes north of Mexico, and afford the best examples of tribal government and society.

Of the thirty tribes alluded to as forming our aboriginal population, two obscure tribes, the Conshatta and Alibama, occupied villages on the Neches and Trinity rivers not far from Nacogdoches, where they still remain. They also are offshoots far removed from their parent stock, the Muscogee of Georgia and Florida, with many intervening alien tribes. The Lipans ranged from the Rio Grande to the Brazos, along the foot of the mountains. They were an Apache tribe, and their speech a dialect of the Athabascan language, prevailing in the far north, from Hudson bay nearly to the Pacific ocean. They also must have broken off from the parent stock in ancient times.

The Comanches, more numerous and powerful than all other tribes combined, roamed the great plains, from Oregon southeastward nearly to the Gulf of Mexico. Their language is a dialect of the Shoshone, spoken by the Bannocks of Montana and the Piutes of Southern California. They were ferocious savages, but their tribe was particularly well organized.

Three tribes of the thirty spoke, each, a language peculiar to itself, in which no connection can be traced with any other tongue. The first and worst of these was the Carankawa, inhabiting along the coast from Galveston westward—a tribe of cannibals, noted for their gigantic stature and hideous aspect. All of them were over six feet in height, and each man carried a bow as long as himself, from which they shot arrows with great force and precision. Their language was an almost inarticulate guttural, impossible of imitation, and the lowest form of human speech.

The second of the three tribes, unconnected with any other stock by affinity of speech, was the Tonkaway, ranging from the Brazos to the Nueces, and from near the coast to the mountains. They were friendly with the white people, and often joined in expeditions against the Comanches, with whom they were always at war. They were in alliance with the Lipans, though there was no affinity of speech between them.

The other solitary tribe was the Kioways, roaming the great plains with the Comanches, with whom they were in alliance, though there was no resemblance between their savage tongues. The rest of the thirty tribes were small and obscure; many of them perished before any vocabulary of their languages was secured.

The first mention in history of any of our tribes is in 1530, when a Spanish officer reports capturing, near the Rio Grande, one of the Texas nation, whom he made his servant.

About 1536, Cabeza de Vaca, with several companions, members of a Spanish expedition which was shipwrecked on the coast, spent six years among the aborigines in Texas. De Vaca has left a narrative of their somewhat severe experience. He names several tribes, none of which we are able to recognize. His description of the country, however, and some incidents, indicate some of the same tribes we know; one of these is mention of the extemporaneous fortification, which we know as the rifle-pit, used by the Tawakanas, which I supposed was a modern invention of that tribe, who



alone used that defense against the white people in our time, but which, it is plain from the old narrative, was understood and used by a tribe in Texas more than three centuries before. His description of the Indians on the coast also tallies with our knowledge of the Carankawas. About 1630, Maria de Agreda, a Spanish missionary lady, spent some years among the wild tribes of Texas. None of her writings are known to be in existence, but she is quoted by Father Manzanet, in 1692, he having seen her report to the "Father Custodian of New Mexico." In this quotation, there is mention of the "Kingdom of the Theas," showing that the same tribes then inhabited this country which we found two hundred years after.

The French expedition of La Salle, in 1685, of which a narrative has survived, describes the Carankawas, and the Cenis, a Caddo tribe on the Neches, at whose village the distracted Frenchmen were kindly treated.

Captain Francisco de Leon's expedition, in 1692, crossed Texas from the Rio Grande to Red river. The narrative by Father Manzanet, the missionary priest who accompanied it, gives a full account of the various tribes visited by them in "This province of the Texas, which by another name is called Acenay, and also some chiefs of the Cadodoches." The French governor, D'Iberville, about 1714, gives a list of tribes, in which the Caddos, Comanches, and Lipans, appear. From that time to the advent of the American settlers, a hundred years later, there is frequent mention of our tribes.

It is plain, then, that the aboriginal tribes which occupied Texas had come from widely different and distant localities, arriving in different ages, extending back some four centuries, and in all probability very many ages. There is nothing to indicate a common parentage but the race, while their languages, having no common radical words, show that their ancestors were aliens in extremely ancient times. Yet, all the tribes were organized on the same identical plan. There was but little difference in their low scale of advancement, yet there was a difference.

Taking a low tribe for an example. It was divided first into two bands, or brotherhoods. The members of each were prohibited from marrying in their own band, but had to seek husband or wife, as the case might be, in the opposite division. Thus the bands were continually changed and perpetually renewed. The Carankaways

were divided into two such bands, each with a chief. The only two of whom we have any knowledge did not agree in the policy they were to pursue toward the white people. But tribal law did not admit of separation; and the advocate of peace was overruled, and all involved in common destruction. The Tonkaways, also a tribe low in the social scale, had this division into two equal classes; but they had, also, as had many other tribes, a secondary division into classes, each of whom was designated by the name of some beast or bird, and had a chief. Theoretically, they were married by clans, though to all appearance they were individual families, each occupying a tent or hut. The affection of the men for their wives and children was to all appearance the same as in civilized nations. But their way of designating kinship showed that it was clanship. The children all belonged to the mother's clan. The mother's sister was not the aunt, but ranked as mother, and her children were brothers and sisters, not cousins; while the mother's brother was uncle, and his children cousins. The father's sister was aunt, and her children cousins of his children; but his brother was not uncle, but counted as father, and his children brothers and sisters. There was some property—a few utensils and horses—but, upon the death of the owner, his children did not inherit, because they did not belong to his clan; but his nephews and nieces inherited, because they belonged to his clan.

This curious arrangement preserved the equality of the members of the tribe, whose government was a pure democracy. The men of the nation assembled to discuss the policy of their small state in two bands, on either side of a council fire, or place marked as such, for it was often imaginary. The speeches were made by chiefs of clans, and the vote taken of all the men. Such a council they held in this city when it was a small group of cabins in the wilderness in 1841, upon the occasion of the death of a chief, to select a successor. Their sessions were long, and discussion very earnest. A delegation of Lipans, with whom they were in alliance, attended in some advisory capacity, and the election was at last satisfactorily adjusted.

The Caddo tribes had an identical organization, with the addition, perhaps, of more deference and ceremony in the treatment of the chiefs. As described by Manzanet in 1692, the principal chief of the Texas held a court, whose amusing state and ceremony sug-

gests children playing king and queen. Their councils were held in the same manner as those which I have just described, and questions of life and death were decided by a vote of the whole tribe. They had one law which I very much wish could be established in the land to which they have left their name. It was prohibited for any one in a quarrel (of which they had many) to strike a tribesman with a weapon. All their contests had to be settled with the fist. They had no dead-letter laws, and this one was, we are assured, effectively enforced. They had more property than other tribes: good huts, dress and ornaments, and some store of provisions. Manzanet, who passed some time at the village of the Texas in 1692, expressed surprise and perplexity at their rules of marriage and inheritance. Had he taken the pains to inquire, he would have found the same in all tribes of savages.

The Comanches were divided into ten clans, each with a chief, and they kept separate camps, but their law forbade them to marry in their own clan. They had a head chief over all, but their government was a pure democracy, and all questions were settled by a council, either of clan or tribe, according to the importance of the matter.

Such a council was held on the Staked Plain in 1843, to decide upon the fate of the ambassadors sent by President Houston to invite them to a treaty. About five hundred assembled, sitting in circles in a council tent. Each speaker, as his turn came to speak, delivered a vociferous oration in an invective tone, but never interrupted. When all who were entitled to speak (probably the clan chiefs) had spoken except the old head chief, the interpreter brought word to the ambassadors that all the speakers favored putting them to death. But the head chief, whose time it was to speak, remained silent, and no one moved or spoke from noon to 4 o'clock in the evening. Either he was pondering the weighty question, or seeking by this long silence to impress upon his audience the importance of the matter before them. Whatever might have been his motive, this long argument of silence has always impressed me as a notable example of mute eloquence. When he did speak, it was in a stentorian voice and long-continued. He succeeded in turning enough that when the vote was taken the ambassadors were spared.

In all Indian tribes, provisions were shared as long as there were

any in the camp; and they all fasted alike in case of need, and none went hungry if any of the tribe had provisions; and this rule extended to prisoners and enemies as well.

They were notoriously improvident and careless of the future. But their wandering life is chargeable with much of their improvidence; and, on the other hand, the fact that they hunted in parties, and could of right claim a share of the game taken each day, explains some of their willingness to divide provisions, which in some cases I saw were refused, and in others grudgingly given.

In the Comanche tribe, I think the children belonged to the clan of the father. They may have changed from one plan to the other. The clans would remain the same. It would favor the idea of property, and a tendency to recognize superior families, which in time might have progressed toward civilization. I do not know what the rule was in the other tribes, but believe they all recognized descent only from the mother.

It has been the commonly received theory that the Indian tribes by some intuition recognized the Creator, whom they worshiped as the Great Spirit. I could never verify this theory. In 1692, the Texas worshiped a deity whom they called "Ayemat Caddi," Chief Spirit, or Spirit of the Chief, Spirit of the Father of the Tribe — some traditional and probably fabled hero from whom they claimed descent. And such ancestor-worship existed wherever traces of it have been sought.

All tribes believed in a man's other self, which left him in sleep and wandered in the realm of dreams, returning when he awoke. Hence the impression that the other self could be recalled; and the custom in many tribes, among whom were the Tonkaways, to call the name of one recently dead, begging him to return and inhabit the body; which, in case of trance, must sometime have been verified after many hours of apparent death. So, also, they buried provisions and weapons with the dead, believing that they took the spirit of those things with them. The Comanche, when lighting the pipe of peace at a treaty, blew the first puff of smoke towards the sun, the second to the earth, and the third to the air and sky, thus seeming to recognize spirits in those powerful elements.

It has been said that there was no moral element in their vague religious beliefs, but this must be taken with grains of allowance. The virtues of savages, courage and fidelity to the tribe, were, in

their belief, to be finally rewarded, and this belief must have reflected some influence on tribal society.

We may finally remark upon the persistence of the tribe. While there is a remnant of the tribe left, its members persist in maintaining its old tribal organization. There is no instance of a tribe, as such, adopting the political or social organizations of civilization.

The study of tribal society throws light on some subjects which have hitherto been dark to us. We are not yet removed by very many ages from the time when our ancestors had similar tribal organizations; and as we see our domestic animals repeating with amusing fidelity the precautions and preparations which their wild ancestors made for their surroundings, the reasons for which have wholly ceased, but the instinct remains, so we find our ignorant and simple-minded, or, as Carlyle says, "dim instinctive classes," continually proposing political measures, which probably served for small tribes of ancient savages, but are preposterous in civilized and modern nations.

## EDITORS AND NEWSPAPERS OF FAYETTE COUNTY.

JULIA LEE SINKS.

The first newspaper established in Fayette county was called "The La Grange Intelligencer," published by James P. Longley, and edited by Wm. P. Bradburn, a gentleman of Nashville, Tenn., who had lived sometime in Mexico.

Through the influence of James K. Polk, a friend of the family, he received the appointment of midshipman in the United States Navy, on board the old "Constitution." His uncle, General Bradburn, who figured in the early history of Texas, having no children of his own, persuaded him to resign his commission and accept his adoption as son and heir. Sudden death overtook the uncle before his affairs were legally adjusted in favor of the nephew, and the property passed into other hands. So Mr. Bradburn came to Texas, like many others, to seek fortune, and "The La Grange Intelligencer" was established by James P. Longley, in part to give him business, and in part to support General Burleson for the Presidency.

The paper did not come up to their expectations, and Mr. Bradburn removed to Louisiana, and settled in New Orleans, where he officiated at times as assistant editor of the *New Orleans Tropic*, *Picayune*, and *Bulletin*, so I am informed by his relatives.

In 1848, when political strife was running high, he was solicited by prominent men of Iberville parish to edit the *Southern Sentinel*, which, under his guidance, became a great favorite. He still owned and edited that paper when he died, leaving an estate valued at \$50,000.

The next person who edited the La Grange paper was a legal gentleman, Fields, who had very little editorial acumen. In fact, this editor of ours had hardly found his place in life. It was told of him that in the San Saba fight under Colonel Moore he stood behind a tree to shoot, and the tree was too small for the man, or the man was too large for the tree. In turning to load his gun, an unlucky shot hit him in the back. Enraged at this irony of fate, he lost all fear, and in stamping and cursing he ended this day of mar-

tial achievement. As an editor, extracts from other papers were the tree he hid behind to load his gun, his own ammunition falling short often. As to his legal attainments, his knowledge of courts must have been very small, for upon one occasion, when a judgment was rendered against him, he indignantly turned to the sheriff, and pointing to the judge, said, "Sheriff, arrest that man!" This circumstance was told the writer by Judge Devine, who was opposing counsel. After that, he went to the Congress of the Republic when it met in the town of Washington in 1843. So, you see, in those days we bestowed honors freely.

It will be seen that our editor was a brave but unfortunate warrior, the fates being against him; an editor whose chair of office, like the tree, could not screen him; a lawyer whose feats as a legal knight might rival Don Quixote in assumption, and whose wisdom as a legislator the archives of the Republic alone can tell.

The county paper passed into other hands, and the heading was changed to "The Far West," exact date unknown, for I have been unable to find a single copy of that paper. It was under the leadership of Mr. Wm. G. Webb, who informs me that all the files in his possession were consumed in the fire which destroyed a large portion of the southern side of the public square in La Grange.

Mr. Wm. G. Webb, editor of "The Far West," settled in La Grange from Georgia as a young lawyer. A man of cautious, persistent cast of mind, whose success as an editor must have been satisfactory. He became one of the leading attorneys at the La Grange bar, more from his thorough determination than from brilliancy, being not unlike one of Dr. Warren's characters, described as literally crawling over his cases until he mastered every point.

The next record of the newspapers of La Grange attainable was the "Texas Monument," which made its appearance July 20, 1850. It was published by a committee, incorporated by the Legislature of Texas, the proceeds, after the expenses were paid, to be appropriated to erecting a monument to the decimated Mier prisoners and the Dawson men, on the bluff opposite La Grange. The bill of incorporation was approved January 19, and the paper commenced in July, with the late Colonel Dancy as editor, and Mr. Launcelot Abbott as publisher. It was an ably conducted paper; would stand fair, very fair, as a county paper among the present journals of the State. There was the record of much patriotism and very little

crime, that great deformity of the issues of the present day. Under the supervision of Colonel Dancy, who filled the editorial chair for a year, it was in all respects a success. Having to incur a debt of \$1400 for press and material, at the close of the first year it was almost liquidated, according to an editorial written by himself before resigning, and the aim was then to devote the proceeds, beyond the expenses, to the building of the monument. It was greatly to be regretted that the paper lost the energy and enthusiasm of Colonel Dancy, for in the hands of his successor, Mr. J. H. Kuykendall, who was quite as capable, but in bad health, the paper began to decline. He had been, in 1840, a representative from one of the lower counties in the Congress of Texas, and was hailed as a successor to Colonel Dancy, but from ill health he soon wearied of it and resigned.

The next person who took charge of the paper was Dr. Wm. P. Smith, traveling agent and correspondent for the paper—an old citizen of the county. I am unable to find files of that paper to give exact dates, but tradition places him in the editorial chair, not long perhaps, for near this time (1853) it was ably edited by Mr. Albert Posey, a young gentleman from Alabama, of fine cast of mind and cultivation, who left a strong impression on the minds of those who knew him. He died young.

Dr. Smith took an active part in consolidating the three charters—spoken of elsewhere—which formed the foundation of the Rutersville Military School.

October 24, 1854, Mr. A. R. Gates became proprietor and editor of the paper, still called "The Monument." He was a native, I believe, of Alabama; had not long been in the country; was an educated, well read, but rather silent man.

In 1855, "The Monument" merged into "The La Grange Paper," edited by Mr. Wm. B. McClellan, who in an editorial in his first issue said the monumental committee had long since abandoned the idea of sustaining the press for the noble purpose for which it was originally procured. Alas!

As "The La Grange Paper," it lasted but a short time, though the editor, Mr. McClellan, had a bright style of handling ordinary subjects, a happy faculty for county newspapers. He was a good man, and was loved best by those who knew him best.

October 6, 1855, the "True Issue" made its appearance; Mr. B.



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Shropshire and R. M. Tevis as editors and proprietors. They had purchased the printing press and material of the La Grange Paper.

February 2, 1856, Mr. Shropshire and Mr. Gossler had charge of the "True Issue." Mr. B. Shropshire, editor of the "True Issue," was long a resident of La Grange, practiced law at that bar, was of fine appearance, popular manners, and a progressive cast of mind. He was district judge when he died, in 1867. With him at first was Mr. Tevis, who, I believe, still practices law in Galveston. Mr. Gossler was for a long time connected with the newspaper of La Grange.

In 1861, the old Monument press was sold by Mr. Gossler, who had become sole proprietor, to Mr. J. V. Drake, who issued a paper from the old press called "The Observer."

THE EXPULSION OF THE CHEROKEES FROM EAST  
TEXAS.

JOHN H. REAGAN.

In the first half of the year 1839 the Cherokee Indians occupied that part of Texas which is bounded on the east by the Angelina river, on the west by the Neches river, on the south by the old San Antonio road, and on the north by the Sabine river. What is now Cherokee and Smith counties covers substantially the same territory. At that time, the Shawnee Indians occupied what is now Rusk county, their principal village being near where the town of Henderson is now situated. The Delaware Indians then lived in the eastern part of what is now Henderson county. Less than two years before that time, the Kickapoo Indians lived in the north-eastern part of what is now Anderson county; and in a hotly contested battle between them and their Mexican allies and the Texans, they were defeated and driven from that part of the county. The whites charged the Cherokees with stealing their horses and with an occasional murder of white people. This their Chief Bowles denied; and alleged that the thefts and murders were committed by wild Indians, who came through his country. But in 1838 the Cherokees murdered the families of the Killoughs and Wilhouses, several in number, and broke up the settlement of whites in the vicinity of Neches Saline, now the northwest part of Cherokee county. There was no question about these murders being committed by the Cherokees, and that Dog Shoot, one of their head men, led in this massacre. Complaints of thefts and murders by the Cherokees became so numerous, and were so authenticated, as to cause the President of the Republic, General M. B. Lamar, to send a communication to Chief Bowles, through the Indian agent, Martin Lacy, Esq., making certain recitals evidencing hostility to the white people. Among the facts so recited, as I remember them, one was that in the year 1836, when the people of Texas were retreating from their homes before the advancing army of the Mexican general, Santa Anna, that he, Chief Bowles, assembled his warriors on the San Antonio road, east of the Neches, for the purpose

of attacking the Texans if they should be defeated by Santa Anna. Another was that, in the preceding January, 1839, General Burtleson had captured some Cherokees on the upper Colorado, on their return from the City of Mexico, accompanied by some Mexicans, and bearing a commission to Chief Bowles as a colonel in the Mexican army, and a quantity of powder and lead, and instructions for his co-operation with the Mexican army, which was to invade Texas during the then coming spring. And also calling attention to the murders and thefts which had been committed on the people of Texas by the Cherokees; and upon these statements, saying to Chief Bowles that Texas could not permit such an enemy to live in the heart of the country, and that he must take his tribe to the nation north of Red river.

President Lamar in that communication said to Chief Bowles that he had appointed six among the most respectable citizens of the Republic, and authorized them to value the unmovable property of the Cherokees, which was understood to be their improvements on the land, but not the land, and to pay them for these in money. I knew some of these men at the time as most worthy citizens. One of them was Judge Noble, of Nacogdoches county. The President also said to them that they could take all their movable property with them and go in peace. But that go they must; peaceably if they would, but forcibly if they must.

It is proper for me to say that I have seen, in the State Department, a paper purporting to be a communication from President Lamar to Chief Bowles, supposed to be the one announcing his views as to the necessity of the removal of this tribe. Dr. W. G. W. Jowers and myself, and one Cordra, a half-breed, accompanied Mr. Lacy, the Indian agent, when he took the President's communication to Bowles. Cordra went along as interpreter, as Bowles could not speak English and the agent could not speak the Cherokee language. Dr. Jowers was afterwards a member of the House of Representatives and of the Senate of Texas several terms. The paper then read and interpreted to Chief Bowles contained, in substance, what I have said, and is very different from the paper in the office of the Secretary of State. Indian Agent Lacy lived on the San Antonio road about six miles east of the Neches river. Chief Bowles lived about three miles north of Mr. Lacy.

When we reached the residence of Bowles, he invited us to a

spring a few rods from his house, and, seated on a log, received the communication of the President. After it was read and interpreted, he remained silent for a time, and then made a denial of the charges contained in that communication, and said the wild Indians had done the killing and stealing, and not his people.

He then entered into a defense of the title of his tribe to the country which they occupied, as I have described it. He said that after his band separated from the old Cherokee nation, they, under him as their chief, settled at Lost Prairie, north of Red river, now in Arkansas; that after living there for a time, they moved to the Three Forks of the Trinity river, now Dallas and the surrounding counties; that he had intended to hold that country for his tribe, but that the other Indians disputed his right to do so, and claimed it as a common hunting ground; that he remained there with his tribe about three years, in a state of continual war with the other Indians, until about one-third of his warriors had been killed; that he then moved down near the Spanish Fort of Nacogdoches (I use his expression); and that the local authorities permitted him to occupy the country which his tribe then occupied; that he then went to the City of Mexico, and got the authority of the Mexican government to occupy that country, and that during the Revolution of 1835-36 the Consultation representing Texas recognized his right to that country by a treaty.

It is proper here to state that the Consultation did appoint General Houston and Colonel Forbes, and authorized them to make a treaty with the Cherokees. I am not informed as to the extent of the powers conferred on them for that purpose. A treaty was agreed to between them and the Cherokees, and reported to the Consultation, which adjourned without ratifying the treaty so made; and it, with its powers, was superseded by the Convention, which formed the Constitution of the Republic; and that Convention rejected the treaty which had been agreed to by General Houston and Colonel Forbes. That is the treaty to which Chief Bowles referred. So that the Cherokees had no higher title to the country they then occupied than the privilege of occupancy during the pleasure of the sovereign of the soil.

After his statement as to the right of his tribe to that country, Chief Bowles stated to Mr. Lacy that he had been in correspondence with John Ross, the chief of the original tribe of Cherokees,

for a long time, looking to an agreement between them to unite the two tribes and go to California, and take possession of a country out of the reach of the white people. It will be remembered that this was about ten years before the cession of California by Mexico to the United States, and when but little was known of that country by our people. And he offered to produce and have read to Mr. Lacy a bundle of letters on this subject, which he said was as large as his thigh. Mr. Lacy waived the necessity of their production, saying that the statement of Chief Bowles was sufficient on this subject. Chief Bowles then said that he could not make answer to the communication of the President without consulting his chiefs and head men, and requested time to convene his council. Thereupon it was agreed between them to have another meeting a week or ten days later (I do not remember the exact length of time), to give time for the council of the Cherokees to meet and act.

On the day appointed, Agent Lacy returned to the residence of Chief Bowles, accompanied by Cordra, the interpreter, and by Dr. Jowers and myself. We were again invited to the spring, as upon our first visit. The grave deportment of Chief Bowles indicated that he felt the seriousness of his position. He told Mr. Lacy that there had been a meeting of the chiefs and head men in council; that his young men were for war; that all who were in the council were for war, except himself and Big Mush; that his young men believed they could whip the whites; that he knew the whites could ultimately whip them, but that it would cost them ten years of bloody frontier war. He inquired of Mr. Lacy if action on the President's demand could not be postponed until his people could make and gather their crops. Mr. Lacy informed him that he had no authority or discretion beyond what was said in the communication from the President. The language of Chief Bowles indicated that he regarded this as settling the question, and that war must ensue. He said to Mr. Lacy that he was an old man (being then eighty-three years of age, but looking vigorous and strong), and that in the course of nature he could not live much longer, and that as to him it mattered but little. But he added that he felt much solicitude for his wives (he had three) and for his children; that if he fought, the whites would kill him; and if he refused to fight, his own people would kill him. He said he had led his peo-

ple a long time, and that he felt it to be his duty to stand by them, whatever fate might befall him.

I was strongly impressed by the manly bearing and frankness and candor of the agent and the chief. Neither could read or write, except that Mr. Lacy could mechanically sign his name. And during their two conferences they exhibited a dignity of bearing which could hardly have been exceeded by the most enlightened diplomats. There was no attempt to deceive or mislead made by either of them.

The whites on the one side and the Indians on the other at once commenced preparations for the conflict. Chief Bowles took his position east of the Neches river, in the northwest corner of what is now Cherokee county, concentrating his warriors and collecting his families there. He was joined by the Shawnees, the Delawares, and by warriors from all the wild tribes of Indians, and there were at that time a good many of them. Colonel Rusk, with a regiment of volunteers, was first in the field on the side of the Texans. Vice-President Burnet, then Acting President of the Republic (President Lamar, with the leave of Congress, was temporarily absent from the Republic), General Albert Sidney Johnston, the Secretary of War, and Adjutant-General Hugh McLeod, accompanied this regiment. It went into camp about six miles to the east of Bowles' camp, and for ten days or more negotiations were carried on between the belligerents, Bowles negotiating to gain time to collect the warriors from the wild tribes, and the Texans negotiating to gain time for the arrival of Colonel Burleson's regiment of regulars from the west, and Colonel Landrum's regiment of volunteers from the red lands.

During this time an incident occurred which might have been of a very serious character. A neutral boundary had been agreed on between the belligerents, and the men of neither side were to pass it without notice. Acting President Burnet, the Secretary of War, Adjutant-General McLeod, Colonel Rusk, and a few others, had gone to the camp of the Indians, under a flag of truce, to conduct negotiations, as they had done on previous days. Colonel Jim Carter and a few others, acting as scouts, found John Bowles, a son of the chief, and a few other Indians, who had passed the neutral boundary, and gave chase for them. The Indians escaped, and when they reached their camps reported that they had been run in

by the Texans. This caused violent excitement among the Indians, and the gentlemen named reported that it seemed for a time that they were to be attacked by the Indians, in which event their massacre would have been inevitable. But explanations were made, which allayed the excitement. At the subsequent meetings for negotiation, the Texas officials took with them an escort of thirty picked men. An agreement was made that neither party was to break up camp or make any move without giving notice to the other party. On the 13th or 14th of July, Colonel Burleson's regiment of regulars, and Colonel Landrum's regiment of volunteers, reached the camp of the Texas forces. And early on the morning of the 15th Chief Bowles sent his son, John Bowles, accompanied by Fox Fields, under a flag of truce, to notify the Texans that he would break up camp that morning and move to the west of the Neches river. On reaching headquarters under a flag of truce, they delivered their message to General Johnston, and having done so, inquired if they could return in safety. They both spoke English very well. General Johnston told the messenger that his father had acted honorably in giving the notice according to agreement, and that he would see that they had safe conduct out of our camp; and he detailed a number of men, with orders to see them safely a half-mile beyond our line of pickets. He also told them to inform Chief Bowles that the Texas forces would break up camp that morning and pursue him.

On the assembling of this little army of three regiments, the volunteers wanted Colonel Rusk for their commander, while the regulars preferred Colonel Burleson for that position. These two patriots and heroes of the Revolution, which made Texas a Republic, did not desire to antagonize each other, and either of them was willing that the other should command. But it was agreed to solve the question by having General Kelsey H. Douglass elected as brigadier-general and placed in the chief command. And when this army broke up its camp on the morning of the 15th of July, 1839, to pursue the Indians, Colonel Landrum was ordered to move up on the east side of the Neches river, and be in position to intercept the Indians if they should turn northward, as it was expected they would. The regiments of Colonel Rusk and Colonel Burleson moved to the west, passing through the camp which had

been occupied by the Indians, and crossing the Neches on their trail.

Chief Bowles had taken position on a creek some six miles west of the Neches with a part of his warriors, and had sent the families with the balance of the warriors to a position about six miles north of where he made this stand. His men occupied the bed of a creek, which, running from north to south, made a sudden bend to the east, and his position was immediately above this bend.

After the Texans crossed the Neches, scouts were thrown forward, with directions if they found the Indians in position to give battle, to keep up a desultory firing at long range, without exposing themselves too much, so as to give notice of the position of the Indians. As the command advanced, and when the firing of the scouts was heard, Colonel Rusk's regiment was ordered to advance on the north side of the creek they were on, and Colonel Burleson's regiment was ordered to cross the creek and advance on the south side of the creek, so as to put the Indians between these regiments. When the troops reached the bend of the creek, which was the extreme right of the line occupied by the Indians, Rusk's regiment wheeled to the right and formed in front of the Indians, while Burleson's regiment turned to the right and passed up into the rear of the Indians. This was an hour or two before sundown. A battle ensued, which, however, did not last long. Dr. Rogers and Colonel Crain were killed, and some six or eight Texans were wounded; and it was reported that the Indians left eighteen dead on the field, and the remainder of them were routed and joined the others some six miles to the north, near the Neches, and just north of the Delaware village. The Texans camped for the night near the battlefield. And fearing that the Indians might break up into small bands and attack the more exposed frontier settlements, a number of squads were detached from the command and ordered to proceed to the exposed parts of the frontier to defend the families of the whites.

On the morning of the 16th of July, the Texans, thus reduced in number, took up the line of march in pursuit of the Indians, and found them, soon after passing the Delaware village, in a very strong position. They occupied a long ravine, deep enough to protect them, with gently sloping open woods in front of them. Our line of battle was formed on a low ridge in front of them, and skir-



mishers thrown forward, who were at once engaged with the skirmish line of the Indians. Every sixth man of our command was detailed to hold and guard our horses. This, with the details sent away the night before, had considerably reduced our fighting force, and we were confronted by the entire force of the Indians, which, from the information we afterwards received, considerably outnumbered the Texans who participated in the battle.

The scene at that time made a very vivid impression on my young mind. The Delaware village, in our immediate rear, was wrapped in flames, and the black columns of smoke were floating over us; the skirmishers were fighting in front of us, and our line of battle advancing to the conflict.

The battle lasted about two hours. We had six men killed and thirty-six wounded. The Indian loss was very much greater. During this engagement, Chief Bowles was a very conspicuous figure. He was mounted on what we call a paint horse, and had on him a sword and sash, and military hat and silk vest, which had been given to him by General Houston. And thus conspicuously mounted and dressed, he rode up and down in the rear of his line, very much exposed during the entire battle. Our officers two or three times ordered the men to advance nearer the line of the Indians, and then would order them to fall back, in the hope that in this way the Indians might be drawn from their strong position. And just as this was done the last time, word ran along our line that the Indians were in our rear getting our horses. This came near producing a panic. Colonel Len Williams and Ben A. Vansickle, who were with us, and who understood and could speak the Cherokee language, told us that at that time they could hear Bowles, who was urging his warriors to charge, and telling them that the whites were whipped if they would charge.

When at last the Indians retreated, Chief Bowles was the last one to attempt to leave the battlefield. His horse had been wounded many times, and he shot through the thigh. His horse was disabled and could go no further, and he dismounted and started to walk off. He was shot in the back by Henry Conner, afterwards Major Connor; walked forward a little and fell, and then rose to a sitting position facing us, and immediately in front of the company to which I belonged. I had witnessed his dignity and manliness in council, his devotion to his tribe in sustaining their decision for

war against his judgment, and his courage in battle, and, wishing to save his life, ran towards him, and, as I approached him from one direction, my captain, Robert Smith, approached him from another, with his pistol drawn. As we got to him, I said, "Captain, don't shoot him," but as I spoke he fired, shooting the chief in the head, which caused instant death. It ought to be said for Captain Smith that he had known of the many murders and thefts by the Indians, and possibly did, in the heat of battle, what, under other circumstances, he would not have done, for he was esteemed as a most worthy man and citizen.

The families of the Indians were camped in the Neches bottom, in thick woods. After the battle, our command camped at the edge of the bottom very near the Indians, but made no attack on them. That night we could hear the hum and bustle of their camp the greater part of the night, and the next morning they were gone in the direction of the Grand Saline, in what is now Van Zandt county; and while our troops followed them to the Grand Saline, they did not overtake them.

Colonel Landrum, it was said, was misled by his guide and did not reach the balance of the command until after the battles. The Indians dispersed, some going to the cross timbers, some to the north of Red river, and some to Mexico. A year or more later—I do not remember the precise date—the wives and some of the children of Chief Bowles came to the Rio Grande at Laredo, and asked permission to pass through Texas on the way to the Cherokees north of Red river, and President Lamar granted their request, furnished them an escort, and transportation and rations, on their way through Texas. I saw them on the San Antonio road east of the Neches.

Whatever apology may be necessary for the imperfections of this paper may be found in the fact that it has been very hurriedly prepared, under a constant pressure of very exacting official duties, without time for careful revision.

In order to avoid egotism, I omit the mention of a number of incidents, which might be of interest as personal reminiscences.

JOHN CRITTENDEN DUVAL: THE LAST SURVIVOR  
OF THE GOLIAD MASSACRE.

WILLIAM CORNER.

In the fall of 1835 the Texans had made the first Declaration of Independence. War was begun with the incident at Gonzales. Austin had declared that "War is our only recourse. There is no remedy. We must defend our rights, ourselves and our country by the force of arms." There had been engagements with the enemy at Goliad and at Concepcion, and San Antonio was being besieged. Similar sentiments to those of Austin had been expressed by several Committees of Safety. At a general Consultation of Delegates from the various Districts there had been made a solemn Declaration of Rights. Officers of a Provisional Government had been elected, and a regular army had been planned and organized. Events of great significance had followed, and were to follow, each other in rapid succession. Everything was stir, activity, and expectation. There was a new order of things at hand.

And these matters had been noised abroad in the United States. The National enthusiasm and sympathy was almost entirely with the Colonists. In the Southern States that sympathy took the form of an earnest desire to help the struggling Texans in a material way. There was a song of arms and of men. There had been intimations from the Colonists that arms and men might be badly needed. New Orleans was the first to send a company of volunteers. Georgia quickly followed with another, and Kentucky with yet another. It seemed merely a matter of geography as to who should be first in the field. Many other companies were formed of foreign material already on hand.

The Kentucky Company was organized at Bardstown, Kentucky, in November, 1835. Burr H. Duval was its elected Captain. They marched to Louisville, sailed down the Ohio and Mississippi rivers to New Orleans, and in a couple of weeks or so were at the mouth of the Brazos.

All these volunteers brought with them a magnificent enthusiasm, such as was exhibited by the Georgians in a letter to Fannin, on their arrival at Velasco. They were almost all of them animated

with one prime idea, to fight for their kindred, and the secondary consideration, if they should be on the winning side, of prospective homes and rewards. Travis finely put these ideas, besides other thoughts more glorious still, into words: "Take care of my little boy. If the country should be saved, I may make him a splendid fortune; but if the country should be lost and I should perish, he will have nothing but the proud recollection that he is the son of a man who died for his country." The volunteers came, believing that the colonists stood shoulder to shoulder with an enthusiasm equal to their own. They were ignorant of the already manifested local politics. Thus early in the day there were factions, jealousies, and worse to follow, conspiracy, treason, disobedience, and incapacity, an evil distemper to which most of them were to fall victims,—a shuffling faithlessness to which they were to be sacrificed. These intrigues and dissensions, this want of unity of purpose, began to discover itself to the new arrivals, and in short order they were themselves affected. Fannin above everything had entreated discipline, discipline he was not quick to exercise on himself. It was a house divided against itself, and there is small wonder that there came a crash. Alas, the sad lessons they were to learn! Lessons by which they would never profit, but which were destined to give the surviving elements a singleness of purpose, the destruction, in succession, of the forces of Johnson and Grant, King, Ward, and Fannin's own—and the sacrifice of the men in the Alamo. In the halt between opinions, Travis and his men, in the Alamo, touched the topmost note of heroism.

Yoakum says that Fannin was complaining much, "and with justice, of the apathy of the Texans in not turning out more willingly to meet the enemy at the frontier, and stated the fact that he could not find a half-dozen Texans in his ranks;" while Houston had said of the *volunteers*, "Better material never was in ranks." Captain Burr H. Duval strongly states, on March 9th, that not *one* Texan had "yet made his appearance at this post" (Goliad). But I will here give in full that letter to his father, which I have the privilege of making public for the first time. I recommend it for study, for it throws an interesting side-light on the unfortunate state of affairs:

[The following is a copy of a letter written by Burr H. Duval to his father, William P. Duval, Governor of Florida, dated March 9th, 1836, eighteen days prior to his death at the Goliad massacre,

March 27th, 1836. This copy is verbatim et literatim. The original is written on cream-laid quarto letter-fly. The edges of the sheet indicate that the paper is hand-made. The hand-writing is good, firm, and neat. The last page contains no part of the body of the letter, but was left blank, as was the early fashion, to form the envelope by folding and to receive the address, post-marks, etc. A copy of the latter is here made at the end of this copy of the letter.]

Goliad March 9th, 1836.

Dear Father,

It has been some time since I have had an opportunity of writing to you. A gentleman leaves here to day for the U. States but have my doubts if he gets fifty miles from this post as we are surrounded by Mexican troops— By last express, yesterday, from San Antonio we learned that their [our\*] little band of 200 still maintained their situation in the Alamo, the fort outside of the town— They have been fighting desperately there for 10 or 15 days against four or five thousand Mexicans Santa Anna is there himself and has there and in this vicinity at least six thousand troops— Contrary to the expectation of every one he has invaded the Country when least expected— Not a Texian was in the field, nor has even *one* yet made his appearance at this post— The greater portion of the Mexican troops are *mounted*, and of course have greatly the advantage over us— We now muster at this post 400 strong, and from the preparations we have made shall be enabled to give *any* number a desperate fight— San Antonio I fear has fallen before this;—from its situation and construction, I cannot believe it possible so small a band could maintain it against such fearful odds— D. Crockett is one of the number in the fort— We are expecting an attack hourly. An express yesterday was chased in by 200 cavalry eighteen miles from this— Sixty miles south of this is another party of 650 who have been quartered at San Patricio for some days, waiting reinforcements. Several of our parties of 20 and 30 have been cut off by them—As I anticipated, much dis-sension prevails among the Volunteers, Col. Fannin, now in command (Genl. Houston being absent), is unpopular— and nothing but the certainty of hard fighting, and *that shortly*, could have kept us together so long— I am popular with the army, and strange as you may think it could lead them or the majority of them where I choose— They have offered to give me every office from a Majority to Comdr. in Chief— I have seen enough to desire no office for the present in Texas higher than the one I hold—

\* "Our" is written over "their."

I have fifty men in my Company, who love me and who cannot be surpassed for boldness and chivalry— With such a band I will *gain* the laurels I may wear or die without any— I am situated at present with my company, in a strong stone house immediately across the street and opposite one of the bastions of the fort— from the bastion I have built a Bridge to the top of the house on which is placed a Brass Six Pounder— the best and most commanding situation we have— before I am driven from it hundreds must perish— I have seen something of the country since I last wrote you having been out for some days at a time on several expeditions— It is decidedly a richer country than I expected to find, and must be more healthy than any other southern country— at least this part of it— the country is high and dry tho generally level and the rivers, at least this, the San Antonio, descends with the velocity of a mountain stream— In many parts water and timber is too scarce, and the Northern winds are frequent and last from one to three days blowing with great violence. The climate of Florida I think is greatly preferable, but it can not be compared to this in point of soil— We have just learned from Washington (the seat of Govt. that they have declared Independence— If such be the fact of which I have no doubt— we *must* whip the Mexicans— For young men who wish to acquire distinction and fortune now is the time— Tell all who are friendly to the cause of Texas to lend a helping hand and that quickly, The little band of Volunteers now in the field must *breast* the storm and keep a powerful army in check until relief is at hand or all is lost— We want *provisions arms & men*. I have never seen such men as this army is composed of— no man ever thinks of retreat, or surrender, they must be exterminated to be whipped— Nothing can depress their ardour— we are frequently for days without anything but Bull beef to eat, and after working hard all day could you at night hear the boys crowing, gobling, barking, bellowing laughing and singing you would think them the happiest and best fed men in the world—

Do all you can for Texas—

Yr. affectionate son

B. H. Duval.

N. B—

If there sh † in  
my letter that could benefit Texas make  
it public—

To His Excely,  
Wm. P. Duval.

† The paper of the letter is here broken.

The letter is addressed and stamped as follows:

For	His Excellency—	(Postmark undecipherable, but looks like)
(Postmark)		
NEW ORLEANS, La,	Wm. P. Duval	22 A P
Apr		(in writing)
19	Tallahassee	25
	Florida	

The letter was wafered with a red wafer.

Ten days after that was written a finger of the hand that penned it was shot away by a Mexican bullet, and Captain Duval had heard at the Battle of Coleto (in the words of his brother) "Bullets singing like mad hornets around" him. Eighteen days after, the writer was dead, lying amidst "the pallid upturned faces of his murdered companions." In the meantime, he had learned that human hope is oftentimes dust and ashes, that human trust is a broken reed, that a man may gain laurels, as he did, and die in the winning, and that there is a limit to the bravest man's endurance.

The Battle of Coleto was a hard fight against overwhelming odds; it was not lost, if lost at all, for want of gallantry, unless it was the lack of valor displayed by the troop of horsemen under Horton. Had these men made a dash through the lines to their comrades it is more than likely a retreat to the timber on the Coleto might have been effected. The conduct of this troop, at any rate, suffers in comparison to that of the Gonzales troopers who joined the devoted band in the Alamo but five days before that post fell. The retreat of Horton's company cut off the possibility of moving the wounded, for the beset lost their teams during the fight. A fatal mistake, not the first by a long list, had been made in halting in the open and on ground that was wholly unsuited for defense. The moment needed a hero of action—a leader, who, like Travis, could fire even worn-out men with the idea that surrender was out of all question. On the testimony of Duval, they would have needed but little persuasion, they had the spirit, "they must be exterminated to be whipped." Such errors as those which divided the force—the failure to relieve Travis, the tardy obedience of orders

to retreat, the halting in the prairie—were now followed by the error of surrender. The result is an exceeding great pity for their fate; but the glory of the Alamo, which they might, at least, have shared, is not theirs.

Such of the force, with a few exceptions, as were able to march, were taken heavily guarded to Goliad. Carts, in the next few days, returned for the remainder, mostly wounded. The men believed that they had made an honorable surrender, and that they were to be treated as prisoners of war. But they had Santa Anna to deal with, a man of great vanity, and him they did not understand. The seriousness with which Santa Anna took himself would be amusing if the results had not been so tragic. He thought that his puny campaign and battles were of Napoleonic importance. He was a Dictator; obstacles must be swept from his path. What were the lives of ordinary men to the will of a genius? These prisoners were a drag on his advance, they needed a large guard, they were an expense. He perhaps stored up a diplomatic excuse, a mental reservation or two; his government's resolution that invaders should be treated as pirates, attachment of blame to an inferior officer—anything would suffice, for he never really expected to have to render an excuse to the world, least of all to Houston. If he were but swift enough, *all* the enemy would melt before him as these were doomed to do. He measured Anglo-Saxon resistance by a Mexican's standard. He did not understand that these very atrocities of his were the agent that would sharply bring these men to act as one, that the sting of that insolence would cause them to forget every other consideration and difference in the determination to wipe out the shame of it. Houston answered the excuse that Santa Anna, after all, was obliged to make to him, "But you are the government; the dictator has no superior."

So the order was issued by Santa Anna that these prisoners were to be done away with. Not the first in command, not Urrea was to be executioner; they had not time to attend to such details. It was left to the Commandant, and after it was done, this sensitive Mexican wrote to General Urrea to say that he was very much distressed, and that he did not want any more of the like work, he was not a public executioner. The prisoners in the meantime did not understand Santa Anna! They had been beginning rather to look forward to being sent home. A remnant of their



late comrades, Ward's men, had been returned to Goliad after surrendering near Victoria.

I have gone over these events, thus far, in order briefly to trace how John C. Duval, a lad of scarcely twenty years, and his brother's company, came to be of "Fannin's men," at Goliad on Palm Sunday, March 27th, 1836.

It is not my purpose to go into a detailed account of that awful crime, the Goliad massacre. Those details are to be found, graphically told, in the reports of Dr. Barnard and Dr. Shackelford.

On this Sunday morning at daybreak the preliminary work began. Miller's men, with their white bandaged arms, Dr. Barnard, Dr. Shackelford, and Dr. Field were ordered out by Colonel Garay (who seems to have been a merciful man, and who at heart detested the crime that was about to be committed) to his quarters in a peach orchard nearly a quarter of a mile from the fort, and from that point Dr. Barnard and his companions shortly learnt by the sound of musketry volleys and the yells of the victims, of the bloody work that was in hand. Garay coming up at that moment, says Barnard, "With the utmost distress depicted on his countenance, said to us: 'Keep still, gentlemen, you are safe. This is not from my orders, nor do I execute them.' He then informed us that an order had arrived the preceding day to shoot all the prisoners, but that he had assumed the responsibility of saving the surgeons and about a dozen others." Señora Alvarez saved still others.

Altogether, there were spared thirty souls (Brown gives a list of names). There escaped by flight while the massacre was being consummated about thirty more. Yoakum gives twenty-seven escaped, Brown gives twenty-eight; but there are three names in Brown's list not in Yoakum's, and three in Yoakum's not in Brown's. There were some few spared in every company, but from some companies not a soul escaped. John Duval would himself have been *spared* could he have been persuaded to declare himself a Catholic to one of the Mexican officers who took a fancy to him.

Companies.	Spared.	Escaped.
Staff . . . . .	2	0
Captain King's . . . . .	1	0
Captain Bullock's . . . . .	4	3
Captain Winn's . . . . .	1	0
Captain Wadsworth's . . . . .	5	1
Captain Ticknor's . . . . .	2	0
Captain Shackelford's . . . . .	1	(Capt. S.) 5
Captain Burr H. Duval's . . . . .	1	5
Captain Pettus' . . . . .	2	6
Captain Burke's . . . . .	3	3
Captain Wyatt's . . . . .	1	1
Captain Westover's . . . . .	3	0
Unattached . . . . .	2	5
Cannot be placed (Brown) . . . . .	2	0
Cannot be placed (Yoakum) . . . . .	0	1
	30	30

This list is as near right as it is possible to make it. In the lists there are many discrepancies and misspelling of names, but by comparison and checking this is the result.

Fannin, who had been wounded at Coletto, was shot in the fort, and he met his death like the brave man that he was. The rest of the wounded were dragged from the hospital to the fort and there butchered. There were killed, that day, in cold blood, nearly four hundred men.

Brown says three hundred and ninety, and that there was a total of 526 killed altogether, in the few weeks, out of Fannin's little force. "Absolute accuracy is an impossibility, but (referring to his tables) these figures are close approximation thereto. Add to the 526, 183 who perished in the Alamo, and we have a total of 709 men lost from February 27th to March 27th—an appalling loss in view of the weakness of the country."

This is John C. Duval's description of that dreadful Sunday morning's work.\*

"On the morning of the 27th of March, a Mexican officer came to us and ordered us to get ready for a march. He told us we were to be liberated on 'parole,' and that arrangements had been made

\*Page 53, "Early Times in Texas."

to send us to New Orleans on board of vessels then at Copano. This, you may be sure, was joyful news to us, and we lost no time in making preparations to leave our uncomfortable quarters. When all was ready, we were formed in three divisions and marched out under a strong guard. As we passed by some Mexican women, who were standing near the main entrance to the fort, I heard them say, 'pobrecitos' (poor fellows), but the incident at that time made but little impression on my mind. One of our divisions was taken down the road leading to the lower ford of the river, one upon the road to San Patricio, and the division to which my company was attached along the road leading to San Antonio. A strong guard accompanied us, marching in double files on both sides of our column. It occurred to me that this division of our men into three squads, and marching us off in three directions, was rather a singular manoeuvre, but still I had no suspicion of the foul play intended us. When about half a mile above town, a halt was made and the guard on the side next the river filed around to the opposite side. Hardly had this manoeuvre been executed when I heard a heavy firing of musketry in the directions taken by the other two divisions. Some one near me exclaimed, 'Boys, they are going to shoot us!' and at the same instant I heard the clicking of musket locks all along the Mexican line. I turned to look, and as I did so the Mexicans fired upon us, killing probably one hundred out of the one hundred and fifty men in the division. We were in double file, and I was in the rear rank. The man in front of me was shot dead, and in falling he knocked me down. I did not get up for a moment, and when I rose to my feet I found that the whole Mexican line had charged over me, and were in hot pursuit of those who had not been shot and who were fleeing towards the river about five hundred yards distant. I followed on after them, for I knew that escape in any other direction (all open prairie) would be impossible, and I had nearly reached the river before it became necessary to make my way through the Mexican line ahead. As I did so, one of the soldiers charged upon me with his bayonet (his gun, I suppose, being empty). As he drew his musket back to make a lunge at me, one of our men, coming from another direction, ran between us and the bayonet was driven through his body. The blow was given with such force, that in falling, the man probably wrenched or twisted the bayonet in such a way as to prevent the Mexican from withdrawing it immediately. I saw him put his foot upon the man, and make an ineffectual attempt to extricate the bayonet from his body, but one look satisfied me, as I was somewhat in a hurry just then, and I hastened to the bank of the river and plunged in. The river at that point was deep and swift, but not wide, and being a good swimmer, I soon gained the opposite bank, untouched by any of the bullets that were pattering in the

water around my head. But here I met with an unexpected difficulty. The bank on that side was so steep I found that it was impossible to climb it, and I continued to swim down the river until I came to where a grape vine hung from the bough of a leaning tree nearly to the surface of the water. This I caught hold of and was climbing up it hand over hand, sailor fashion, when a Mexican on the opposite bank fired at me with his escopeta, and with so true an aim that he cut the vine in two just above my head, and down I came into the water again. I then swam on about a hundred yards further, when I came to a place where the bank was not so steep, and with some difficulty I managed to clamber up."

The following is a summary of many actual dates and some approximate dates of the movements of John C. Duval from the time of his departure from Bardstown, Ky., November, 1835, to his arrival at the Brazos river and the Texan camp in May, 1836:

1835.

November.—He joined, for service in Texas, a Volunteer Company under the Command of his brother, Burr H. Duval, afterwards killed in the Goliad Massacre.

—The Company left Bardstown "the latter part of November" and after a two days' march reached Louisville.

—Next day they took a steamer for New Orleans.

December.	{	—Five days later they arrived at New Orleans.
		—They immediately left New Orleans, on a schooner, in tow, and via South Pass reached the Gulf.
		—They set sail from South Pass for the port of Velasco, Texas. This was a seven days' sail.
		—On the eighth day they anchored in the mouth of the Brazos River, landing at Quintana.
		—They remained encamped "two weeks or more" at Quintana. They here made the acquaintance of Brutus and Invincible, warships of the little Texan Navy.

1836. { —The Company entered for Marine Service on board Invincible. They sail in search of the Mexican Warship Bravo.  
 —After an unsuccessful cruise, they return to camp at Quintana.  
 —A day or two after they are ordered to Copano.  
 —Invincible takes them to "Matagorda Island."  
 January and February. { They remain several days there. Then they embark on a small vessel for Copano.  
 —They make a day's march to Refugio. And in another day and a-half reach Goliad.  
 —They here joined Fannin, who had "about four hundred men."  
 —Their service at Goliad consisted of drills, strengthening the fortifications of the place, a march to San Patricio to secure two cannon, and a march to Carlos Ranch to arrest spies.

March 3d.—News of the defeat of Grant and Johnson arrives.  
 (about)  
 10th.—King with twenty-seven men despatched to Refugio.  
 11th.—A despatch from Houston to Fannin arrives and it is "rumored in camp that Colonel Fannin should evacuate Goliad and fall back to the Colorado."  
 13th.—Ward with 125 men was despatched to Refugio to aid King.  
 19th.—Fannin begins his retreat to Victoria. In the afternoon the battle of Coletto, or "Encinal del Perdito," was fought.  
 20th.—Fannin surrenders to Urrea.  
 24th.—Miller and his eighty men who had been captured at Copano are brought to Goliad.  
 25th.—Ward and his remnant are returned to Goliad. All are now confined in the "Old Mission" at Goliad.  
 27th.—The Massacre.  
 John C. Duval, John Holliday, and Samuel T. Brown escape together and travelled all the night under the leadership of Holliday.  
 28th.—All day they continue their retreat in drizzling rain.  
 29th.—They continued the retreat all day. Cold.  
 30th.—Duval now discovered that they were returning towards Goliad. Holliday, not believing it, reconnoitres, and gets a view of Goliad. Holliday assumes

1836.

March—cont'd.

leadership again, but in an hour Duval sees that he is again turning back towards Goliad, and insists on taking the lead, which he does.

31st.—They continue the retreat. They find a few wild onions, the first food they have had for four or five days.

April 1st.—They reach the Guadalupe. Here they try to drive a cow and calf over the bluff into the river, but fail. They go to bed in a "sink" by the river, and during the night they kill five young pigs of a litter.

2d.—Cross the Guadalupe. Duval saves Brown from drowning. They continue their flight across the prairie.

3d.—They continued the retreat.

4th.—They cross the Lavaca river. Brown and Duval are captured by some Mexican rancheros. Holliday evades capture. Duval escapes.

5th and 6th.—Duval wanders up and down the Lavaca bottom searching for his lost companions, but fails to find them. Brown was still in the hands of his Mexican captors.

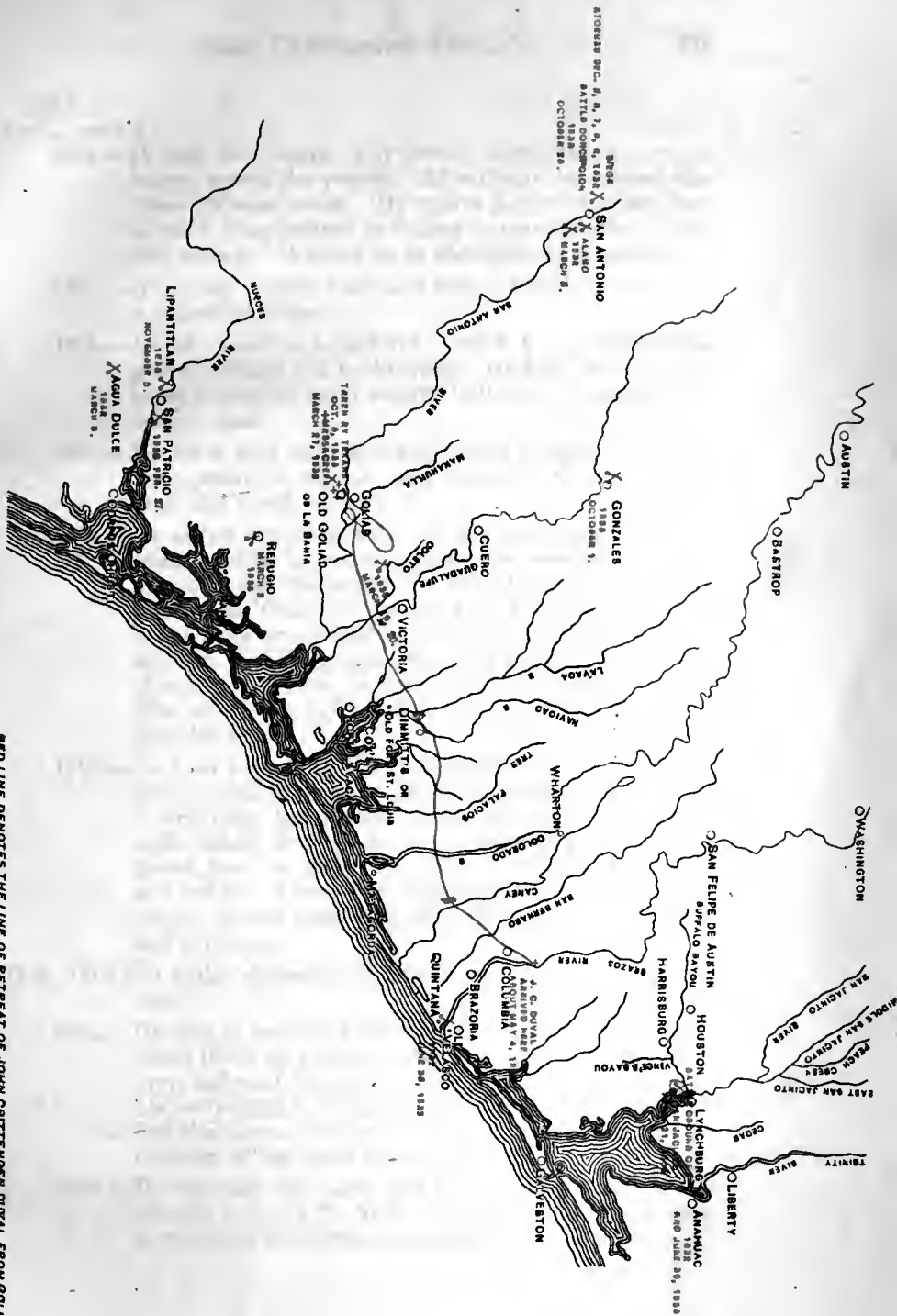
6th.—Not finding his companions, Duval started across the prairie and swims the Navidad river the same day at 3 o'clock. He is here trailed by Indians with a hound, but evades these hunters. Proceeds on his journey, and comes to a house, where he captures a pig under the flooring.

7th.—Duval proceeds up the Navidad bottom in order to escape the coast lagoons. Discovers some jacales inhabited by Mexicans. He tries to possess himself of a gun of a Mexican soldier, but the butt refuses to come through the opening in the wall, and he has to retreat swiftly.

8th.—Proceeds eastward once more, and the following night is troubled by wolves.

9th.—Sees in the distance a band of Mexicans or Indians. Many deer and mustangs in sight. It is wet and dull. He finds a home in an Indian shelter.

10th.—Fine in the morning. He remarked Indian signal fires. It clouds again and mists. Duval gets lost and wanders in a circle, and crosses his own trail.



RED LINE DENOTES THE LINE OF RETREAT OF JOHN CRITTENDER DIVAL FROM GOLIAD.  
 MARCH 27 TO MAY 4 OR 5, 1838.

C. LARK & COURTS, ENGRAVERS, GALVESTON

1875

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1836.

April—cont'd.

- 11th.—It was fine again, and Duval continued a correct course across the prairie. At mid-day he crossed the Tres Palacios creek. He makes a bow of cedar, but is much disappointed in failing to manufacture a suitable string. At night he is disturbed by a panther.
- 12th.—He crossed timber lands and finds a freshly shot hog at a ransacked house.
- 13th.—Duval crosses a considerable creek to a prairie with groves of oaks and hackberries. He here narrowly escapes a band of about twenty Indians. He camps in a turkey roost.
- 14th.—He finds wild onions, much to his delight. Crosses a wide prairie to timber, and finds the Colorado river high and rapid.
- 15th.—He swims the Colorado. It was two hundred yards wide, swollen by recent rains. He continues a long march to the timber on the "Old Caney." The bottom of the Caney he describes as a continuous cane-brake sixty or seventy miles long. In the timber he finds an abandoned settlement. The houses had been plundered. At one he finds a wild cat pursuing a hen. The cat shows fight and Duval retreats, but finally gets the hen.
- 16th.—No road across the Caney discovers itself. Duval explores down the bottom and finds another house, with several dogs, but otherwise deserted. It had remained undisturbed, and the dogs were glad to see him. He found here an abundance of food, furniture, clothes, and books. There were negro quarters. Duval, evidently, is very weak from want of proper food, fatigue and exposure.
- 17th, 18th and 19th.—Remains at this house to rest, feed and read.
- 20th.—He tries to leave, but the dogs persist in following. To evade them, he leaves quietly at midnight. One, however, followed his trail, and in spite of a beating was his companion to the end of his journey. He gave the dog the name of "Scout." Duval camped for the remainder of the night in the cane-brake.
- 21st.—He discovers centipedes and bears. Tries vainly to cut his way through the brake. He comes to a house that is evidently the home of a wealthy planter. It is well

1836.

April—cont'd.

appointed, and has many signs of comfort. There are negro quarters, and much food in store.

22nd, 23rd, 24th, 25th, 26th, 27th, 28th.—Stays at this house, and from it explores the cane-brake up and down the bottom, vainly searching for a crossing. The cane is so dense as to prevent him from continuing his journey. On the 27th, he encounters two Mexican soldiers, but he continues, as if unconcerned, on his way, and they do not molest him. He proceeds to get an axe from the house to cut a way through, and runs across a trail and cut road. He meets bears, but they do not attack him. On the 28th he meets an armed Mexican soldier, but evades him before discovery. Shortly after he sees five or six Indians driving horses, and is almost discovered by them.

29th.—Comes out to the prairie. There is a prairie fire, which he fights with fire, burning the grass around him.

30th.—He crosses a bayou, but not divesting himself of his knapsack he comes near to drowning. He succeeds in cutting his knapsack loose, and so loses his provisions. He continued his retreat through a wooded country.

May 1st.—Although knowing nothing of San Jacinto, he surmises that the Mexicans have met defeat, for he sees, in the distance, many straggling troops going hurriedly westward.

2nd.—Duval crossed the San Bernard river and finds a deserted house. He here parches some corn, and is surprised in the occupation by two Texan scouts. He is told of San Jacinto. The three fall back to the Brazos river, and there join the Texan camp about May 4th or 5th, 1836.

#### THE LAST SURVIVOR OF THE GOLIAD MASSACRE.

As far as I am able to discover, John Crittenden Duval was the last survivor of the few who escaped the massacre of Fannin's men at Goliad, March 27th, 1836.

He died on January 15th, 1897, at the house of his sister, Mrs. Mary Hopkins, at Fort Worth, aged eighty years and nine months, and was buried from the house of Robert G. West, in the Duval burying lot at Austin, January 18th.

In his dying there passed a brave, sweet, lovable spirit; Texas was the poorer for his death.

"How did he impress you?" I asked of one of his old comrades, who had also passed through "those times that tried men's souls," one who was well able, by the token of a great saber cut across the cheek, to judge of that kind of man. "Why," said he, "John Duval was one of the bravest, kindest men I ever knew. He was generous,—almost too generous,—he made money, but did not know the value of it, gave it away to those he thought needed it worse than he did. He was a man who always saw the humorous and sunny side of the gravest question, and if it hadn't a sunny or humorous side he made it." To all who knew John Duval, better than a passing acquaintance, and he was a reserved man, that estimate will appear truthful to the life and will meet with ready and affectionate indorsement.

He was born at Bardstown, Kentucky, March, 1816. He came of an old family, one that had produced men who were leaders in the times in which they lived. His father was William P. Duval, who was for sometime a member of Congress from Kentucky and was afterwards an active and able territorial Governor of Florida, and whose youthful adventures are entertainingly related by Washington Irving in his *Geoffrey Crayon Papers* as "The Early Experiences of Ralph Ringwood." How highly the Governor was esteemed for his courage and active virtues by Irving may be judged by others of the *Crayon Papers*, notably "The Conspiracy of Neamathla," the story of an incident in his dealings with the Seminoles. These same papers and their author, no doubt, had some influence in forming the literary style of John C. Duval.

The family, in America, was derived from Huguenot settlers in Virginia, and the white badge of St. Bartholomew's Eve is irresistibly brought to one's mind by its similar use at Goliad. It does not take a great stretch of the imagination to believe that history repeated itself,—that it is not improbable that more than once to members of this family a white handkerchief around the arms of others has been a sinister omen.\*

\* "These men (Major Miller's eighty who had been captured at Copano) were confined with us, but kept separate from the rest: and to distinguish them, each had a white cloth tied around one of his arms. At the time, I had no idea why this was done, but subsequently I learned the reason."—*Early Times in Texas.*

It was Governor Duval who came to settle in Bardstown, Kentucky. All his family, with a like spirit, made further migrations westward. Nearly all died in Texas. Of his sons, John Crittenden Duval is the subject of this sketch; Burr H. Duval was one of the victims at Goliad; his last letter to his father, dated March 9th, 1836, at that place, is for the first time made public in this paper; Thomas H. Duval, another son, was for a quarter of a century or more United States District Judge for the Western District of Texas; he had, besides, five daughters, Mrs. Laura Randolph of Florida, Mrs. Mary Hopkins of Fort Worth, Mrs. Florida G. Howard, Mrs. Marcia Paschal (whose husband was the author of the famous "Paschal's Texas Digests"), and Mrs. Elizabeth Beall.

Thomas H. Duval married his cousin, Laura Duval, and they had five children: John, who died early; Mollie, Mrs. John W. Maddox; Florence, who married the late Judge C. S. West of the Supreme Court; Nancy, who married Captain C. S. Roberts, U. S. A.; and Burr Grayson Duval, who after an active life as merchant and banker, a staff captain in the Confederate Army, and clerk in the United States District Court, died very highly esteemed at San Antonio, April 13th, 1893, leaving a widow and one daughter, Miss Kate Duval. The three sons of Judge West survive: Robert Green, Duval, and William Steele West. John C. Duval, therefore, dying unmarried, was the last male heir of this, the elder branch of the Duvals.

I shall in this paper lay stress on the personal characteristics and qualities of this man. It is fit that they should be recorded for the credit of Texas and the good of her younger sons.

Courage, modesty, courtesy, kindness and disinterestedness are virtues he possessed in a generous measure. Our day is not so over-rich in some of them that we can afford to bury with the dead the memory of their fine interpretation by just men. One of the best uses of recorded history is to make us patriots, and to teach us and posterity to live more worthily and with fewer mistakes as individuals and as a nation. It is therefore the part of writers not merely to collect and speculate upon the dry bones of accomplished facts, but to remember the kind of flesh, blood, and soul that was their mainspring, and if these can be shown to be of a high order, such history will not fail to produce what it should, "the tonic of a wholesome pride."

When his father was made Governor of Florida, John Duval

went with the rest of his family from Kentucky to settle at Tallahassee. The Governor, indeed, was practically the founder of that town, and he otherwise left an outward mark and impress upon Florida. Jackson is in Duval county, and one of the principal streets of Key West is Duval street. It was a difficult and not too congenial task the Governor undertook during and subsequent to the Seminole War, but he is remembered as the Indian's best friend in those times. The family returned later to their old home in Bardstown.

John Duval's scholastic education was completed at the University of Virginia. He adopted the profession of civil engineer, and the greater part of his life was given up to surveying and locating Texas lands. Many of his fees were paid in land certificates, and often he was what is known as land poor. More than once when he was applied to by some needy person for help, not having the cash, he has been known to give that help in the shape of a land certificate. Certainly his virtues were not profitable to him, for he died a very poor man. In him there was an utter forgetfulness of self when he contemplated the misfortunes of others. Not so very long before he died there came to his home a tramp, begging. The man asked pitifully for a pair of shoes; he did not really need them, but he persuaded the old man that he did. Finally, Mr. Duval rose and courteously begged to be excused for a moment, and then went into another room. Presently he emerged in his stockinged feet and gave the beggar his own shoes. The shoes, however, were rescued at the gate, and when the old gentleman was gently remonstrated with he pleaded that the man was a young man in misfortune and must need shoes worse than he.

Few, even of his friends, were aware that he was all his life a sufferer from hemorrhage of the lungs. This was the real cause of his determination to spend as much of his life as possible in the open air. His profession of land surveyor took him much on the frontiers of Texas and New Mexico, where months passed without a roof covering him, and he enjoyed it. This same craving for the freedom of the prairie and the woods was one of the chief reasons for his joining the famous Jack Hays' Ranger Company. It was partly, too, an inherited dislike of restraint, as may be judged from Irving's "Ralph Ringwood." The proverbial irony of fate was never more strongly reaffirmed than in his case. Here was a man, who, like St. Paul, had suffered almost every peril on land and

water. He had escaped execution by scarcely less than a miracle, and but for an indomitable self-restraint should have been an invalid, and at last he dies of old age. He waited patiently, serenely, for the end as one knowing that it could not be far removed. Never, in suffering, I am told, did a complaint escape his lips,—the nearest approach to such was half-humorously spoken almost at his exit, and was more his way of saying farewell to a relative than a complaint: "Well, cousin," said he, jocularly, "life is not such a blooming affair, after all."

When the Civil War, the war that divided so many families, broke out, the two brothers, John C. and Judge Thomas H., found that they were not in perfect accord as to their lines of duty. The Judge was and remained a strong Union man. John, although he felt the South was not in the right, placed loyalty above all other considerations, and being a Southerner and his people being Southern people, felt bound to help it out as a fighter. The brothers disagreed, but being men of reserve and gentlemen, felt that it did not become their dignity to waste hot words. John simply and quietly left his brother's home, and without comment went to Alabama and there enlisted as a private. And because he felt that the South was wrong, he refused at first all preferment or advancement, although repeatedly urged to it. General Ben McCulloch offered him a prominent position in the Confederate Army, but he steadily refused it; yet at the close of the war he was a captain, and his change of view can only be explained by the fact that the South was getting the worst of the war, and the harder she was pressed the more he felt in duty bound to help her. He was reticent over this period of his life. It was known that he had been in many battles and had seen hard fighting. For four years after the War none of his people knew where he was; in fact, they had not seen him for nine years, when one day he walked into the Duval homestead at Austin, as if he had been absent but for an hour or so. He greeted every one cheerfully, but for years he made no mention of the lapse of time, or where he had been, or what he had done.\*

\* This is paralleled by a story of his father, the Governor, who when a lad was bidden by his father to fetch a log. The boy, being mortified that it was more than he could manage, left home for Kentucky. He concluded never to return until he could bring it in. Some years after, when he did return, he entered the house unannounced, with a huge log on his shoulder, and, throwing it down, said, "Father, I have brought in that log." The father simply answered, "You've been a long time, William."

There was one other topic that he treated with similar reserve. With an outward air of easy nonchalance, he felt deeply. There were some things he could not forget. He never willingly spoke of the death, at the massacre, of his brother, Burr H. This seemed a matter so purely personal to him that he does not even mention the fact in his description of the campaign in his "Early Times in Texas." He makes no mention or hint of a brother throughout its pages, and wherever he mentions him, which is seldom, it is simply as Captain D.— of his company.

About the year 1876 he was employed by the International and Great Northern Railroad Company to report on land and to locate and survey certain tracts. His letters to the Land Office were always looked forward to eagerly by the officials, not merely for their thoroughness, but for the literary flavor they had and for the quiet humor they contained. He had a dry and amusing way of describing even serious incidents. He was once called upon by the office for information concerning a railroad collision, in which he himself had been somewhat shaken up. He reported that when it occurred he had been sitting opposite a very stout old lady, one of the kind that it was easier to jump over than to go around, and that he was being mightily entertained, when suddenly he found that he had been "telescoped" by her, and that was all he remembered.

He possessed a natural gift for description. His love of nature made him observant of all that pertained to wood-craft and the prairie. Bird, beast, flower and tree were alike full of interest for him. His observations of them are always as those of one familiar with his subject. He wrote of these things and of his adventures, not as the artist; he knew little of the technique of the art of writing, or of the artistic construction of stories. What he had to say flowed naturally from his pen in a style his very own, but for the perceptible influence of Washington Irving that I have mentioned before. What he wrote commands immediate attention, it has a living and direct quality; especially this is so of "Early Times in Texas." To pick up that means to read it before it is put down. No book of this kind, except "Robinson Crusoe," has charmed me so much. I have read and re-read it many times, and always with renewed interest. I have gone very carefully over it and journalized by their actual dates the different events he describes and the progress of his retreat eastward after his escape. I have done this partly for his-

torical interest and partly to show that he was accurate. A lapse of memory, here and there, is all I can detect with careful searching.

These discrepancies are not worth mentioning, for they do not affect, in the least, his main aim to present a truthful living picture of those events from his point of view. Some day this will be a Texas classic, and it will be a joy of every Texas boy's heart to possess a copy. A map also accompanies this paper, on which I have traced in red the line of his retreat from Goliad to the Brazos river: on it, besides, I have indicated the battlefields of the Revolution and the chief places of interest, notably the various settlements which became in turn the capital of the young and struggling Republic.

Besides "Early Times in Texas," Mr. Duval wrote "The Young Explorers; or, a Continuation of the Adventures of Jack Dobell," a characteristic volume, "The Adventures of Big Foot Wallace," and many other fugitive papers contributed to local magazines and to the press.

Duval and Wallace were life-long friends. Both of them had had brothers killed in that fearful Goliad slaughter, and they were for a long time comrades.

John Duval was of medium build, erect and active to old age. At rest his face wore a look of calm and native dignity. A fine, knightly face, with a regular grey beard and determined mouth. He had a high, broad forehead and intelligent blue eyes. The extreme modesty and diffidence he exhibited would have been an affectation in most men; with him it was one of the charms of his character, for with all of it there was an undefined force that gave assurance that his quiescent nature, like that of a lion, could, upon occasion, be aroused to a wonderful self-possession and alertness in the presence of danger.

Such, then, in short, was the man whom fate had decreed should outlive all his fellow-actors in that sad drama of La Bahia. Well, he was a noble representative of brave comrades. It was a solemn office he filled for a short space of time, the sole and worthy incumbent—an ambassador from the past to an all too heedless new generation. Who shall declare that his election to that office was not made sure by the silent ballot of a dead constituency? I can fancy him true to himself, true to a life-long habit, deprecating even that as too much honor. I can picture him an old soldier



standing alone, patiently waiting for the grim adjutant to call the last name on his company's muster-roll. In his loneliness he must often have called to mind "the old familiar faces,"—no doubt communed with them, even as another grand old man,

“ When the dumb Hour, clothed in black,  
Brings the Dreams about my bed,  
Call me not so often back,  
Silent Voices of the dead,  
Toward the lowland ways behind me,  
And the sunlight that is gone!  
Call me rather, silent voices,  
Forward to the starry track  
Glimmering up the heights beyond me  
On, and always on! ”

THOMSON'S CLANDESTINE PASSAGE AROUND  
NACOGDOCHES.\*

W. P. ZUBER.

In 1830, after the passage of the exclusion act, a large body of families sent by Sterling C. Robertson from Tennessee were conducted into Texas by Alexander Thomson.† Before reaching Nacogdoches, they learned that they could not pass the garrison at that place without passports, and they encamped about three miles east of that town.

Mr. Thomson and two other men went into Nacogdoches to confer with Colonel Piedras. They stated their condition to the colonel, and requested him to permit the families to pass. Piedras had no authority to comply with their request, and so informed them. They then said that, if the immigrants would consent to do so, they would change their destination to Austin's colony, and asked Colonel Piedras whether they could pass thither. He replied that they could do so only after procuring permits from Austin, and advised them, if they should so decide, to let the families stay in their present encampment while a messenger should proceed to San Felipe and procure the needed permits from Austin. They told him that they would return to the camp and try to persuade the immigrants to do as he advised, but they thought that two or three days might elapse before they could determine what to do. But they promised to come again and inform Colonel Piedras of whatever decision the immigrants should make.

They returned to their encampment, and reported to their friends their interview with Colonel Piedras. They soon determined what to do. On the next day, they cut a road around Nacogdoches. This required comparatively little work: the opening of two connecting roads, through open woods, between that on which they were encamped and another, nearly parallel with it, which lay

\*I narrate these facts from my own knowledge, as I do not know that they have ever yet been published.

†He spelled his name Thomson, not Thompson.

about a mile north of Nacogdoches. Thus their route led from their encampment, or from a point a little west of it, nearly north to another road; thence with said road nearly west to a point several miles northwest of Nacogdoches; and thence nearly south to a point on the San Antonio road a few miles west of Nacogdoches.

On the following morning, very early, the families decamped and proceeded for their destination in Robertson's colony, the beginning of their journey being on their improvised road. But Mr. Thomson and the two men who had previously accompanied him went through Nacogdoches to see Colonel Piedras. They told him that, after thoroughly considering their situation, the immigrants had unanimously determined to settle in Austin's colony, and would stay in their present encampment till receipt of their permits, and that they—Mr. Thomson and the two men with him—were en route for San Felipe to procure the permits, and hoped soon to return and conduct the families into Austin's colony. Piedras wished them God-speed, and they proceeded on their journey. But a few miles west of Nacogdoches, Mr. Thomson and the two others rejoined the families, and they all proceeded together for Robertson's colony.

My father was then in Texas, about twenty-five miles east of Nacogdoches, and soon learned the facts of this passing around that place by Mr. Thomson's immigrants. The same account was confirmed to my father by Mr. Thomson himself at Harrisburgh, Texas, in 1831. His statement to my father was substantially as I have here repeated it.

The road which those immigrants made around Nacogdoches was known as the "Tennesseeans' road," and was used by many subsequent immigrants, who were not provided with passports or permits.

After Thomson's immigrants had passed around Nacogdoches, some gentlemen reported their action to Colonel Piedras. He replied: "I can not recall them. I can not prevent people from passing *around* Nacogdoches, whether their route be half a league or a hundred leagues distant. All that I can do is to prevent intruders from passing through this town."

However, Colonel Piedras, of course, must have reported the affair, both to the State authorities and to the general commanding the troops of the department. This conduct of the immigrants was

regarded by the authorities as treacherous and defiant to the laws, and to the Federal and State governments. Of course, it greatly aggravated—if it did not cause—all the troubles that afterward beset the settlement of Robertson's colony.

Yet justice to Mr. Thomson demands full consideration of the circumstances which impelled his action, which, if they do not justify his conduct, at least greatly diminish the blame due thereto. I can not see that he could have done better. He was under obligation to the Nashville Company, to Robertson, and to the immigrants themselves, to conduct them to Robertson's colony, in which only they were willing to settle. He had conducted them thus far in good faith, anticipating no opposition, but there they were halted; no arrangement could be made to procure passports to their desired destination without a trip to the State capital west of the Rio Grande, either by Robertson, who was in Tennessee, or by a messenger to be sent by him; the delay for such a trip would quite exhaust their funds for travel, which were limited. Yet, they could not otherwise obtain the needed passports. Deluded by the hope that if they could, *by any means*, pass Nacogdoches, they would encounter no further trouble, they adopted the plan, which they executed, of passing clandestinely around that place. Mr. Thomson keenly felt his obligations to his company, to his empresario, and to his immigrants. His condition was extremely distressing. He and his companions adopted this clandestine passage as the best proceeding in their power. I am safe in saying that he would not have done as he did if he had not believed that the circumstances morally justified his action. Both my father and myself knew him as an honorable and conscientious gentleman. His necessity resulted from the seemingly unavoidable neglect of Empresario Robertson to provide for the needed passports.

In January, 1831, my father, with his family, en route from Ayish to Austin's colony, passed around Nacogdoches on the "Tennesseeans' road," which had been improvised by Thomson's immigrants for Robertson's colony, though he had a permit from Austin. My father did so on the entreaty of a Tennessean, who, with his family, had overtaken us, and who had no permit, though he, too, was going to Austin's colony. I have always regretted this incident, for it deprived me of an opportunity to pass through the old historical town of Nacogdoches, which I have never yet seen.

THE ORGANIZATION AND OBJECTS OF THE TEXAS  
STATE HISTORICAL ASSOCIATION.

*Organization.* On the evening of Feb. 13, 1897, a number of gentlemen interested in Texas history met in one of the rooms of the University of Texas to discuss the organization of a State Historical Association. The result of the meeting will be seen in the following circular letter, which was issued a few days later and sent to some 250 persons in Texas:

You are cordially invited to be present and take part in a meeting to be held in the rooms of the Commissioner of Insurance, Statistics and History, at 8:30 p. m., March 2, 1897, for the purpose of organizing a State Historical Association. The general object of this Association will be the promotion of historical studies; and its special object the discovery, collection, preservation, and publication of the materials for the history of Texas. The proposed annual fee for membership is two dollars.

We feel the duty of immediate action in order that the sources of Texas history may be preserved, and we sincerely hope that you will be able to lend your aid.

If you are unable to attend the meeting, but wish to become a member, kindly signify the same on the attached blank, which you will please mail in the enclosed envelope.

O. M. ROBERTS,  
F. R. LUBBOCK,  
JNO. H. REAGAN,  
GEO. T. WINSTON,  
DUDLEY G. WOOTEN,  
A. J. ROSE,  
GEORGE P. GARRISON.

The number of responses to this letter was indeed gratifying; nearly one-half the persons invited either attended the meeting or sent their names for membership.

The Association was organized on the evening of March 2, some twenty or thirty persons present. Before proceeding to business, ex-Governor O. M. Roberts, in response to repeated calls, pleasantly entertained those present with several anecdotes illustrative of the character of General Thomas J. Rusk. The meeting was then called to order by Professor George P. Garrison of the State Uni-

versity. Judge Z. T. Fulmore of Austin was made temporary chairman, and Professor Garrison secretary, and the following constitution was adopted:

#### CONSTITUTION.

##### ART. I. NAME.

This Society shall be called THE TEXAS STATE HISTORICAL ASSOCIATION.

##### ART. II. OBJECTS.

The objects of the Association shall be, in general, the promotion of historical studies; and, in particular, the discovery, collection, preservation, and publication of historical material, especially such as relates to Texas.

##### ART. III. MEMBERSHIP.

The Association shall consist of Members, Fellows, Life Members, and Honorary Life Members.

(a) *Members.* Persons recommended by the Executive Council, and elected by the Association, may become Members.

(b) *Fellows.* Members who show, by published work, special aptitude for historical investigation may become Fellows. Thirteen Fellows shall be elected by the Association when first organized, and the body thus created may thereafter elect additional Fellows on the nomination of the Executive Council. The number of Fellows shall never exceed fifty.

(c) *Life Members.* Such benefactors of the Association as shall pay into its treasury at one time the sum of (\$50) fifty dollars, or shall present to the Association an equivalent in books, MSS., or other acceptable matter, shall be classed as Life Members.

(d) *Honorary Life Members.* Persons who rendered eminent service to Texas previous to annexation may become Honorary Life Members upon being recommended by the Executive Council and elected by the Association.

##### ART. IV. OFFICERS.

The affairs of the Association shall be administered by a President, four Vice Presidents, a Librarian, a Secretary and Treasurer, and an Executive Council.

The President, Vice Presidents, and Secretary and Treasurer shall be elected annually by the Association from among the Fellows.

The Professor of History in the University of Texas shall be *ex officio* Librarian of this Association.

The Executive Council, a majority of which shall constitute a quorum, shall consist of the following:

## Organization and Objects of the Association. 73

The President.  
The four Vice Presidents.  
The Librarian of the Association.  
The State Librarian.  
Three Fellows.  
Five Members.

The Association, immediately after organizing, shall elect three Fellows to serve on the Executive Council, one, two, and three years, respectively, the term of each to be decided by lot. Thereafter, one Fellow shall be elected annually by the Association for the term of three years.

The Association, immediately after organizing, shall likewise elect five members to serve on the Executive Council, one, two, three, four, and five years, respectively, the term of each to be decided by lot. Thereafter, one Member shall be elected annually by the Association for the term of five years.

### ART. V. DUES.

Each Member shall pay annually into the treasury of the Association the sum of two dollars.

Each Fellow shall pay annually into the treasury of the Association the sum of five dollars.

Life Members and Honorary Life Members shall be exempt from all dues.

### ART. VI. PUBLICATION COMMITTEE.

A Publication Committee, consisting of five persons, shall have the sole charge of the selection and editing of matter for publication. The President and Librarian of the Association shall be *ex officio* members of this committee; the remaining three members shall be chosen annually by the Fellows from the Executive Council.

### ARTICLE VII. AMENDMENTS.

Amendments to this Constitution shall become operative after being recommended by the Executive Council and approved by two-thirds of the entire membership of the Association, the vote being taken by letter ballot.

Fellows and officers were then elected,\* and the meeting adjourned.

The Executive Council met at the University building in Austin, May 28th, and decided that the first annual meeting of the Association should be held at the same place on Thursday, June 17. The meeting was held as appointed, and the papers printed in this num-

\* For a list of officers, see second page of cover.

ber of THE QUARTERLY were read before the Association. Three or four hundred names were added to the list of members and a few to the list of Fellows, and a Publication Committee was elected, as the Constitution directs. The surviving veterans of San Jacinto and previous battles, together with ex-Governor O. M. Roberts, Hon. John H. Reagan, Colonel Guy M. Bryan, Colonel John S. Ford, Mrs. Julia Lee Sinks, Mrs. Anson Jones, and Mrs. A. J. Briscoe, were elected honorary life members.

It is hoped that the Association will stimulate the production of much historical matter of real worth for presentation at its meetings, and it is intended to publish such matter, as well as original documents, as fast as the finances of the Association will allow. Original articles on any period of Texas history, or on any subject connected with Texas history, will be gladly received; a number of such papers will be read before the Association at each meeting.

It is also hoped to ascertain the present location, ownership, condition, etc., of the vast mass of MSS. now in the hands of private persons in Texas, and, if possible, to secure for the Association possession of the originals. Suitable fire-proof vaults will be provided as soon as possible, where such papers as the Association shall acquire may be safely stored. Private diaries, family letters, journals of travel, old newspapers, genealogical notices, etc., etc., are of quite as much value in recovering the history of Texas as are state papers and public documents. Members of the Association are especially urged to report to the Secretary any information which they may have concerning such documents.

The Association also hopes to acquire a library and museum. It has already made a good beginning. Books and historical relics will be gratefully received, and it is especially desired that every Texas author should present to the Association a copy of his works.



## NOTES.

Prof. R. L. Batts' paper on "The Defunct Counties of Texas," which was read at the meeting of the Association on June 17, could not be printed in this number of *THE QUARTERLY* for want of space; it will appear in the October number.

Eldredge & Bro. have in press "The Civil Government of Texas," by Dr. George P. Garrison, which will contain, in a brief compass, an historical sketch of the State, and a description of its government. When this work appears, it will be further noticed in the *QUARTERLY*.

At the June meeting an interesting and valuable paper was presented to the Association by Mr. C. A. Neville, superintendent of schools at Hempstead. It is the discharge of a private soldier, Jeremiah Belcher, given at Newburgh, June 14, 1783, and signed by Gen. Washington.

The scrap-book bequeathed by Mrs. Wilson contains an original letter from Jefferson Davis to Col. Wilson, besides numerous other original letters of great value in Texas history. There are also several original papers, such as commissions, to Col. Wilson, signed by President Buchanan, Gov. Letcher of Virginia, Sam Houston, and others.

The Texas Veterans' Association, at its April meeting, turned over its archives as a gift to the University of Texas. The papers have not yet been received by the University, but it is understood that there are among them many interesting letters and other documents, written by men prominent in the history of the Republic and the State.

"Under Six Flags" is the title of an excellent little work on Texas history by Mrs. Mollie E. Moore Davis. It is composed of chapters respecting the different epochs of our history, charmingly written, and unusually free from errors. It is especially adapted to school work in Texas history, and will doubtless soon become a school-room classic.

At the request of the Executive Council, the President of the State University has set aside an alcove in the new library for the use of the Association. This alcove will be under the control of Dr. Garrison, librarian of the Association, and will be arranged with special regard to the convenience of readers and the display of such documents, etc., in the possession of the Association, as may be interesting to the public.

The Historical Association is in receipt of a circular announcing that *The Alcalde*, a paper hitherto published at the State University, will be enlarged, and its character changed to that of a general weekly newspaper for Texas. It will be non-partisan. The first number will appear in November. L. E. Hill and John O. Phillips, both of Austin, are the editors. The Executive Council of the Association has accepted an offer from these gentlemen of one page per week, to be under the control of the Association, and devoted to its affairs.

Judge Z. T. Fulmore has now in press a comprehensive chart, showing, in five maps, the history of Texas geography, together with a digest of the facts constituting the history of the boundaries of Texas. The chart will also contain a clever diagram showing the evolution of the counties of Texas from the original municipalities, the origin of names, date of creation, etc.; a list of Texas officials extending back into the period of Spanish rule; and much statistical information as to the material progress of Texas from the earliest times to the present.

Among other valuable gifts that have been made to the Association are two scrap-books full of important historical matter, one from Mrs. Julia Lee Sinks of Giddings, the other the bequest of Mrs. M. A. C. Wilson, lately deceased, the widow of Col. William F. Wilson. The first contains Mrs. Sinks' own narrative of the recovery of the bones of the decimated Mier prisoners and Dawson men, and their burial at La Grange in 1848. Mrs. Sinks assisted at the burial herself. The collection includes copies of letters from Austin, Rusk, Lamar, and other prominent men of the Republic.

William G. Scarff, publisher, Dallas, has in press two works whose appearance is looked forward to with most hopeful anticipation by those interested in Texas history. Both are edited by

Dudley G. Wooten of Dallas, whose special fitness for the work is unquestionable. The first is "A Comprehensive History of Texas," consisting of a reprint of the original text of Yoakum's "History of Texas," with notes by Moses Austin Bryan, Frank W. Johnson, Guy M. Bryan, and the editor, together with various monographic additions, covering almost every phase of the subject. Among these are the political history of the State by ex-Governor O. M. Roberts; the Mexican War and Annexation, by the late General S. B. Maxey; the material, social, and religious history since 1845, by the editor, etc. The second is "A Complete History of Texas for Schools, Colleges, and General Use." There is need for such a book as this title suggests. It is expected that both these works will be reviewed in a subsequent number of the QUARTERLY.

An interesting and valuable collection of newspapers and relics has been received from Mrs. Anson Jones of Houston, and is now held in trust by Dr. George P. Garrison, Mrs. Dora Fowler Arthur, and Mr. Lester G. Bugbee, until the establishment of a Texas Museum. The collection contains the following articles owned and used by President Anson Jones: portfolio (just as left by him), wafer box, wafer stamp, sealing wax, pen, piece of cloak worn by him on the day of his inauguration as President of the Republic of Texas, December 9, 1844. The collection also contains the following articles used by Mrs. Jones for over fifty years: needle book, gold pencil, and veil. The newspapers, forty-two in all, including a few fragments, are very well preserved; they are mostly Texas papers, published during the last years of the Republic and the period immediately following Annexation. There are several copies each of *The Civilian and Galveston Gazette*, *The Western Texian*, *Texas Ranger*, *The Texas Ranger and Brazos Guard*, and others. Many of the papers are rendered more valuable by occasional marginal comments in the writing of President Jones. A more detailed description will appear in the October QUARTERLY.



# THE QUARTERLY

OF THE

## TEXAS STATE HISTORICAL ASSOCIATION.

Vol. I.

OCTOBER, 1897.

No. 2.

*The Publication Committee disclaim responsibility for views expressed by contributors to the Quarterly.*

### THE ANNEXATION OF TEXAS.

SAM HOUSTON.

[The following letter from General Houston to Major A. J. Donelson, United States chargé d'affaires in Texas, is reprinted from the *Texas Banner* (published at Huntsville) of May 26, 1849. It appeared also in *Niles' Register*, vol. 75, and was later published in the *National Intelligencer*.— G. P. G.]

HUNTSVILLE, TEXAS, 9th April, 1845.

My Dear Major: In accordance with my promise on yesterday, I will now communicate to you some of my views on the question of annexation. I regret that my time will not allow me to go as fully into an examination of the subject as would be desirable, where so much of interest to both countries is involved in the measure. The overture is now made by the United States to Texas; and by an act of the Congress of the former, conditions are proposed by which the latter may be admitted as a part of the Union. I will not discuss the policy of the measure, but allude only to the manner of its consummation.

I am in favor of annexation, if it can take place on terms mutually beneficial to both countries. I have on all occasions evinced the most anxious solicitude touching the matter, and have withheld

no means in my power towards its completion. As it now stands, I regard our relation to it in this light:

We are to merge our national existence in that of the United States, whenever the measure may take place. Then it seems to me that we should have something to say as to the terms of the union. By Mr. Brown's resolutions,\* *the terms are dictated and the conditions absolute.* They are of a character not to have been expected by any one who regarded annexation as a compact between two nations, where each had substantial and acknowledged sovereignty and independence. Texas is required to surrender her sovereignty and merge her independence. In the surrender of her rights, or any portion of them, she should have the privilege of assisting in the adjustment of the conditions; and they should be so defined and understood as that no discontent or misapprehension could thereafter arise as to her true situation. To arrive at a point so desirable, it appears to me that *negotiations*, conducted by commissioners on the part of each government, should take place. To me, the necessity is most obvious; for the reason that Texas may, in after times, when she recurs to the circumstances and consequences of the measure, be satisfied that the terms on which she had been received were in part, at least, of her own devising, and that she, from some strong impulse, had not acted without due deliberation, and a full discussion of the terms, by persons whose minds had been called to act upon the subject, under the most calm and considerate motives.

Commissioners appointed by the two governments could accomplish all this, and define and settle by negotiation and agreement what might hereafter arise calculated to disturb the future harmony of the United States, and perhaps injure Texas.

The amendments to Mr. Brown's resolutions appear to me to afford the only means to obviate the objections to their provisions. Their terms seem to me, to say the least of them, to be rigid; because they require of us to pay a tribute, or *bonus*, to the United States, for leave to surrender our sovereignty and national independence—and this, too, in a most summary manner. We are required to "cede" to the United States "*all public edifices, fortifications, barracks, ports, harbors, and navy, and navy-yards, docks,*

\* The House resolutions for annexation in their final form were based on those offered by Milton Brown, of Tennessee. See Benton's Abridgment of the Debates of Congress, Vol. XV, p. 196.—G. P. G.

*magazines, arms, armaments, and other property and means pertaining to the public defence belonging to the said Republic of Texas."* It ought to have been considered that these enumerated means and property have occasioned a large portion of our national debt, *and remains to be paid for by Texas.* They have probably cost this nation not less than one million of dollars; and to admit that they are now worth only half that sum, would fix their value at a half million, which would be of great service in organizing a new government or governments, and in cleaning out rivers and improving our facilities for transporting produce to market by means of roads.

If Texas shall be required to surrender her property, without receiving any remuneration for the same, it can only be regarded in the light of a payment or tribute for our admission into the Union. If the resolutions of Mr. Brown are to form the basis of our admission, this objection can not be removed, but must remain as a rebuke to us, in future days, for our hasty and inconsiderate action.

By assuming the amendment as a basis, many objections can be obviated; and by negotiation, terms less exceptionable may be adopted. If the President of the United States should appoint commissioners, and they should be met by corresponding commissioners on the part of Texas, they could come to an agreement upon such terms as would be honorable and just to both parties. The terms thus agreed upon could then be submitted to the people of Texas in their popular capacity, and their votes taken thereupon, at the September election for members of our Congress. If they were approved by their voice, then our Congress could act upon the expression given by the people, and wait for the action of the government of the United States. If that government should accord in the action of this, then Texas could more safely proceed to frame a constitution adapted to her circumstances. The reasons for this course, to my mind, are *important*, and, I may add, indispensable, in our present condition.

The conditions prescribed in Mr. Brown's resolutions leave us no alternative, and I am satisfied would not have been adopted by the Congress of the United States, apart from the amendment. By the amendment, the President of the United States was allowed an alternative as to the mode of presenting the subject to the government and people of Texas for their consideration and action. But as the alternative chosen might very materially affect the interests

of Texas, it is to be hoped and expected that its government will be consulted as to which should be adopted. By the action proposed in the plan of Mr. Brown's resolutions, Texas is denied all option as to the mode of annexation, and is driven into servile submission, and is required to pay *a price* for her humiliation. If Texas were to accept the conditions as they are now presented to the government of Texas by the government of the United States, it would derange her present form of government, and shake her institutions to their foundation, if her constitution should not be accepted by the Congress of the United States; and my own opinion is, that our admission by Congress would be very doubtful if we were to act upon the first and second sections of the resolutions, without reference to the third.

If the work of annexation is to be consummated, my great desire is to see it done in a manner that may not only be harmonious at present, but so that each party may hereafter, on a review of the whole matter, have nothing to regret or to reproach itself with.

It seems to me, also, that the conditions as to the time to which the action of Texas is limited is too short to enable her to give the subject all the consideration which its importance demands. The Congress of the United States will, doubtless, not adjourn its next regular session before the month of July, 1846. Then it will have ample time to extend the period for the action of Texas until her government and people could carry out their action upon the plan which I propose, and the same that was contemplated by the amendment. If the original resolutions are insisted upon as *the basis* and *the only one*, I entertain the most serious doubts as to our ever being admitted, or forming a part of the American Union. Texas has so long been a suppliant, that I am fearful the government of the United States has presumed upon what they suppose to be our *necessities*, and therefore have been induced to lay such hard conditions upon us. Heretofore the difficulties have all existed on the part of the United States, as to our admission into the Union; nor do I yet regard them as all obviated. If I am right in this, it would be too perilous for Texas to act upon the basis proposed, and subject herself to have the constitution which she might at present submit rejected by the Congress of the United States. It would not only be destructive to the future prospects and wel-



fare of Texas, but convulse the Union to a far greater extent than ever did the tariff or "Missouri question."

The wish of every American statesman should be to preserve the concord and union of the States; and the desire of every Texan, to cede such rights and privileges to the Union as would be just and proper. We should, however, retain all which would be necessary to us as an equal member of the Confederacy, and part with none which we should require in our new position with a hope of regaining them at a future day. Should we entertain such a hope it might prove fallacious, and be productive of serious and lasting discord. Texas, if annexed, will become a part of the United States in opposition to the wishes of a large portion of the people of the Union, and encounter a strong political opposition. If they are vanquished, they will retain a strong prejudice against the cause or object of their defeat. The party favorable to the admission of Texas may or may not long retain power in the Union. While they retain power, Texas might do well; but if it once passed into the hands of the Opposition, she would in all probability fare equally bad.

For these reasons, I wish that whatever rights Texas has or might be entitled to, should be *defined*, and *understood*, and retained by her on her admission to the Union; and this can only be done through the action of the commissioners indicated by the amendment, and without which I feel fully satisfied the bill would not have become a law.

The "consent of the existing government" of Texas, referred to in one portion of the act—and that recognizes some option in our Executive as to the mode by which the affair (so far, at least, as Texas is concerned) should be conducted—is necessary to give validity to the measure. If any commotion should arise in Texas, or a disregard of the constitutional authority, in consequence of the basis proposed not being accepted, I should deem it most unfortunate for the fame and quiet of the President of the United States, by thus furnishing a ground for his enemies to charge him with producing the evil resulting from withholding the choice of the alternatives contained in the law from the Executive of this country.

You may find some who will express the wish or intention even to resort to revolution to secure annexation, without knowing one

of the conditions imposed, or anything more than that "it is something about annexation." If by any irregular mode, or by exciting sedition in the country, the expression of the popular voice could be had, and should be unanimous in favor of the measure, it would be good cause for the Congress of the United States and the President to resist any such action.

They would surely not be willing to inflict such a scandal upon the present enlightened age as the encouragement or sanction of such a course would be.

Another may, by some persons, be suggested to you, and that is—if the President has chosen his position, in declining the proposition as presented, *to drive him from his position, and appeal to the people.* Of such suggestions, I pray you beware; for I can conceive of no course or *curse* so fruitful of evils to free government, and subversive of all rule among men, as this would be. It would soon produce its effects, even in the U. States. The President might desire to execute the law; but if occasion prompted, seditionists would quote the act of Texas as a warrant and example for their resistance to the federal authorities.

Nevertheless, there are individuals in Texas who would willingly adopt any course, or pursue any measure, which they might believe to be adverse to my opinions, or that would prostrate the present administration. They would do this, though it should destroy the country. They are men who wish to live upon the means of the government, without labor, and feast and riot upon the substance of the people. Without merit, such men are like vermin in the dead carcass: they can live only in corruption.

Now, my dear friend, for the sake of human liberty,—for the sake of the future tranquillity of the United States—and for the prosperity of Texas, whose interests, prosperity and happiness are near to my heart, and cherished by me above every political consideration, I conjure you to use your influence in having presented to this government the alternative suggested by the amendment to Mr. Brown's bill, so that commissioners can act in conjunction upon the points which it may be proper to arrange between the two countries, before it is too late, and while there is a remedy. The newspaper press, with, I believe, the organ of the government of the United States, expect the alternative amendment to be pre-

sented to Texas, that she may exercise some choice as to the conditions of her entry into the Union.

I can not say what would be proper for the commissioners to agree upon. But I would suggest that Texas, if admitted into the Union, should enjoy full equality and community with the other States of the Confederacy; that the United States should receive and pay Texas a liberal price for the public property which has been acquired for national purposes, and that the amount should be paid to the State of Texas, so soon as it should be organized and admitted as a State.

That Texas should retain her public lands, and if the United States should hereafter vary her boundary or limits, as at present defined, by contracting or reducing them, that in that case they should indemnify the citizens of Texas, by payment for any lands which they may hold, by locations under the laws of Texas, in the territory abandoned by the United States, at the minimum price of the government lands at this time in the United States.

That the government of the United States may at any time purchase the vacant lands of Texas, at a price to be stipulated by the commissioners; and in the event of their purchasing our lands, that they should not (without the consent of the State of Texas) sell to, or permit to settle within the present limits of Texas, any nation, people, or tribe of Indians.

That Texas should pay the national debt.

That the United States should remunerate the citizens of Texas, whose lands fell within the United States in running the boundary lines, in the same manner, and with the same liberality, that Texas did those of the United States, or that they (the United States) pay them for their lands, which had been located on valid titles, issued by the government of Mexico, and at a time when it was believed the limits of Texas would embrace the locations previous to running the line.

And I would recommend that an article be inserted in the agreement, stipulating, expressly, that Texas should not form a part of the Union until her Constitution is accepted by the Congress of the United States.

I candidly conceive that these stipulations are necessary and proper to secure Texas and her citizens, as well as to enable the

United States to maintain peace with all the Indians on our borders.

I have thus hastily written you a long letter, subject to frequent interruptions. You may therefore find my meaning, in some things, obscure. I have not even glanced at the general policy of the measure of annexation, but have given my views as to the mode of its execution, and what appears to me necessary to be done by the parties. I must confess that I have not been free from embarrassment on the subject. I have felt so deeply for my venerated and highly valued friend, the Sage of the Hermitage, that nothing but a most sacred regard for my adopted country could have induced me again to thus express my opinions on this subject. The feelings of Gen. Jackson are so much absorbed in the subject of annexation, arising from his views of the importance of the measure to the United States, that he has, very naturally, not been fully able to regard Texas as forming a separate community, and with interests not entirely identical with those of that government. Nevertheless, I know and feel that Gen. Jackson believes that Texas, annexed on any terms, would be equally benefited with the United States, and thereby perpetuate free institutions, and extend the sphere of representative government. Annexation would be certainly beneficial to the United States. On the part of Texas, it is an experiment, which I pray God, if it takes place, may result in enduring happiness and prosperity to a united community.

I am, truly your friend,

SAM HOUSTON.

Maj. A. J. Donelson, &c., &c.

DEFUNCT COUNTIES OF TEXAS.

R. L. BATTS.

Under this rather inaccurate title memoranda (perhaps incomplete) is given concerning five classes of counties:

1. Judicial counties.
2. Counties whose names have been changed.
3. Counties whose territories have been entirely changed.
4. Counties, the laws organizing which have been repealed.
5. Counties whose territory is no longer considered part of the State.

I.—JUDICIAL COUNTIES.

At the sessions of the Fifth and Sixth Congresses, held respectively in 1841 and 1842, a number of counties were organized which were subsequently spoken of as "judicial counties." These counties did not differ from the counties from which they were created except that they were not given representation in Congress. Because this representation was not given, the acts creating them were held unconstitutional, as being in conflict with article I, section 5, of the Constitution of the Republic, which declared that "each county shall be entitled to at least one representative." *Stockton v. Montgomery*, Dal., 473; *Beazley v. Stinson*, Dal., 537; *Allen v. Scott*, Dal., 615. By Act of July 18, 1842 (Special Session of Sixth Congress, p. 1), acts of boards of land commissioners or district courts, and of surveyors, with reference to lands, were validated.

*Burleson*.—The judicial county of Burleson was created by the Act of January 15, 1842. (Acts Sixth Cong., p. 35.) It covered territory of which the present county of Burleson, created four years after (Act March 24, 1836, p. 16), is a part.

*Burnet*.—I find no act creating the judicial county of Burnet, but on December 6, 1841, an act was passed better defining the boundaries of Burnet county. This was entirely distinct from the present county of that name, and included very considerable ter-

ritory between the Trinity and Sabine rivers. I have assumed that this was a judicial county, because it disappeared without a repealing act (so far as I can find), and because the creation of such counties was the settled policy at the session of Congress at which the act mentioned was passed.

*De Witt.*—The judicial county of De Witt was created by Act of February 2, 1842. (Acts Sixth Cong., p. 89.) The present county succeeded four years later.

*Guadalupe.*—The judicial county of Guadalupe was created by Act of January 29, 1842. (Acts Sixth Cong., p. 78.) It was succeeded four years later by the existing county.

*Hamilton.*—The judicial county of Hamilton was created from Montgomery and Houston counties by Act of February 2, 1842. (Acts Sixth Cong., p. 91.) Its territory was entirely distinct from that of the present county.

*La Baca.*—The judicial county of La Baca was created by Act of January 29, 1842. (Acts Sixth Cong., p. 74.) It was succeeded four years later by the present county of Lavaca.

*Madison.*—The judicial county of Madison was created by Act of February 2, 1842 (page 91), from Montgomery county. The present county of Madison was created January 27, 1853 (p. 10) from Grimes, Walker, and Leon counties.

*Menard.*—The judicial county of Menard was created by Act of January 22, 1841 (Acts Sixth Cong., p. 74), from Liberty county. Its territory was entirely distinct from that of the present county of Menard.

*Neches.*—The judicial county of Neches was created from Jasper and Jefferson counties by Act of January 29, 1842. (Acts Sixth Cong., p. 82.)

*Panola.*—The judicial county of Panola was created by Act of January 30, 1841 (Acts Sixth Cong., p. 153), from Harrison county; is was succeeded in 1846 by the present county.

*Paschal.*—The judicial county of Paschal was created from Red River, Bowie, and Lamar counties by Act of January 28, 1841. (Acts Fifth Cong., p. 56.)

*Waco.*—The judicial county of Waco was created from Robertson and Milam by Act of January 29, 1842. (Acts Sixth Cong., p. 80.)

*Ward.*—The judicial county of Ward was created from Mata-

gorda and Colorado by Act of January 19, 1841. (Acts Fifth Cong., p. 65.) Its territory was entirely distinct from that of the present county of Ward.

II.—COUNTIES WHOSE NAMES HAVE BEEN CHANGED.

*Bevil.*—Bevil's settlement was organized in 1830 into a precinct of Nacogdoches municipality; it was organized in 1834 as a separate municipality. The name was changed in 1835 to Jasper, which is still retained as the name of the county succeeding the municipality.

*Buchanan.*—Buchanan county was created by Act of January 22, 1858 (p. 58); name was changed by Act of December 7, 1861 (p. 8), to Stephens, which is retained.

*Columbia.*—The municipality of Brazoria was formed May 12, 1832 (Laws and Decrees of Coahuila and Texas, p. 197); the name was changed to Columbia by Decree 233 (Laws and Decrees of Coahuila and Texas, p. 274), without date; the name Brazoria was restored in 1835, and is retained.

*Davis.*—The name of Cass county was changed to Davis by Act of December 17, 1861, but the original name was restored by Act of May 16, 1871 (p. 92).

*Harrisburg.*—The name Harrisburg was changed to Harris by Act of December 28, 1839. (Acts Fourth Cong., p. 222.)

*Mina.*—The municipality of Mina was created in 1834. (Laws and Decrees of Coahuila and Texas, No. 283, p. 274.) Name changed to Bastrop by Act of December 18, 1837 (p. 90).

*Navasota.*—Created by Act of January 30, 1841 (p. 86); name changed to Brazos, January 28, 1842.

*Tenehaw.*—By Act of January 11, 1836 (p. 122), the name of the municipality of Tenehaw (Tenaha) was changed to Shelby, which is retained as the name of the county succeeding the municipality.

*Viesca.*—Name of municipality of Viesca changed by Act of December 26, 1835 (p. 99), to Milam, which is retained as the name of the county succeeding the municipality.

III.—COUNTY WHOSE TERRITORY HAS BEEN COMPLETELY  
CHANGED.

*San Patricio.*—The municipality of San Patricio was established by Decree 283 of Coahuila and Texas (p. 274). One of its boundary lines was defined by Act of May 24, 1838 (p. 36), and its boundaries were completely defined by Act of April 18, 1846 (p. 86), and were further affected by Act of March 17, 1887 (p. 28), and April 13, 1891 (p. 172). Mr. Pressler, expert draughtsman of the General Land Office of Texas, is authority for the statement that no part of the present county is included in the original territory.

IV.—COUNTIES, THE LAWS CREATING WHICH HAVE BEEN  
REPEALED.

*Buchel.*—By Act of April 22, 1897, this county was abolished and its territory included within Brewster county.

*Dawson.*—By Act of February 1, 1857 (p. 87), a county by the name of Dawson was created from Kinney and Uvalde counties. The act was not expressly repealed, but the county was obliterated by Acts of September 29 and October 5, 1866 (pp. 18 and 21), changing lines of Uvalde and Kinney. Its territory was entirely distinct from that of the present county of Dawson.

*Foley.*—By Act of April 22, 1897, this county was abolished and its territory included in Brewster county.

*Wegefarth.*—Wegefarth county was created by Act of May 31, 1873 (p. 67). It included a large territory on Prairie Dog Town Fork of Red River. The creative act was repealed August 21, 1876.

V.—COUNTIES WHOSE TERRITORY IS NO LONGER CONSIDERED  
PART OF THE STATE.

*Greer.*—The county of Greer, composed of territory between the Red River and the Prairie Dog Town Fork thereof, was created by Act of February, 8, 1860 (p. 138). The Supreme Court of the United States has held that this territory was not within the boundaries of Texas. (United States v. Texas, 162 U. S., 1.)



*Santa Fe.*—The county of Santa Fe was created by Act of March 15, 1848 (p. 95), with the following boundaries: Beginning at junction of Rio Puerco with the Rio Grande, and running up the principal stream of said Rio Grande to its source; thence due north to the forty-second degree of north latitude; thence along the boundary line as defined in the treaty between the United States and Spain to the point where the one hundred degree of longitude west of Greenwich intersects Red River; thence up the principal stream of said Red River to its source; thence in a direct line to the source of the principal stream of the Rio Puerco, and down said Rio Puerco to place of beginning. This territory was ceded to the United States by Act of November 25, 1850, accepting Act of the United States Congress of September 4, 1850.

*Worth.*—Worth county was created by Act of January 3, 1850 (p. 201). It was composed of the following territory: Beginning on the Rio Grande at the northwest corner of the county of El Paso; thence up said river to a point twenty miles above the town of Sabine; thence due to the eastern branch of the Rio Pecos; thence down said stream to the northeast corner of the county of El Paso; thence with the north boundary line of said county of El Paso to the place of beginning. This territory was included in that ceded to the United States by the Act of November 25, 1850, accepting the act of United States Congress of September 4, 1850.

## REMINISCENCES OF AUSTIN AND OLD WASHINGTON.

J. K. HOLLAND.

Texas has an unpublished history, as interesting as it is real, hidden within the dusty leaves of the past, which should be recovered and perpetuated by the State at any cost; for without it the early life of the young Republic and the State will never be seen exactly as it was. Much of it is to be found in the memory of the survivors of that time, and there are lying scattered in waste places many of its fragments in written material which could be had for the asking, or at any rate for a very small consideration. But the opportunities to preserve it that now exist will soon be lost, for the old Texans are fast passing away, and old letters and journals are being continually thrown aside or destroyed as waste paper by owners who do not appreciate their historical value. With the burning of the old capitol in 1881, the people of Texas have to deplore the loss of valuable archives and public documents containing information relative to the leading men and events of its history, which can never be fully reclaimed.

When I first knew Austin, during the '40's, it was a little country town on what was then the Texas frontier, and had only a few hundred inhabitants. Those were the log cabin days of the Republic. General Houston lived in one of the Austin log cabins, which he called his wigwam, and up and down Congress avenue on either side were scattered others in which were located the headquarters of the various departments of the government. At that time houses in Texas had no parlors. There were "groceries," so-called, in which liquor alone was sold, but there were no "saloons." The country was without railroads, or even buggies; but some old rickety stage coaches plied irregularly between San Antonio and Houston by way of Austin, and the passenger who traveled in these had to work his way by carrying a fence rail on his shoulder for long distances and helping to pry the vehicle out of mudholes, in order to reach his destination at all.

The Bastrop highway ran along where Pecan street now is. The

war-cry of the Indians could be heard in the night-time within the very gates of the capital. It was not safe for any man to go alone or without his gun beyond the limits of the town; for there was great danger of being shot or captured by the redskins who lay waiting in the mountains around for an opportunity to steal, rob, or murder. Barton Springs and Mount Bonnell were the only places of resort for the citizens. The old Congress Hall sat on the hill just south of the present Governor's Mansion, on the spot where the City Hall now stands—a spot sacred to all old Texans, for there the fathers of Texas met to deliberate on the weighty affairs that demanded their attention.

It was within this weather-beaten, consecrated old building that I made my political *début* in 1849 as Representative from Rusk and Panola. Later I sat within the same walls as Senator from Shelby and Panola. When I entered the House of Representatives I was one of the youngest, if not in fact the youngest, member of the Legislature. To-day I am, according to the best of my knowledge, the oldest living member of the Senate to which I belonged, and, with the exception of Hon. Guy M. Bryan and Hon. W. H. Martin, the only member of that honorable body still alive. Both of these gentlemen subsequently occupied seats in the United States Congress.

In 1842-3, President Houston, fearing an attack by Santa Anna upon the city of Austin, transferred his administrative headquarters first to Houston and then to Washington on the Brazos, where the seat of government had been located temporarily in earlier times. The town is now nearly extinct. Washington was a small village, and it was difficult for the government to obtain suitable rooms for Congress. About the biggest building in the town was Hatfield's "grocery," or saloon as we now say; but that was a very important place of resort, where congressmen and strangers were most in the habit of congregating. It was in fact too important a place to give up for other purposes; but it was finally yielded to the House of Representatives. The saloon itself was not surrendered; but there was a large hall above it used for gambling purposes, and this hall was rented by the government. In order to accommodate the convenience of the members and to protect them from temptation, it was thought advisable to move the stairway from the inside of the

building to the outside—at least for the time. So it was removed, and the opening where it had passed up into the hall above was temporarily floored over, the boards not being nailed.

In the hall thus prepared occurred the ball at the inauguration of President Anson Jones in 1845, the first and last inaugural ball, as I believe, that was held in Texas during the days of the Republic. The attendance of prominent men and beautiful women was very large, and the ball-room was densely packed. In the course of the evening there happened a *contretemps* of a rather ridiculous nature, the story of which may not be without interest here.

During one of the intervals in the dancing I was sitting beside a young lady, and we were waiting for the tap of the fiddle to take our places on the floor and join the dance. She was rather large, very attractive, and to judge from the marked attention of the distinguished men who surrounded her, very popular also. She seemed to be particularly admired by Gen. T. J. Chambers, who had escorted her to the ball, and who stood beside her while we waited. When the signal came we sprang up to take our places, but I observed that she was pulling back; and on looking around I saw that she was sinking through the floor into the saloon below. I had just time to catch her by one arm. General Chambers lent his assistance, and together we drew her up and relieved her from her awkward position and the prospect of a dangerous fall. Our rising had disarranged the carelessly laid planks over the opening of the staircase, and they had given way beneath her. The delay, however, occasioned by the accident was but momentary; we took position at once, and the dance went merrily on.

In the same hall, some years before, occurred another incident that may be worth relating. A large body of gamblers and like characters had gathered in the town and held complete sway. The citizens were cautious of what they said and to whom they said it, for these men defied all law. While things were in this condition, Rev. Robert Alexander, whom the Methodist church had sent along with Rev. Littleton Fowler and a Rev. Mr. Wilson to preach the gospel in Texas, stopped in Washington. He at once engaged the room over Hatfield's saloon and announced that he would preach there on the following Sunday. The gamblers sent him word that he could not use that hall, that it was employed for other purposes, and that they would not allow him to preach in it. Mr. Alexander

was a man of gigantic frame, being nearly seven feet in height, and had courage in proportion to his size. He repeated his announcement and was there on time. He walked leisurely into the hall and spoke courteously to the men there assembled. Assuming that they were there to hear him, though he knew that it was not so, and that they were getting ready for their usual game, he affected not to notice the cards that he saw them slipping into their seats behind them, and made preparations to begin his sermon. He arose, and some of the more determined men in the crowd made demonstrations as if to rise also, but did not. He opened his Bible and laid it on the billiard table, then remarked that if there were those present who did not wish to hear him they could leave. None left. He said he had come to preach, and he meant to do it. He again remarked that if any were present who did not desire to hear the gospel he wished them to leave. Still nobody went. He then proceeded with a fire and brimstone sermon. Soon after beginning he discovered a little commotion among his hearers. He paused and simply said that he wished their attention, and order was restored at once. When he got through the men came forward, shook his hand and thanked him heartily, made up a purse for him, told him if he ever needed more money to call on them, and sent him on his way rejoicing.

Mr. Alexander continued to preach all over Texas to the time of his death, which occurred at his home in Chappell Hill only a few years ago; but he never lived outside of Washington county. He was honored and loved not only by his own church, but by all denominations.

## ENDURING LAWS OF THE REPUBLIC OF TEXAS. I.

C. W. RAINES.

The intermingling of two distinct races on the soil of Texas, with diverse customs and traditions of law, resulted in the mastery of one, but with a blended system of jurisprudence. The two acts cited further along, and forming, in fact, the subject of this paper, well illustrate the spirit of the times when men's minds, just breaking loose from the moorings of a barbaric past, were looking forward to something liberal and ennobling in law-making. And passed as they were amid the throes of a life and death struggle for existence, they reflect more honor on the Republic than the splendid campaigns of Bexar and San Jacinto. "Peace hath her victories no less renowned than war." "There were giants in those days," and bold, far-seeing statesmen, too, to legislate for humanity in all times to come, with the enemy at the gates.

Texas was warring with hostile Indians in the interior and menaced with a Mexican invasion in the west, when Mirabeau B. Lamar entered upon his duties as president. His message to the Congress, breathing a spirit of defiance to all the enemies of the Republic, with words of cheer to his countrymen, touching all subjects of public interest, calm and statesmanlike in tone, embraced in its scope an earnest recommendation to provide a system of education.

Among other things, the president says: "But it would be superfluous to offer to this honorable Congress any extended argument to enforce the practical importance of this subject. I feel fully assured that it will in the liberal spirit of improvement that pervades the social world, lose not the present auspicious opportunity to provide for literary institutions, with an influence commensurate with our future destinies. \* \* \* Our young Republic has been framed by a Spartan spirit. Let it progress and ripen into Roman firmness and Athenian gracefulness and wisdom. \* \* \* The present is a propitious moment to lay the foundation of a great moral and intellectual edifice which will in after ages be hailed

as the chief ornament and blessing of Texas. A suitable appropriation of lands to the purpose of general education can be made at this time, without inconvenience to the Government or the people; but defer it until the public domain shall have passed from our hands, and the uneducated youths of Texas will constitute the living monument of our neglect and remissness." \*

In response to the above message, Mr. E. W. Cullen, Chairman of the House Committee on Education, made an elaborate report, from which are given these pertinent extracts: "Your committee views it as one of the first and paramount duties of Congress to provide a system of general education; and although it is not in our power to carry into effect immediately a general system, yet we should lay the foundation while it is in our power by making suitable appropriations of the public domain and setting the same apart to enable us, so soon as our situation will permit, to establish primary schools and colleges where every class can receive alike the benefits and blessings of education. Intelligence is the only aristocracy in a government like ours (and the improved and educated has and will ever triumph over the ignorant and uneducated mind)." †

The report concludes with recommending for passage a bill prepared by Mr. Cullen; as to which, W. H. Wharton, chairman of the Senate Committee on Education, says in his report: "The committee could present a long report on the importance of education, but believing that fact to be admitted by all, such a report would be commonplace and unnecessary. All that can be done at present is to secure a sufficient reservation of the public lands for the purposes of education. The system of schools can be amended hereafter. Inasmuch as the Committee on Education in the House of Representatives has offered a bill setting apart a certain quantity of lands for the purpose of education, your Committee deem any further action on the subject unnecessary at present." ‡

Mr. Cullen's bill accordingly, after a few changes for the better, became the law, as follows:

"An Act entitled an act appropriating certain lands for the establishment of a general system of education.

"Section 1. *Be it enacted by the Senate and the House of Representatives of the Republic of Texas in Congress assembled:* That each county of this Republic shall have three leagues of land sur-

\* House Journal, Third Congress, pp. 169-70.

† House Journal, Third Congress, p. 271.

‡ Senate Journal, Third Congress, p. 80.

veyed and set apart for the purpose of establishing a primary school or academy in said county, which said land shall be located and surveyed by the county surveyor or his deputy in each county, and to be paid the fees now allowed by law under the land law, out of the county treasury; *provided*, there is that quantity of good, vacant land in the counties; *and further provided*, that said land may be surveyed in any sized tracts; *provided*, that said lands shall not be surveyed in tracts less than one hundred and sixty acres.\*

"Section 2. *Be it further enacted*, That when there is not a sufficient quantity of good land that is vacant in any county, the County Court of such counties shall be, and they are hereby empowered and required to have surveyed upon any of the vacant lands of this Republic, said quantity of land, and pay the expenses of the land out of the county treasury.

"Section 3. *Be it further enacted*, That when said lands are surveyed in accordance with this act, the surveyor shall return a correct description of the same, with the field notes of the survey, to the clerk of the County Court, who shall record the same and forward a transcript of the same to the Commissioner of the General Land Office after it is recorded, with his certificate and seal of office thereto attached; and when the lands so surveyed are not situated in the county for which it is surveyed, the description and field notes shall be recorded in the county where it is surveyed, as well as in the county for which it is surveyed, and forwarded to the Land Office as above described.

"Section 4. *Be it further enacted*, That the President of the Republic be and he is hereby authorized and required to appoint a surveyor and have surveyed on and from any of the vacant lands of this Republic, fifty† leagues of land, which is to be set apart and is hereby appropriated for the establishment and endowment of two Colleges or Universities, hereafter to be created;‡ and that the President is hereby authorized to draw upon the Treasury of this Republic for such sum or sums of money as may be necessary for defraying the expenses to be incurred by locating and surveying said lands.

"Section 5. *Be it further enacted*, That said surveyor so appoint-

\* Laws of the Republic of Texas, first session Third Congress, p. 134.

† Twenty leagues in Cullen's bill.

‡ "One to be established in the eastern and the other in the western part of Texas," as in the original bill, was stricken out on its passage. Senator L. T. Wigfall, in his report on the university in the Seventh Legislature, held that the striking out the above clause indicated clearly that it was not intended to have two universities in different parts of Texas, but that the "two universities, as in the law, meant a university for each sex if necessary, one male and the other female." Coeducation solved this difficulty.



ed shall make out a complete description of the land so surveyed, and a neat and correct map of the same, and deposit them, together with the field notes, in the General Land Office of this Republic; shall also take and subscribe to this oath or affirmation: 'I, A. B., do solemnly swear (or affirm) that I have well and truly discharged my duties to the best of my knowledge, skill, and ability, and that the field notes and description of said land are as correct as I could make them. So help me God.' Which said oath is to be taken before a Chief Justice of the County Court and deposited in the Land Office; and the surveyors of the different counties to survey the lands contemplated by this act shall take and subscribe the same oath, which shall be recorded in the clerk's office of the County Court.

"Section 6. *Be it further enacted,* That none of the lands appropriated and set apart by this act for the purpose of education shall be disposed of in any manner except by lease until the expiration of three years, and none of said lands shall be disposed by lease for a longer term than three years.

"JOHN M. HANSFORD,  
"Speaker House of Representatives.

"DAVID G. BURNET,  
"Prest. Senate.

"Approved Jan. 26, 1839.

"MIRABEAU B. LAMAR."

An amendatory act by the next Congress, approved February 5, 1840, made the chief justice and two associate justices of each county ex officio a board of school commissioners, and added another league to the three leagues before granted; making it the duty of the school commissioners to have said lands located and surveyed as early as might be convenient, and to organize any parts of their several counties into school districts for the purpose of establishing schools in the same, whenever in their opinion the population or interests of education required it.

None but graduates of some college or University might teach in the academic schools, while for the common schools the teacher had to give evidence of a good moral character, and capacity to teach reading, writing, English grammar, arithmetic, and geography.

The following is the educational endowment under the present Constitution as defined in Article VII:

"Sec. 2. All funds, lands, and other property heretofore set apart and appropriated for the support of the public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund.

"Sec. 3. One-fourth of the revenue derived from the State occupation taxes, and a poll tax of one dollar on every male inhabitant of this State between the ages of twenty-one and sixty years, shall be set apart annually, for the benefit of the public free schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of the State for a period of not less than six months in each year." \* \* \*

When Texas entered the Union, the statute of 1839 had attained the stability of a constitutional provision, and to-day, in its complete evolution, it stands for our system of education. And nothing has given Texas so much character at home and abroad as that. In none of its stages of development has it lacked for friends. To say nothing of President Lamar and its original movers, Governor Pease, under its sanction, induced the founding of a system of public schools and set it in operation.\* And later on, in 1861, Governor Lubbock, expressly to save the educational fund from improper use, vetoed "An act making an appropriation for the mileage and per diem pay of the members and officers of the Ninth Legislature," which, among other provisions, authorized for the purpose the use of the funds of the University, with other funds named. (Archives State Department, vol. 81, pp. 71-5.) All the statesmen in all the constitutional conventions assisted in its continued development. As for the higher education, besides Governor Roberts and Lieutenant Governor Storey, Senator John C. Buchanan, author of the act establishing the University of Texas, with his able coadjutors, R. M. Wynne, A. W. Terrell, John Y. Gooch, and J. B. Stubbs,† must have due credit. All these may be

\* Acts Sixth Legislature, and messages.

† Journals and Messages Sixteenth Legislature, and Lane's History of the University of Texas.

considered as executors of a bequest from the Texan fathers. And what a bequest is the magnificent educational system of Texas, embracing the common schools, the graded schools, the normals, and the great University at Austin, with its branches at Bryan and Galveston—all the outgrowth of the crude statute passed in 1839.

That the Republic of Texas was fully abreast of the age in reformatory legislation is well attested by this statute of the Third Congress: \*

“An Act entitled an act to exempt certain property therein named from execution.

“Section 1. *Be it enacted by the Senate and the House of Representatives of the Republic of Texas in Congress assembled:* That from and after the passage of this act, there shall be reserved to every citizen or head of a family in this Republic, free and independent of the power of a writ of *fieri facias* or other execution issuing from any court of competent jurisdiction whatever, fifty acres of land or one town lot, including his or her homestead and improvements not exceeding five hundred dollars in value, all household and kitchen furniture (provided it does not exceed in value two hundred dollars), all implements of husbandry (provided they shall not exceed fifty dollars in value), all tools, apparatus, and books belonging to the trade or profession of any citizen, five milch cows, one yoke of work oxen, or one horse, twenty hogs, and one year's provisions; and that all laws and parts of laws contravening or opposing the provisions of this act be and they are hereby repealed; *provided*, the passage of this act shall not interfere with contracts between parties heretofore made.

“JNO. M. HANSFORD,

“Speaker of the House of Representatives.

“DAVID G. BURNET,

“President of the Senate.

“Approved Jan. 26, 1839.”

“MIRABEAU B. LAMAR.”

Now, so far as we know, this appears to be the first homestead act ever passed in any country. The spirit of the age was in revolt against the harshness of the common law as to insolvent debtors; and its first effect was the abolition of imprisonment for debt. And the early repeal of the vindictive legislation authorizing such imprisonment is the proud boast of many States in the American

\* *Laws of the Republic of Texas, first session Third Congress, p. 125.*

Union. The Republic of Texas makes the prouder boast, that her first constitution expressly rejected this relic of barbarism.

Such dire results as the destruction of trade, etc., which were confidently predicted by some when the creditor lost the power to imprison the debtor, not having followed, the next step was to ameliorate the condition of the insolvent still more, by leaving in his possession, free from the demands of creditors, some of the means of subsistence. This was done in the American State of Alabama and in the Mexican State of Coahuila y Texas in the years 1833-34.

The Alabama statute provided "that one work horse, mule, or pair of oxen, one horse or oxcart, shall be retained by and for the use of every family in the State, free and exempt from levy or sale by virtue of any execution or other legal process." \* This was but scant recognition of the debtor's inalienable right to his means of earning a living for himself and family; but it proved to be the entering wedge for better legislation afterwards.

Below is the decree of Coahuila y Texas, No. 277:

"Section X. *Things not implied are understood.*

"Art. 141. Executions in *all* civil cases *shall not* deprive the debtor of those things understood as the only means of his lawful subsistence, nor of those which simply imply his preservation and protection. As

"Art. 142. Every man shall have the right and privilege of retaining his wearing apparel, bed clothing, cooking utensils, and the necessary implements of that trade, calling, or profession whereby he is enabled to obtain the means of support; as also his military accoutrements, of whatever name, nature, or kind they may be.

"Art. 143. If the debtor should be a man of family, the property of his wife and children must be respected, whether it be the property of purchase, increase, or gift; if a gift from the debtor, to be valid to the owner, it must be given, received, and recorded in the office of the alcalde of the jurisdiction previous to the time the present debt demanded by the sheriff was contracted." †

This decree, springing from the more refined jurisprudence of the civil law, more clearly enunciating the principle in question, is more comprehensive and satisfactory throughout than the crude American statute in Alabama.

Decree No. 277, of which the section quoted above is a part, cre-

\* Clay's Alabama Digest, Sec. 47.

† Edwards' "History of Texas," p. 176.

ated a judicial circuit called "The Superior Judicial Court of Texas," with all its rules and regulations. The decree is better known among the old American colonists of Texas as Chambers' Jury Law, because it provided a system of jury trial, and because T. J. Chambers was the first superior judge.

This decree, however, was never put fully into operation in Texas, and it is impossible to tell now what might have been the effect. The approaching Revolution turned thought into other channels, and the discussion of laws gave place to the clash of arms. "*Inter arma leges silent.*" It was only after San Jacinto, and when such statesmen as Lamar and Rusk and such soldiers as Albert Sidney Johnston were in high office, that the Republic felt sufficiently composed to enter upon a system of legislation at once liberal, beneficent, and permanent. And of all the laws of the Third Congress none was of more far-reaching importance than the homestead statute. Exemption from forced sale before this time had applied only to personal property. Now for the first time it touched the realty. Under the provisions of this statute, the insolvent debtor has reserved both a home for his family and some means of support.

Though the homestead law of Texas marks the beginning of an era of beneficent legislation; yet curiously enough, little is known of the circumstances of its enactment. The bill met with little or no opposition, and its appearance in our statute book at first excited little notice or comment. The law was salutary in its effects, and six years later, at the Annexation Convention, it knocked for admission into the State Constitution.\* Abner S. Lipscomb reported section 22 for the proposed Constitution, which reads thus:

"Section 22. General Provisions. The Legislature shall have power to protect by law from forced sale certain portions of the property of all heads of families, and in all cases the homestead of a family, not to exceed 160 acres of land, shall be exempt from sale by execution."

Jno. Hemphill, afterwards Mr. Lipscomb's colleague on the Supreme Bench of the State, also gave the measure his hearty support. The distinguished President of the Convention, T. J. Rusk, left the chair to take part in the debates on the floor. He offered an amendment striking out 160 acres and inserting in lieu thereof 200 acres

\* See Weeks' "Debates of the Texas Convention," p. 417 et seq.

of land, which, after some discussion, was adopted. In this shape, with some other unimportant amendments, it passed, and is the law still as to the number of acres of land. There was scarcely any opposition to the homestead principle *per se*. The question was only as to its extent. The debates disclosed that the Alabama exemption statute of 1833 had been recently (1843) amended so as to embrace a homestead of 40\* acres of land. The apparent success of the law in Alabama doubtless helped the passage of the Rusk amendment raising the quantity of land exempted by our homestead law to 200 acres.

The proposed section to the Constitution was carried by a vote of 42 to 14. Statesmen like Isaac Van Zandt and J. Pinkney Henderson voted "no," not because they were opposed to the principle, but to indicate their dissatisfaction with the particular measure. Jas. Love, one of the delegates from Galveston, voted "no," because, as he claimed, it was a discrimination against the poor. Jas. Scott, a delegate from Montgomery, opposed the whole exemption idea, and denounced the proposed section as a piece of dishonesty and a fraud on the rights of creditors. He carried his opposition so far as to have his protest spread on the record.

Once imbedded in the organic law, the homestead act has had a triumphant course through all the successive constitutional conventions. Surviving the contention of political parties and the shock of revolution, the homestead idea in its fullness is thus expressed in the existing statutes of Texas:

"The homestead of a family, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town, or village, consisting of a lot or lots not to exceed in value five thousand dollars at the time of their designation as the homestead, without reference to the value of any improvements thereon."†

The following explanation is added in the statute:

"The exemption of the homestead provided for in this chapter shall not apply when the debt is due

"1. For the purchase money of such homestead, or a part of such purchase money.

\* Judge Baylor in debate said 160 acres; but see Clay's *Alabama Digest*, Secs. 48 and 49.

† Revised Civil Statutes of Texas, Title XLII, Chap. II, Art. 2396.

“2. For taxes due thereon.

“3. For work and material used in constructing improvements thereon.”

Legislation in derogation of rights under the common law is, as a rule, strictly construed by the courts; but in deference to popular sympathy, doubtless, they give a liberal construction to the homestead law, and thus materially extend its provisions in case of doubt or ambiguity, and through successive constitutions and judicial decisions the principle has been continually growing in Texas. And the example of Texas has been contagious throughout the Union; so much so that in every State and Territory the exemption principle is recognized as to property, real or personal, or both. In fifteen or more States there are constitutional provisions for the exemption of the homestead from forced sale—the distinctive Texan idea. The principle is also recognized in Federal legislation and in the decisions of the Federal courts.

Who originated the homestead law? It would seem that the author of this law would be well known to the world. Not so, however. History does not claim to have found out his name, nor do the journals of the Congress disclose it. Neither do any of the congressional records that I have been able to examine in the State Department definitely point out his name. But there is, or rather was, another source of information—the man himself who claimed the honor, Judge Emory Rains,\* then the member from Shelby and Sabine counties. The Judge was chairman of the Senate Judiciary Committee, to which was referred a joint resolution exempting certain property therein named from execution. This joint resolution, however, exempted only personal property, and not a homestead.

I can not trace this resolution or any bill in either house with certainty to the statute itself. “A bill to exempt certain property

\* Judge Rains was a Tennessean by birth, and came to Texas about the time of the coming of Austin's first colony; was alcalde, or judge, under the Mexican regime, and hence his title; was senator in the Texan Congress, member of the constitutional convention of 1845, and several times a member of the State legislature. He is not reported in Weeks' Debates of the Convention of 1845 as having made a speech; but he worked, as he assured me, for his favorite measure, the homestead provision, with all his might, and supported every amendment tending to its enlargement.

from execution" did pass the Senate on the day of adjournment,\* though I can not ascertain its provisions, whether extending to realty or not. It was reported either from the Committee on Indian Affairs or the Committee on Public Lands, it is not certain which, but, of course, presumably the latter. The Senate Journals do not show the name of the member who offered the bill.

The exemption bill which passed the House† was introduced by Louis P. Cook.‡ On the last day of the session "a message was received from the Senate informing the House that the Senate had concurred in 'An act to exempt certain property therein named from execution.'" And this is the title of the enrolled bill which, passing both houses, became the law. This tends to show, but not conclusively, that the law originated from the House bill. If true, the credit of offering the bill evidently belongs to Cook, whoever may have conceived the idea and prepared the bill itself. I have yet to learn, however, that Cook ever claimed to have originated the homestead law.

Such well known Texans as Judge Reagan and Governors Lubbock and Roberts vouch for Judge Rains' character as a man of truth and honor, and Governor Roberts says unqualifiedly that he would implicitly believe any statement that Rains had made on this subject.

It only remains to add, that Judge Rains always claimed the honor of originating the homestead law. He made this claim repeatedly on the hustings and elsewhere from 1839 on, and there has never been any rival claimant for the honor. All the acquaintances of the Judge in Eastern Texas, the place of his residence, will bear witness to the truth of this statement.

From the foregoing, it may be accepted as true that the Republic of Texas led the way in homestead legislation, and that Emory Rains§ framed the first homestead statute of the age.

\* Senate Journal, Third Congress, p. 131.

† House Journal, Third Congress, p. 238.

‡ Cook was a New Yorker, a prominent member of the House in the Third Congress, and Secretary of the Navy in 1839. He died in 1849.

§ While I was holding the County Court for Van Zandt county in 1877, Judge Rains, who had business in the court, was a guest at my home in Wills Point. He then claimed, as he had done for decades before, that he originated the homestead law; and he told me many incidents of its origin.



Judge Rains was gathered to his fathers at a ripe old age, honored and respected in the little county that bears his name, and his ashes sleep well in a neglected grave on the banks of the historic Sabine.

which in the main have slipped my memory. One incident, however, is clear, that he introduced his bill through a fellow member of Congress, and that it did not appear from the journals who was the author. His name appears spelled with an "e" in the Senate Journal of the Second Congress, but I had it from his own lips that he dropped the silent letter at quite an early period.

## THE OLD THREE HUNDRED.

## A LIST OF SETTLERS IN AUSTIN'S FIRST COLONY.

LESTER G. BUGBEE.

The scheme for the distribution of land to his colonists which Stephen F. Austin laid before the governor of Texas in 1821 provided that each head of a family should receive 640 acres for himself, and an additional but smaller grant for his wife, children, and slaves. This arrangement was superseded by the colonization law passed by the Junta of Iturbide and confirmed, by special decree applicable to Austin's contract only, by the republican government which came into power upon the Emperor's deposition. By this law each family received not less than one labor (about 177 acres) or one sitio (about 4428 acres) of land, according as the occupation of the head was farming or stock-raising. The lands were distributed by a commissioner, appointed by the governor of Texas, who issued titles to the settlers designated by Austin. The law gave Austin and the commissioner jointly the power to increase without limit the quantity of land assigned to persons who were especially deserving. Under this provision, James Cummins, John P. Coles, and William Rabb received large tracts for erecting mills. Jared E. Groce was given ten sitios "on account of the property he has brought with him," which consisted chiefly in a large number of slaves; and many families who came to Texas in 1821 and 1822, and endured the hardships of those winters, reaped the reward of their patience in increased grants.

The three hundred families were all, or nearly all, in Texas before the close of the summer of 1824. The work of issuing titles was begun by the commissioner, Baron de Bastrop, in July of that year; before August 24, when he was called away, he had issued two hundred and seventy-two. The work remained unfinished till 1827, when Gasper Flores was appointed commissioner and gave deeds to the remaining families.

There was no provision in the law for granting land to men with-

out families. These were joined in groups of two and three, and each group constituted a legal family, which explains the numerous partnerships in the list given below.

The lands chosen by the settlers were the rich bottoms of the Brazos, the Colorado, and the Bernard, each sitio having a frontage on the river equal, in theory at least, to about one-fourth of its length; the east bank of the Brazos was wholly occupied from the Gulf as far up as the present county of Brazos. The greater part of the labors were laid off in three groups, one just above San Felipe de Austin, another a short distance below, and the third across the river immediately opposite the town.

There were three hundred and seven titles issued; nine families received two titles each, which leaves, not including Stephen F. Austin, two hundred and ninety-seven as the actual number of families introduced under this contract. The law required that all lands should be occupied and improved within two years after receipt of deed. It is a sufficient commentary on the sturdy character of these early settlers that but seven of the grants were forfeited.

The original titles are now in the archives of the General Land Office at Austin, Texas, bound in volumes of convenient size. They were also copied, as they were issued, by Samuel M. Williams, in the Register of Land Titles, etc., and these copies, by special decree of the government, were declared of equal validity with the originals. They have since been translated. My references are to the translated Register and to the original titles. The form and spelling of all the names except thirty-one are taken from the autographs of the settlers affixed to their applications, which appear in the deeds. In many instances the spelling of the names has been altered by Samuel M. Williams or his clerk. The title, for instance, which clearly bears the autograph of *Pleasant D. McNeel*, is issued to *Pleasant D. McNeil*. Most of the signatures are plainly written.

Only four of those whose autographs are given in the titles were unable to write.

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Name.	Amount.		Location (present county).	Date of title.	Translated Register. Vol. and page.	Original Titles, folios and page.
	Sittos.	Labors.				
Allcorn, Elijah.....	1		Fort Bend .....	July 10, 1824	I, 84-5	I, 78
	½		Washington .....	July 10, 1824	" 84-5	" 78
		1	Waller .....	July 10, 1824	" 84-5	" 78
Allen, Martin.....	1		Wharton .....	July 19, 1824	" 190-1	" 184
		1	Austin .....	July 19, 1824	" 190-1	" 184
Alley, John.....	1		Jackson and Lavaca .....	May 14, 1827	" 572-3	II, 558
Alley, John <sup>1</sup> .....	1		Fayette .....	May 16, 1827	" 580-1	" 566
Alley, Rawson.....	1½		Colorado .....	Aug. 3, 1824	" 294-5	I, 288
Alley, Thomas.....	1		Brazoria .....	July 29, 1824	" 274-5	" 268
Alley, William.....	1					
Aisbury, Charles G.....	1½		Brazoria .....	Aug. 3, 1824	" 296-7	" 290
Aisbury, Harvey.....	1					
Aisbury, Horace.....	1					
Aisbury, Thos.....	2		Fort Bend and Brazoria.....	July 8, 1824	" 48-9	" 42
		1½	Waller .....	July 8, 1824	" 48-9	" 42
Anderson, S. A.....	1		Fayette .....	Aug. 10, 1824	" 374-5	II, 368
Andrews, John.....	1		Fayette and Colorado.....	July 7, 1824	" 42-3	I, 36
		1	Waller .....	July 7, 1824	" 42-3	" 36
Andrews, William.....	1		Fort Bend .....	July 15, 1824	" 112-3	" 106
		1	do .....	July 15, 1824	" 112-3	" 106
Angier, Samuel T. <sup>2</sup> .....	1		Brazoria .....	Aug. 16, 1824	" 464-5	II, 458
Angier, Samuel T.....	1		do .....	Aug. 24, 1824	" 544	
Austin, John.....	2		Harris .....	July 21, 1824	" 206-7	I, 200
Austin, John.....	1		Brazoria .....	Aug. 24, 1824	" 550	II, 537
Austin, Santiago E. B.....	3		do .....	Aug. 19, 1824	" 524-5	" 518
		1	do .....	Aug. 19, 1824	" 524-5	" 518
Austin, Santiago B.....	1		Waller .....	Aug. 24, 1824	" 551	" 537
Austin, Estevan F.....	5		Brazoria .....	Sept. 1, 1824 <sup>3</sup>	II, 22-3	" 608
	7½		do .....	Sept. 1, 1824	" 23	" 608
	½		do .....	Sept. 1, 1824	" 23	" 608
	½		do .....	Sept. 1, 1824	" 24	" 608
	¼		do .....	Sept. 1, 1824	" 24	" 608
	1¾		do .....	Sept. 1, 1824	" 24-5	" 608
	2 1-6		do .....	Sept. 1, 1824	" 25	" 608
	3 1-6		Wharton.....	Sept. 1, 1824	" 25	" 608
	2		do .....	Sept. 1, 1824	" 25-6	" 608
		3	Brazoria .....	Sept. 1, 1824	" 26	" 608
Bally, James B.....	1		do .....	July 7, 1824	I, 31-3	I, 26
Balis, Daniel E. <sup>4</sup> .....	1		Matagorda .....	April 14, 1828	II, 15-16	II, 602
Baratt, William <sup>5</sup> .....	1		Fort Bend .....	June 4, 1827	" 3-4	" 590
Barnet, Thomas.....	1		Fort Bend .....	July 10, 1824	I, 96-7	I, 90
Battle, M. M. <sup>6</sup> .....	1		Matagorda .....	Aug. 10, 1824	" 370-71	II, 586
Battle, Mills M.....	1		Fort Bend .....	May 31, 1827	" 600-1	" 378
Beard, James.....	1		Fort Bend .....	Aug. 10, 1824	" 384-5	" 378
Beason, Benejani.....	1		Colorado .....	Aug. 7, 1824	" 330-1	" 324
Belknap, Charles <sup>7</sup> .....	1		Fort Bend .....	May 22, 1827	" 584-5	" 570
Bell, Josiah H.....	1½		Brazoria .....	Aug. 7, 1824	" 346-7	" 340
Bell, Thomas B.....	1		do .....	Aug. 16, 1824	" 438-9	" 432
Berry, M. <sup>8</sup> .....	1		Waller .....	Aug. 19, 1824	" 500-1	" 494
Best, Isaac.....	1		Matagorda .....	Aug. 19, 1824	" 518-9	" 512
Betts, Jacob.....	1		Wharton .....	July 10, 1824	" 90-1	I, 84
Biggam, Fras.....	1		Brazoria .....	July 10, 1824	" 90-1	" 84
		1	Waller .....	July 10, 1824	" 90-1	" 84
Bloodgood, Wm.....	1		Chambers and Harris.....	Aug. 10, 1824	" 368-9	II, 362

<sup>1</sup>Son of William Alley, who came to Texas in 1825 and was killed by Indians.

<sup>2</sup>Partner of Geo. B. Hall and Thomas Bradley.

<sup>3</sup>This is the date of the deed issued by Baron de Bastrop; Austin's titles were confirmed by Flores May 31, 1828, after he had completed the work, left unfinished by

Bastrop, of issuing titles to the 300 settlers.

<sup>4</sup>Partner of Isaac Vandorn.

<sup>5</sup>Partner of Abner Harris.

<sup>6</sup>Partner of M. Berry and John Williams, Sr.

<sup>7</sup>Partner of George Brown.

<sup>8</sup>See M. M. Battle.

Name.	Amount.		Location (present county).	Date of title.	Translated Register. Vol. and page.	Original Titles, folio and page.
	Sittos.	Labors.				
Boatwright, Thomas.....	1		Austin.....	July 27, 1824	I, 260-1	I, 254
Borden, Thos. <sup>1</sup> .....	1		Brazoria.....	July 29, 1824	" 280-1	" 274
Bostwick, Caleb R. <sup>2</sup> .....	1		Matagorda.....	July 24, 1824	" 238-9	" 232
Bowman, John T. <sup>3</sup> .....	1		.....do.....	Aug. 21, 1824	" 534-5	II, 523
Bradley, Edward R.....	1		Brazoria.....	Aug. 10, 1824	" 380-1	" 374
Bradley, John.....	1		.....do.....	July 8, 1824	" 68-9	I, 62
Bradley, Thomas <sup>4</sup> .....						
Breen, Charles.....			Brazoria.....	May 24, 1824	" 588-9	II, 574
Briar, Patrick <sup>5</sup> .....	1		Harris.....	May 1, 1827	" 546-7	" 542
Bridges, William B.....	1		Jackson.....	July 21, 1824	" 300-1	I, 194
Bright, David.....	1		Fort Bend.....	July 15, 1824	" 120-1	" 114
Brinson, Enoch.....	1	1	Austin.....	July 15, 1824	" 120-1	" 114
Brooks, Bluford <sup>6</sup> .....	1		Harris.....	Aug. 7, 1824	" 338-9	II, 332
Brotherington, Robert <sup>7</sup> .....				Aug. 10, 1824	" 386-7	" 380
Brown, George <sup>8</sup> .....						
Brown, John.....	1		Harris.....	Aug. 19, 1824	" 522-3	" 516
		1	Waller.....	Aug. 19, 1824	" 522-3	" 516
Brown, William S.....	1		Washington.....	July 29, 1824	" 268-9	I, 262
Buckner, Aylett C.....	1		Matagorda.....	July 24, 1824	" 224-5	" 218
Buckner, Aylett C.....		2	.....do.....	Aug. 24, 1824	" 553	II, 539
Burnet, Pumprey <sup>9</sup> .....	1		.....do.....	July 24, 1824	" 246-7	I, 240
Burnam, Jesse.....	1		Fayette.....	Aug. 16, 1824	" 466-7	II, 460
		1	Colorado.....	Aug. 16, 1824	" 466-7	" 460
Byrd, Micajah.....	1		Washington.....	July 16, 1824	" 146-7	I, 140
Callham, Moses A. <sup>10</sup> .....	1		Harris.....	Aug. 3, 1824	" 304-5	" 140
Calvit, Alexr.....	1		Brazoria.....	Aug. 3, 1824	" 322-3	II, 316
		1	Waller.....	Aug. 3, 1824	" 322-3	" 316
		1	Brazoria.....	Aug. 3, 1824	" 322-3	" 316
Carpenter, David <sup>11</sup> .....	1		Harris.....	Aug. 16, 1824	" 428-9	" 422
Carson, Wm. C.....	1		Brazoria.....	May 15, 1827	" 578-9	" 564
Carter, Saml.....	1		.....do.....	July 8, 1824	" 46-7	I, 40
Cartwright, Jesse H.....	1		Fort Bend.....	Mar. 31, 1828	II, 9-10	II, 596
		1	Lavaca.....	Mar. 31, 1828	" 9-10	" 596
Cartwright, Thomas.....	1		Colorado.....	Aug. 10, 1824	I, 408-9	" 402
		1	Austin.....	Aug. 10, 1824	" 408-9	" 402
Castleman, Sylvenus.....	2		Wharton.....	July 7, 1824	" 28-9	I, 22
	½		Fayette.....	July 7, 1824	" 28-9	" 22
		2	Austin.....	July 7, 1824	" 28-9	" 22
Chance, Samuel <sup>12</sup> .....	1		Brazoria.....	July 27, 1824	" 262-3	" 256
Charles, Isaac N. <sup>13</sup> .....	1		.....do.....	May 21, 1827	" 582-3	II, 568
Chriesman, Horatio.....	1		Fort Bend.....	July 8, 1824	" 72-3	I, 66
		2	Austin.....	July 8, 1824	" 72-3	" 66
Clarke, Antony R.....		1	Brazoria.....	Aug. 24, 1824	" 543	II, 533 bis
Clark, John C.....	1		Wharton.....	July 16, 1824	" 130-1	I, 124
Coats, Merit M.....	1		Waller.....	July 19, 1824	" 160-1	" 154
Coles, Jno. P.....	7½		Burleson and Washington.....	Aug. 19, 1824	" 530-1	II, 524
	½		Washington.....	Aug. 19, 1824	" 530-1	" 524
	½		Brazoria.....	Aug. 19, 1824	" 530-1	" 524
Cooke, Jno. <sup>14</sup> .....	1			Aug. 10, 1824	" 398-9	" 392
		1	Harris.....	Aug. 10, 1824	" 398-9	" 392
Cook, James <sup>15</sup> .....	1		Colorado.....	Aug. 3, 1824	" 298-9	I, 292
Cooper, William <sup>16</sup> .....	1		Matagorda.....	July 24, 1824	" 240-1	" 234

<sup>1</sup>Partner of H. W. Johnson and Thos. Walker.

<sup>2</sup>Partner of Robert Brotherington.

<sup>3</sup>Partner of Henry Williams.

<sup>4</sup>See S. T. Angler.

<sup>5</sup>Partner of John Trobough; this name appears on the Land Office maps and in the Register of Deeds as Patrick Reels. The signature is not perfectly clear.

<sup>6</sup>Forfeited.

<sup>7</sup>See Caleb R. Bostwick.

<sup>8</sup>See Charles Belknap.

<sup>9</sup>Partner of Albert L. Sojourner.

<sup>10</sup>Partner of Allen Vince.

<sup>11</sup>Partner of William Harris.

<sup>12</sup>Partner of Joseph H. Polley.

<sup>13</sup>Partner of Daniel Shipman.

<sup>14</sup>Partner of Isaac Hughes; grant afterwards forfeited.

<sup>15</sup>Partner of Bluford Dewees.

<sup>16</sup>Partner of Moses Morrison.

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Name.	Amount.		Location (present county).	Date of title.	Translated Register, Vol. and page.	Original Titles, folio and page.
	Sitios.	Laborers.				
Cooper, William .....	1½	2	Waller .....	Aug. 10, 1824	I, 414-5	II, 408
			Austin .....	Aug. 10, 1824	" 414-5	" 408
Crier, John .....	1		Matagorda .....	June 8, 1827	II, 5-6	" 584
Crownover, John .....	1		Wharton and Matagorda.	Aug. 3, 1824	I, 316-7	" 310
		1	Austin .....	Aug. 3, 1824	" 316-7	" 310
Cummings, James.....	1		Brazoria .....	Aug. 16, 1824	" 458-9	" 452
	5	1	.....	Aug. 16, 1824	" 458-9	" 452
Cummings, John .....	1		Brazoria .....	July 21, 1824	" 218-9	I, 212
Cummings, Rebecca.....	1		.....do .....	July 21, 1824	" 220-1	" 214
		2	Waller .....	July 21, 1824	" 220-1	" 214
Cummings, William.....	1		Brazoria .....	July 21, 1824	" 198-9	" 192
Cummins, James.....	1		Colorado .....	July 7, 1824	" 24-6	" 19
	5		Austin .....	July 7, 1824	" 24-6	" 19
		1	Colorado .....	July 7, 1824	" 24-6	" 19
Curtis, James, Sen.....	1		Burleson .....	Aug. 3, 1824	" 308-9	II, 302
Curtis, James, Jr.....	1		Brazos .....	Aug. 19, 1824	" 496-7	" 490
Curtis, Hinton.....	1		Matagorda .....	Aug. 10, 1824	" 366-7	" 360
Davidson, Samuel.....	1		Brazos .....	July 21, 1824	" 222-3	I, 216
Davis, Thomas <sup>2</sup> .....	1		Austin .....	July 29, 1824	" 266-7	" 260
Deckrow, D. L. <sup>3</sup> .....	1		Matagorda .....	July 24, 1824	" 236-7	" 230
Demos, Charles.....	1		.....do .....	Aug. 3, 1824	" 250-1	" 284
Demos, Peter.....	1		.....do .....	.....	" 250-1	" 244
Deweese, Wm. B. <sup>4</sup> .....						
Dickinson, John.....	1		Galveston and Harris.	Aug. 19, 1824	" 506-7	II, 500
Dillard, Nicholas.....	1		Brazoria .....	Aug. 16, 1824	" 426-7	" 420
Duke, Thomas M.....	1		Matagorda .....	July 24, 1824	" 234-5	I, 228
Duty, George.....	1		Fayette .....	July 19, 1824	" 182-3	" 176
Duty, Joseph.....	1		Colorado .....	July 19, 1824	" 180-1	" 174
Dyer, Clement C.....	1		.....do .....	Aug. 10, 1824	" 388-9	II, 382
Dyer, Clement C.....		1½	Waller .....	Aug. 24, 1824	" 549	" 530 bis
Earle, Thos.....	1		Harris .....	July 7, 1824	" 38-9	I, 32
		1	.....do .....	July 7, 1824	" 38-9	" 32
Edwards, G. E.....	1		Wharton .....	Aug. 19, 1824	" 472-3	II, 466
Elam, John <sup>1</sup> .....	1		.....	Aug. 7, 1824	" 326-7	" 320
Elder, Robert.....	1		Waller .....	Aug. 24, 1824	" 538	" 531a
Falenash, Charles.....	1		Burleson .....	Aug. 19, 1824	" 514-5	" 508
Fenton, David.....	1		Matagorda .....	July 29, 1824	" 278-9	I, 272
Fields, John F.....	1		Brazoria .....	Aug. 24, 1824	" 542	II, 533
Fisher, James.....	1		Burleson .....	July 19, 1824	" 174-5	I, 168
Fitzgerald, David.....	1		Fort Bend .....	July 10, 1824	" 88-9	" 82
Flanakin, Isafah.....	1	2	Austin .....	July 19, 1824	" 156-7	" 150
Flowers, Elisha.....	1		Matagorda .....	July 19, 1824	" 168-9	" 162
		1	Colorado .....	July 19, 1824	" 168-9	" 162
Foster, Isaac.....	1		Matagorda .....	Aug. 10, 1824	" 372-3	II, 366
Foster, John.....	2½		Fort Bend .....	July 15, 1824	" 118-9	I, 112
		3	.....do .....	July 15, 1824	" 118-9	" 112
Foster, Randolph.....	1		Waller and Fort Bend.	July 16, 1824	" 134-5	" 128
Frazier, James <sup>5</sup> .....	1		Austin and Fort Bend.	July 24, 1824	" 254-5	" 248
Fulshear, Chh.....	1		Fort Bend.....	July 16, 1824	" 126-7	" 118
Garret, Charles.....	1		Brazoria .....	July 15, 1824	" 108-9	" 102
		1	Waller .....	July 15, 1824	" 108-9	" 102
Gates, Samuel.....	½		Washington .....	July 8, 1824	" 60-1	" 54
	½		.....do .....	July 8, 1824	" 60-1	" 54
Gates, William.....	1		.....do .....	July 16, 1824	" 144-5	" 138
		1	.....do .....	July 16, 1824	" 144-5	" 138
George, Freeman.....	1		Matagorda.....	July 7, 1824	" 40-1	" 34
		1	Waller.....	July 7, 1824	" 40-1	" 34
Gilbert, Preston.....	1		Colorado.....	June 4, 1827	II, 1-2	II, 588
Gilbert, Sarah.....	1		Wharton and Fort Bend.	May 11, 1827	I, 570-1	" 556

<sup>1</sup>Forfeited.

<sup>2</sup>Partner of David H. Milburn.

<sup>3</sup>Partner of Thomas McCoy.

<sup>4</sup>See James Cook.

<sup>5</sup>Partner of David Shelby and John McCormick.

Name.	Amount.		Location (present county).	Date of title.	Translated Register. Vol. and page.	Original Titles, folio and page.
	Sittos.	Labors.				
Gilleland, Daniel.....	1	1	Austin.....	Aug. 3, 1824	I, 288-9	I, 262
Gorbet, Chester S.....	1	1	Brazoria.....	July 19, 1824	" 172-3	" 168
Gouldrich, Michael.....	1	1	Galveston.....	Aug. 24, 1824	" 545	II, 534 bis
Gray, Thos. <sup>1</sup> .....	1	1	Brazoria.....	Aug. 10, 1824	" 436-7	" 430
Groce, Jared E. <sup>2</sup> .....	5	1	Colorado.....	Aug. 16, 1824	" 436-7	" 430
	2	1	Brazoria.....	July 29, 1824	" 264-5	I, 258
	2	1	Waller.....	July 29, 1824	" 264-5	" 258
	2	1	Grimes.....	July 29, 1824	" 264-5	" 258
	2	1	Jackson.....	July 19, 1824	I, 154-5	I, 148
Guthrie, Robert.....	1	1	Colorado.....	July 29, 1824	" 272-3	" 266
Haddan, John.....	1	1	Waller.....	Aug. 19, 1824	" 482-3	II, 476
Hady, Samuel C.....	1	1				
Hall, Geo. B. <sup>3</sup> .....	2	2	Brazoria.....	July 10, 1824	" 74-5	I, 68
Hall, John W.....	2	2	Waller.....	July 19, 1824	" 74-5	" 68
Hall, W. J.....	1	1	Fort Bend.....	July 10, 1824	" 86-7	" 80
Hamilton, David.....	1	1	Wharton.....	May 9, 1827	" 566-7	II, 562
Harris, Abner <sup>4</sup> .....	1	1	Harris.....	Aug. 19, 1824	" 508-9	" 502
Harris, David.....	1	1	do.....	Aug. 16, 1824	" 444-5	" 438
Harris, John R.....	1	1				
Harris, William <sup>5</sup> .....	1	1	Brazoria.....	July 10, 1824	" 80-1	I, 74
Harris, William.....	1	1	Harris.....	July 21, 1824	" 214-5	" 208
Harris, Wm. J.....	1	1	Brazoria.....	Aug. 16, 1824	" 440-1	II, 434
Harrison, George.....	1	1	Austin.....	July 20, 1824	" 196-7	I, 190
Harvey, William.....	1	1	Brazos.....	Aug. 16, 1824	" 448-9	II, 442
Haynes, Thomas S.....	1	1	Brazoria.....	Aug. 3, 1824	" 320-1	" 314
Heasley, James.....	1	1	Austin.....	Aug. 3, 1824	" 320-1	" 314
Hodge, Alexr.....	1	1	Fort Bend.....	April 12, 1828	II, 13-14	" 600
Holland, Francis.....	1	1	Grimes.....	Aug. 10, 1824	I, 360-1	" 354
Holland, William.....	1	1	do.....	Aug. 10, 1824	" 358-9	" 352
Holliman, Kinchen <sup>6</sup> .....	1	1	do.....	Aug. 10, 1824	" 382-3	" 376
Hope, James.....	1	1	Brazos.....	July 10, 1824	" 102-3	I, 96
	1/2	2	do.....	July 10, 1824	" 102-3	" 96
	1	2	do.....	July 10, 1824	" 102-3	" 96
Hudson, C. S.....	1	1	Wharton.....	July 29, 1824	" 270-1	" 264
Huff, John.....	1	1	do.....	July 10, 1824	" 98-9	" 92
Huff, George.....	1 1/2	1	Wharton and Fort Bend.	Aug. 19, 1824	" 494-5	II, 488
Hughes, Isaac <sup>7</sup> .....	1	1	Wharton.....	July 24, 1824	" 242-3	I, 236
Hunter, Eli.....	1	1	Harris.....	Aug. 10, 1824	" 400-1	II, 394
Hunter, Johnson.....	1	1	Chambers.....	Aug. 7, 1824	" 342-3	" 336
Ilams, John.....	1	1	Waller.....	Aug. 24, 1824	" 547	" 535
Ingram, Ira <sup>8</sup> .....	2	1	Wharton.....	July 29, 1824	" 282-3	I, 276
Ingram, Seth.....	2	1	Austin.....	July 29, 1824	" 282-3	" 276
Irons, John.....	1	1	Waller.....	July 16, 1824	" 122-3	" 116
Isaacks, Samuel.....	1	1	Fort Bend.....	July 15, 1824	" 106-7	" 100
Jackson, Alexander.....	2	1	Wharton.....	July 16, 1824	" 128-9	" 122
Jackson, Humphrey.....	1	1	Harris.....	Aug. 16, 1824	" 446-7	II, 440
	1	1	do.....	Aug. 16, 1824	" 448-0	" 440
Jackson, Isaac.....	1	1	Grimes.....	Aug. 7, 1824	" 350-1	" 344
Jamison, Thomas <sup>9</sup> .....	1	1	Matagorda and Brazoria.	July 24, 1824	" 232-3	I, 226
Johnson, Henry W. <sup>10</sup> .....	1	1				
Jones, Henry.....	1	1	Fort Bend.....	July 8, 1824	" 52-3	" 46
Jones, J. W.....	1	1	Wharton.....	Aug. 10, 1824	" 418-9	II, 412
	1	1	Fort Bend.....	Aug. 10, 1824	" 418-9	" 412
Jones, Oliver.....	1	1	Brazoria.....	Aug. 10, 1824	" 416-7	" 410
	1	1	Austin.....	Aug. 10, 1824	" 416-7	" 410

<sup>1</sup>Partner of John H. Moore.

<sup>2</sup>The deed states that this large grant is made to Groce because he has "near one hundred slaves and may be useful \* \* \* on account of the property he has brought with him."

<sup>3</sup>See S. T. Angler.

<sup>4</sup>See William Baratt.

<sup>5</sup>See David Carpenter.

<sup>6</sup>Forfeited.

<sup>7</sup>See John Cooke.

<sup>8</sup>A building lot is also included in this deed.

<sup>9</sup>Partner of Thomas Tone.

<sup>10</sup>See Thomas H. Borden and Thomas Walker.

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Name.	Amount.		Location (present county).	Date of title.	Translated Register, Vol. and page.	Original titles, folios and page.
	Sittos.	Labors.				
Jones, R.	1/2	.....	Wharton	July 15, 1824	I, 116-7	I, 110
	1/2	.....	Fort Bend	July 15, 1824	" 116-7	" 110
	1	.....	do	July 15, 1824	" 116-7	" 110
Keep, Imia	1	.....	Brazoria	July 24, 1824	" 248-9	" 242
Keller, John C.	1	.....	Matagorda	June 4, 1827	II, 5-6	II, 592
Kelly, John	2	.....	Brazos	July 19, 1824	I, 164-5	I, 158
Kennedy, Saml	1	.....	Fort Bend	July 7, 1824	" 30-1	" 24
	1	.....	Austin	July 7, 1824	" 30-1	" 24
Kennon, Alfred	1	.....	Burleson	July 19, 1824	" 166-7	" 160
Kerr, James	1	.....	Jackson	May 6, 1827	" 558-9	II, 544
Kerr, Peter	1	.....	Washington	Aug. 10, 1824	" 378-9	" 372
Kerr, William	1	.....	Wharton	July 8, 1824	" 56-7	I, 50
Kincheloe, William	1	.....	do	July 8, 1824	" 56-7	" 50
Kingston, William <sup>1</sup>	1	.....	Matagorda	May 8, 1827	" 502-3	II, 548
Knight, James <sup>2</sup>	1	.....	Fort Bend	July 15, 1824	" 114-5	I, 108
	1	.....	do	July 15, 1824	" 114-5	" 108
Kuykendall, Abner	1	.....	do	July 7, 1824	" 44-5	" 38
	1/2	.....	Washington	July 7, 1824	" 44-5	" 38
	2	.....	Austin	July 7, 1824	" 44-5	" 38
Kuykendall, Brazilla	1	.....	do	Aug. 7, 1824	" 332-3	II, 326
Kuykendall, Robert	1	.....	Wharton	.....	" 132-3	I, 123
	1	.....	do	.....	" 132-3	" 123
Kuykendall, Joseph	1	.....	Fort Bend	July 8, 1824	" 54-5	" 48
League, Hosea H.	1	.....	Matagorda	May 25, 1827	" 580-1	" 570
Leakey, Joel	1	.....	Washington and Austin.	May 28, 1827	" 598-9	II, 584
Linsley, Benjamin <sup>3</sup>	1	.....	.....	Aug. 19, 1824	" 516-7	" 570
Little, John	1	.....	Austin	May 21, 1828	II, 19-20	" 606
	1	.....	Fort Bend	May 21, 1828	" 19-20	" 606
Little, William	1	.....	do	July 10, 1824	I, 94-5	I, 88
	1	.....	do	July 10, 1824	" 94-5	" 88
Long, Jane H.	1	.....	do	April 30, 1827	" 554-5	II, 540
	1	.....	Waller	May 1, 1827	" 554-5	" 540
Lynch, James	1	.....	Washington	July 16, 1824	" 148-9	I, 142
Lynch, Nathanael	1	.....	Harris	Aug. 19, 1824	" 512-3	II, 506
McCroskey, John	1	.....	Brazoria	Aug. 16, 1824	" 450-1	" 444
	1	.....	Austin	Aug. 16, 1824	" 450-1	" 444
McCormick, Arthur	1	.....	Harris	Aug. 10, 1824	" 402-3	" 396
McCormick, David	1	.....	Brazoria	July 21, 1824	" 216-7	I, 210
McCormick, John <sup>4</sup>	1	.....	.....	.....	.....	.....
McCoy, Thomas <sup>5</sup>	1	.....	.....	.....	.....	.....
McFarlan, Aechiles	1	.....	Brazoria	July 10, 1824	" 82-3	" 76
	1 1/2	.....	Waller	July 10, 1824	" 82-3	" 76
McFarlan, John	1 1/2	.....	do	Aug. 10, 1824	" 412-3	II, 406
	1	.....	do	Aug. 10, 1824	" 412-3	" 406
McKenney, Thos. F.	1	.....	Brazos	Aug. 16, 1824	" 456-7	" 450
McKinsey, Hugh <sup>6</sup>	1	.....	Wharton and Matagorda.	Aug. 3, 1824	" 300-1	I, 294
McClain, A. W.	1	.....	Colorado	July 24, 1824	" 252-3	" 246
McNair, James	1	.....	Brazoria	Aug. 3, 1824	" 310-1	II, 304
McNeel, Daniel	1	.....	do	Aug. 10, 1824	" 406-7	" 400
McNeel, George W.	1/2	.....	do	Aug. 10, 1824	" 406-7	" 400
McNeel, John G.	1/2	.....	do	Aug. 10, 1824	" 286-7	I, 280
McNeel, Jno.	1	.....	do	Aug. 3, 1824	" 348-9	II, 342
McNeel, Pleasant D.	1	.....	do	Aug. 7, 1824	" 476-7	" 470
McNeel, Sterling	1	.....	do	Aug. 19, 1824	" 202-3	I, 196
McNutt, Elizabeth	1	.....	Jackson	July 21, 1824	" 150-1	" 144
McWilliams, William	1	.....	Burleson	July 19, 1824	" 64-5	" 58
Marsh, Shubael	1	.....	Brazoria	July 8, 1824	" 276-7	" 270
Martin, Wily	1	.....	do	July 29, 1824	" 276-7	" 270

<sup>1</sup>Partner of Peter Powell.

<sup>2</sup>Partner of Walter C. White.

<sup>3</sup>Forfeited.

<sup>4</sup>See James Frazier and David Shelby;

McCormick's share of this league was afterwards forfeited.

<sup>5</sup>See Daniel Deckrow

<sup>6</sup>Partner of John Smith.



Name.	Amount.		Location (present county).	Date of title.	Translated Register, Vol. and page.	Original Titles, folio and page.
	Sitios.	Labors.				
Mathis, William	1		Brazos	July 19, 1824	I, 176-7	I, 170
Milburn, David H. <sup>1</sup>						
Miller, Samuel	1		Washington	Aug. 19, 1824	" 492-3	II, 486
Miller, Samuel R.	1		do	Aug. 19, 1824	" 496-7	" 480
Miller, Simon	1		Fort Bend	Aug. 7, 1824	" 352-3	" 346
Milican, James D.	1		Brazos	July 16, 1824	" 140-1	I, 134
Milican, Robert	2½		do	July 16, 1824	" 138-9	" 132
Milican, William	1		do	July 16, 1824	" 142-3	" 136
Minus, Joseph	1		Brazoria	Aug. 19, 1824	" 502-3	II, 496
Mitchell, Asa	1		do	July 7, 1824	" 34-5	I, 28
Mitchell, Asa	½	1	do	July 7, 1824	" 34-5	" 28
Monks, John L. <sup>2</sup>	1		do	Aug. 24, 1824	" 548	II, 536
Moore, John H. <sup>3</sup>	1		do	Aug. 16, 1824	" 432-3	" 426
Moore, Luke	1		Harris	Aug. 3, 1824	" 306-7	I, 300
Morrison, Moses <sup>4</sup>						
Morton, William	1½		Fort Bend	July 15, 1824	" 110-1	I, 104
Mouser, David	1	1	do	July 15, 1824	" 110-1	" 104
Nelson, James	1		Waller	Aug. 19, 1824	" 480-1	II, 474
Newman, Joseph	1		Colorado	Aug. 7, 1824	" 334-5	" 328
	1		Wharton	Aug. 10, 1824	" 420-1	" 414
	1	1	Austin	Aug. 10, 1824	" 420-1	" 414
Nuckols, M. B.	1		Matagorda and Brazoria.	Aug. 3, 1824	" 314-5	" 308
	1		Brazoria	Aug. 3, 1824	" 314-5	" 308
Orrick, James	1	1	Austin	Aug. 10, 1824	" 376-7	" 320
Osborn, Nathan <sup>5</sup>	1		Colorado	July 24, 1824	" 256-7	I, 250
Parks, Wm.						
Parker, Joshua	1		Wharton	July 24, 1824	" 226-7	I, 220
Parker, William	1		Brazoria	July 8, 1824	" 62-3	" 56
Pennington, Isaac <sup>6</sup>	1	1	Waller	July 8, 1824	" 62-3	" 56
Fentlecoat, George S.	1		Fort Bend	Aug. 3, 1824	" 302-3	I, 296
Pettus, Freeman	1		Matagorda	Aug. 19, 1824	" 488-9	II, 468
	1		Colorado and Fayette.	Aug. 3, 1824	" 324-5	" 318
	1		Matagorda and Brazoria.	Aug. 3, 1824	" 324-5	" 318
	1	1	Colorado	Aug. 3, 1824	" 324-5	" 318
Pettus, Wm.	1		Wharton	July 10, 1824	" 92-3	I, 86
	1		Fort Bend	July 10, 1824	" 92-3	" 86
	1	1	Waller	July 10, 1824	" 92-3	" 86
Petty, John	1		Fayette	Aug. 10, 1824	" 390-1	II, 384
Peyton, J. C.	1		Matagorda	May 25, 1827	" 592-3	" 576
Phelps, James A. E.	1		Brazoria	Aug. 16, 1824	" 452-3	" 446
	2		do	Aug. 16, 1824	" 452-3	" 446
Phillips, I. B.	1		Wharton	May 9, 1827	" 564-5	" 550
Phillips, Zeno	1		Brazoria	July 19, 1824	" 194-5	I, 188
Picket, Pamela	1		Matagorda	July 21, 1824	" 208-9	" 202
	1	1	Austin	July 21, 1824	" 208-9	" 202
Polley, Joseph H. <sup>7</sup>						
Polley, Joseph H.	1		Fort Bend	Aug. 16, 1824	" 460-1	II, 454
Powell, Peter <sup>8</sup>						
Prater, William	1		Brazoria	July 19, 1824	" 186-7	I, 180
	1	1	Austin	July 19, 1824	" 186-7	" 180
Pruit, Pleasant	1		Matagorda	July 24, 1824	" 244-5	" 238
Pryor, William	1		Waller	Aug. 24, 1824	" 546	II, 535 his
Rabb, Andrew	1½		Wharton	Aug. 10, 1824	" 410-1	" 404
Rabb, John	1		Fort Bend	July 8, 1824	" 58-9	I, 52
	2		Austin	July 8, 1824	" 58-9	" 52
Rabb, Thomas J.	1		Wharton	July 24, 1824	" 258-9	" 252
Rabb, William	3		Fayette	July 19, 1824	" 192-3	" 186
	2		Matagorda	July 19, 1824	" 192-3	" 186

<sup>1</sup> See Thomas Davis.  
<sup>2</sup> Forfeited.  
<sup>3</sup> See Thomas Gray.  
<sup>4</sup> See William Cooper.

<sup>5</sup> Partner of Nathaniel Whiting,  
<sup>6</sup> Partner of David Randon.  
<sup>7</sup> See Samuel Chance.  
<sup>8</sup> See William Kingston.

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Name.	Amount.		Location (present county).	Date of title.	Translated Register. Vol. and page.	Original Titles, folios and page.
	Sittos.	Labors.				
Rabb, William.....		2	Fayette.....	Aug. 24, 1824	I, 552	II, 538
Raleigh, William.....	1		Burleson.....	Aug. 16, 1824	442-3	436
Ramey, L.....	1		Matagorda.....	May 23, 1827	586-7	572
Randon, David <sup>1</sup> .....						
Randon, John.....	1		Fort Bend.....	Aug. 19, 1824	484-5	II, 478
Rankin, Frederic H.....	1		Harris.....	July 7, 1824	34-5	I, 30
		1	do.....	July 7, 1824	34-5	30
Rawls, Amos.....	1		Matagorda.....	July 24, 1824	228-9	222
Rawls, Benjamin <sup>2</sup> .....	1		do.....	Aug. 3, 1824	292-3	286
Rawls, Daniel.....	1½		do.....	July 24, 1824	230-1	224
Richardson, Stephen.....	1		Brazoria.....	July 10, 1824	78-9	72
Roark, Elijah.....	1		Fort Bend.....	July 10, 1824	100-1	94
		1	Waller.....	July 10, 1824	100-1	94
Robbins, Earle.....		1	Austin.....	July 19, 1824	178-9	172
Robbins, William.....	1		Brazoria.....	July 19, 1824	184-5	178
		1	Austin.....	July 19, 1824	184-5	178
Roberts, Andrew.....	1		Fort Bend.....	May 11, 1827	598-9	II, 554
Roberts, Noel F.....	1½		do.....	July 15, 1824	104-5	I, 98
Roberts, William.....	1		Brazoria.....	July 8, 1824	70-1	64
Robertson, Edward.....	1		Fort Bend.....	Mar. 31, 1828	II, 11-2	II, 598
Robinson, A.....	1½		Brazoria.....	July 8, 1824	I, 76-7	I, 70
	½		Washington.....	July 8, 1824	76-7	70
		1	Waller.....	July 8, 1824	76-7	70
Robinson, Geo.....	1		Brazoria.....	July 8, 1824	66-7	60
Ross, James.....	1		Colorado.....	July 19, 1824	158-9	152
San Pierre, Joseph.....		1	Fort Bend.....	Aug. 24, 1824	537	II, 530 bis
Scobey, Robert.....	1		Whartoo.....	Aug. 3, 1824	318-9	312
Scott, James.....	1		Fort Bend.....	Aug. 7, 1824	340-1	334
Scott, Wm.....	1		Harris.....	Aug. 19, 1824	526-7	520
		1	do.....	Aug. 19, 1824	526-7	520
		1	do.....	Aug. 19, 1824	526-7	520
Seikirk, William.....	1		Matagorda.....	Aug. 10, 1824	394-5	388
Shelby, David <sup>3</sup> .....						
Shipman, Daniel <sup>4</sup> .....						
Shipman, Moses.....	1		Fort Bend.....	July 19, 1824	188-9	I, 182
		1	Austin.....	July 19, 1824	188-9	182
Sims, Bartlet.....	1		Wharton.....	Aug. 7, 1824	354-5	II, 348
Singleton, G. W.....	1		do.....	May 14, 1827	574-5	560
Singleton, Phillip.....	1		Burleson and Washington.....	Aug. 19, 1824	490-1	484
Smith, Christian.....	1		Harris and Chambers.....	July 19, 1824	152-3	I, 146
Smith, Cornelius.....	1		Brazoria.....	Aug. 10, 1824	364-5	II, 358
Smith, John <sup>5</sup> .....						
Smeathers, William.....	1		Austin.....	July 16, 1824	124-5	I, 118
Snider, Gabriel Straw.....	1		Colorado.....	Aug. 7, 1824	328-9	II, 322
Sojourner, Albert Loyd <sup>6</sup> .....						
Spencer, Nancy.....	1		Fort Bend.....	Aug. 19, 1824	498-9	492
Stafford, Adam.....		1	Waller.....	Aug. 24, 1824	536	530
Stafford, William.....	1½		Fort Bend.....	Aug. 16, 1824	434-5	428
		1	Waller.....	Aug. 16, 1824	434-5	428
Stevens, Thomas.....	1		do.....	Aug. 7, 1824	344-5	338
Stout, Owen H. <sup>7</sup> .....						
Strange, James.....						
Sutherland, Walter.....	1		Harris.....	Aug. 24, 1824	539	531 b
Tally, David.....	1		Brazos.....	Aug. 10, 1824	396-7	390
		1	Brazoria.....	Aug. 16, 1824	462-3	456
		1	Austin.....	Aug. 16, 1824	462-3	456
Taylor, John I.....	1		Harris.....	Aug. 10, 1824	362-3	356
Teel, George.....	1		Fort Bend.....	Aug. 3, 1824	312-3	306
Thomas, Ezekiel.....	1		Harris.....	Aug. 19, 1824	510-1	504
Thomas, Jacob.....		1	Waller.....	Aug. 24, 1824	541	532 bis
Thompson, Jesse.....	1		Brazoria.....	Aug. 7, 1824	336-7	330

<sup>1</sup>See Isaac Pennington.  
<sup>2</sup>Partner of Owen H. Stout.  
<sup>3</sup>See James Frazier and John McCormick.

<sup>4</sup>See Isaac N. Charles.  
<sup>5</sup>See Hugh McKinsey.  
<sup>6</sup>See Pumphrey Burnet.  
<sup>7</sup>See Benjamin Rawls.

Name.	Amount.		Location (present county).	Date of title.	Translated Register Vol. and page.	Original Titles, folio and page.
	Sitios.	Labors.				
Tone, Thomas J. <sup>1</sup>	1		Brazoria	Aug. 19, 1824	I, 504-5	I, 498
Tong, James F.	1		Austin	May 7, 1827	" 500-1	" 546
Toy, Samuel	1					
Trobough, John <sup>2</sup>						
Tumlinson, Elizabeth	1		Colorado	Aug. 16, 1824	" 468-9	" 462
		1	do	Aug. 16, 1824	" 468-9	" 462
			do	Aug. 19, 1824	" 528-9	" 522
Tumlinson, James	1		Wharton	Aug. 19, 1824	" 528-9	" 522
	½		Colorado	Aug. 19, 1824	" 528-9	" 522
		1				
Vundorn, Isaac <sup>3</sup>						
Varnar, Martin	1		Brazoria	July 8, 1824	" 50-1	" 44
		1	Waller	July 8, 1824	" 50-1	" 44
Vince, Allen <sup>4</sup>						
Vince, Richard	1		Harris	Aug. 21, 1824	" 532-3	II, 526
Vince, Robt.						
Vince, Wm.	1		do	July 21, 1824	" 212-3	" 206
Walker, James	1		Washington	July 21, 1824	" 210-1	I, 204
Walker, Thomas <sup>5</sup>						
Wallace, Caleb	1		Grimes	May 14, 1828	II, 17-8	II, 604
Wells, Francis F.	1		Jackson	July 21, 1824	I, 204-5	" 198
		1	Brazoria	July 21, 1824	" 204-5	" 198
Westall, Thomas	1		Wharton	July 19, 1824	" 170-1	" 164
			Fort Bend	July 19, 1824	" 170-1	" 164
		2	Austin	July 19, 1824	" 170-1	" 164
White, Amy	1		Harris	Aug. 16, 1824	" 454-5	II, 448
White, Joseph	1		Brazoria	Aug. 16, 1824	" 422-3	" 416
White, Reuben	1		Harris	Aug. 19, 1824	" 470-1	" 464
White, Walter C. <sup>6</sup>						
White, William C.	1		Austin	Aug. 19, 1824	" 520-1	" 514
Whitesides, Boland			Brazos and			
Whitesides, Henry	1		Grimes	Aug. 10, 1824	" 404-5	" 398
Whitesides, James	1		Grimes and Brazos.	July 16, 1824	" 136-7	I, 130
		1	Waller	July 16, 1824	" 136-7	" 130
			do	July 19, 1824	" 162-3	" 156
Whitesides, William	1					
Whiting, Nathl. <sup>7</sup>						
Whitlock, William	1		Harris	Aug. 16, 1824	" 430-1	II, 424
Wightman, Elias D.	1		Matagorda	May 25, 1827	" 504-5	" 580
Wilkins, Jane	1		Fort Bend	May 26, 1827	" 596-7	" 582
Williams, George I.	1		Matagorda	Aug. 19, 1824	" 474-5	" 468
Williams, Henry <sup>8</sup>						
Williams, John <sup>9</sup>						
Williams, John		1	Waller	Aug. 24, 1824	" 540	" 532
Williams, John R. <sup>10</sup>	1			July 29, 1824	" 284-5	I, 278
		1		July 29, 1824	" 284-5	" 278
Williams, Rob. H.	1		Matagorda	Aug. 19, 1824	" 488-9	II, 482
Williams, Samuel M.	1		Brazoria	Aug. 10, 1824	" 392-3	" 386
			do	Aug. 10, 1824	" 392-3	" 386
		1	Waller	Aug. 10, 1824	" 392-3	" 386
		1	Austin	Aug. 10, 1824	" 392-3	" 386
		1	Brazoria	Aug. 10, 1824	" 392-3	" 386
Williams, Solomon	1		Matagorda	Aug. 7, 1824	" 356-7	" 350
		1	Waller	Aug. 7, 1824	" 356-7	" 350
Williams, Thomas	1		Matagorda	Aug. 16, 1824	" 424-5	" 418
Woods, Zadock	1		do	May 15, 1827	" 576-7	" 562

<sup>1</sup> See Thomas Jamison.  
<sup>2</sup> See Patrick Brias.  
<sup>3</sup> See Daniel E. Raylis.  
<sup>4</sup> See M. A. Callibam.  
<sup>5</sup> See Thomas H. Borden and H. W. Johnson.  
<sup>6</sup> See James Knight.  
<sup>7</sup> See Nathan Osborn.  
<sup>8</sup> See John J. Bowman.  
<sup>9</sup> See Mills M. Battle and Mandus Berry.  
<sup>10</sup> Forfeited.

## FIGHT ON THE FRIO, JULY 4, 1865.

JOHN S. FORD.

Many of the men who were ever ready to meet the Indians in deadly conflict are now gathered to their fathers. Some of them yet live. Among these is Leroy W. Trimble. He lived in Karnes county, at the ranch of his father. The elder Trimble bought cattle on the Leona river, about sixty miles from San Antonio. Late in June, 1865, Leroy Trimble, Daniel Williams and his cousin L. P. Williams and brother J. H. Williams, William English, and Sam W. Trimble left San Antonio to visit Leona river. They stopped on Leona river, at the ranch of Capt. Levi English. They contemplated going to the ranch of Edward Burleson on the fourth of July, to have a dance. This Burleson was a nephew of the elder General Burleson. The young men were gathering horses for the ladies to ride, when a runner came in and spread the news that Indians had crossed from Mexico and had attacked Burleson, but he had escaped. They got his hat and a horse staked about forty yards from his house.

This report changed the program. Everything possible was done to meet the savages. Capt. Levi English assumed the leadership. He gathered all the men he could. Many of them could not procure horses. They were left to protect the women and children, at different houses. At the instance of Captain English, Leroy Trimble and brother remained at his house.

About an hour after the departure of English the horses came to the house running. A gate was opened and they entered a lot. An Indian came within speaking distance, and ordered that the horses be turned out of the lot. Leroy Trimble yelled back to the Indians: "If you wish the horses to be turned out, come and turn them out yourselves."

His brother had a gun without a hammer. He carried a small hammer in his hand to discharge the gun by striking the cap. He was anxious to fire, but was induced not to do so. There were seven Indians in sight, and the danger was a charge upon the house, and a certain destruction of thirty women and children.

Captain English moved from Burleson's ranch with the following men: Edward Burleson, Daniel Williams, B. Oden, Bud English, W. C. Daugherty, John Berry, William Bell, Frank Williams, Alford Franks, George Daugherty — eleven in all. They took the trail near Burleson's house. They had been gone about one hour and a half. Captain English and John Berry were the trailers, and they were proficient in that business. The Indians had proceeded down the Frio river. About 3 o'clock in the evening they came in sight of the Indians, going towards the sun in order to baffle the sight of the white men. They were moving in single file. The Texians counted eighteen horses. Believing this to be the number of Indians, Captain English ordered a charge, which was gallantly made. When the whites reached the Indians they found every horse carrying double, and thirty-six Kickapoo Indians. The Texians came close to their enemies, dismounted, and began fighting. The Indians formed a half-moon and charged. The Texians were too brave to fall back, but fought with desperate courage. The Indians recoiled, and the Texians charged them. In this manner the contest continued for an hour and a half. Finally Edward Burleson killed the chief and the horse he was riding, which belonged to Miss English, now Mrs. Reuben Bell. The loss of their chief dispirited the Kickapoos, and they withdrew. The Texians moved off unmolested.

The loss of the whites were three killed—Daniel Williams, Dean Oden, and Bud English. Captain English had just cautioned him to keep moving, and give the Indians no chance to draw a long sight on him. Immediately after the caution young English was a corpse. He was a young man of much promise and undoubted bravery.

The wounded were: Captain English, Edward Burleson, W. C. Daugherty, George Daugherty, William Bell. John Berry had two arrows shot through his leather leggings into his horse. He was unable to dismount until after the arrows were extracted. He was a man who never declined to take part in a fight. At the end of the battle there were only three Texians unwounded.

The next day Captain Williams of San Miguel came with ten or twelve men. Our force amounted to twenty-one men, and we followed the trail of the Indians. They had camped in a ravine in a

dense thicket, and Captain Williams advised us not to attack them, as they would have greatly the advantage.

On July 5th, Judge Randolph, of Austin, Treasurer of Texas, came along. We told him of the men wounded the day before, and he allowed us the use of his ambulance to haul them to Burleson's ranch.

In order to ascertain the exact loss of the Kickapoos, Leroy W. Trimble went to Santa Rosa, Mexico. He there learned that in the fight of July 4, 1865, the Indians lost six killed and thirteen wounded. The Kickapoos had no idea Trimble knew anything of the affair.

VEN. MARIA JESUS DE AGREDA: A CORRECTION.

EDMOND J. P. SCHMITT.

From an article in the first number of the Quarterly I copy the following sentences: "About 1630, Maria de Agreda, a Spanish missionary lady, spent some years among the wild tribes of Texas. None of her writings are known to be in existence, but she is quoted by Father Mazanet, in 1692, he having seen her report to the 'Father Custodian of New Mexico.' In this quotation there is mention of the 'Kingdom of the Theas,' showing that the same tribes then inhabited this country which we found two hundred years after." \*

The writer seems to quote from a letter or report by Father Mazanet; yet there is evidently a misreading of his authority, as there are two misstatements in the quotation as given. For the venerable Sister Maria de Agreda was never in America in body, unless the story of her ecstatic visitation and conversion of the Xumanas be true. Nevertheless her works are extant, and some of them are to be found in the libraries of America.†

Speaking of the Franciscan missions among the Pueblos of New Mexico, Dr. Shea writes:

"About the year 1622, in the Provincial Chapter of the Franciscan Order held in Mexico, the missions which had hitherto been under the care of a Commissary were formed into a Custodia, of which Father Alonzo de Benavides was appointed the first custos. The viceroy of New Spain thereupon authorized him to take twenty-six missionaries to New Mexico, their expenses on the way and their maintenance being paid by the king. But though the new custos entered his district with that number, death, sickness, and hardship soon thinned their ranks, and at the close of the year 1627 the king ordered the viceroy to send thirty Franciscan Fathers to New Mexico. [Cedula of November 15, 1627.]

\* *Tribal Society Among Texas Indians.* M. M. KENNEY. *Quarterly of the Texas State Historical Association.* p. 29, Vol. I, No. 1. Also reprinted in *The Texas Magazine*, p. 18, Vol. III, No. 1.

† "*La Mistica Ciudad de Dios*," at St. John's College, Fordham, N. Y.



*Soa Maria  
de Jesus*

“On the 4th of September, 1628, nineteen priests and two lay brothers of the order of Saint Francis left the City of Mexico with the newly appointed custos, Father Stephen de Perea; these were maintained by the king, and the nine others at the expense of the province of the Holy Gospel, all ready to meet toil and danger in the missions of New Mexico. [Perea, “Verdadera Relacion de la Grandiosa Conversion que ha avido en el Nuevo Mexico,” Seville, 1632.]



"In 1630 Father Benavides was dispatched to Spain, to lay before the sovereign the consoling results of the missions which his zeal had established.

"At Chilili, the chief pueblo of the Tompiros, Father John de Salas founded a mission, which soon had six churches and residences. His zeal extended beyond the limits of that nation. Hearing of the Xumanas, a tribe similar in mode of life to the tribes already known, whose pueblo lay east of the mesa still bearing their name, and not far from the Salt lakes, this missionary about 1623 endeavored to bear the light of the gospel to them. To his surprise he found the Xumanas familiar with the Christian doctrines, and they declared they had been instructed in the faith of Christ by a woman. Her attire, as they described it, was that of a nun, and the missionary showed them a picture of Sister Louisa Carrion, a religious in Spain highly esteemed for her sanctity. The Indians declared that the dress was the same, but the lady who visited them was younger and more handsome. In 1629 Father Benavides resolved to found a mission among this interesting people, and he sent Fathers Perea and Lopez to take up their residence at the great pueblo of the Xumana nation, which he dedicated to St. Isidore, archbishop. When he subsequently returned to Spain, Father Benavides heard of Sister Maria de Agreda, and at her convent learned that she had in ecstasy visited New Mexico and instructed the Indians there. The Franciscan writers all from this time speak of this marvelous conversion of the Xumanas by her instrumentality as a settled fact. The ruins recently called Gran Quivira are, in all probability, the site of a Xumana town, the nation having been wasted away by wars and absorbed in some one of the New Mexican tribes. In 1632 Father John de Salas again visited the tribe, accompanied by F. Diego de Ortego, and finding the people friendly and disposed to receive the faith, he left Father Ortego there for six months." [F. Alonso de Posados, in Duro, "Peñalosa," p. 57.]

\* *The Catholic Church in Colonial Days.* By JOHN GILMARY SHEA. New York, John G. Shea. 1886. Vol. I of *A History of the Catholic Church Within the Limits of the United States*, published in four volumes, pp. 195-198.

See also "*History of the Catholic Missions Among the Indian Tribes of the United States*," by the same author. p. 81. N. Y. P. J. Kenedy. No date.

In a foot-note Dr. Shea adds: "The Ven. Maria de Agreda, daughter of Francis Coronel and Catherine de Arana, was born at Agreda, April 2, 1602, and after a childhood of great piety and reserve, at the age of sixteen took the veil in the Order of Poor Clares with her mother and sister, their house becoming a convent, her father with her two brothers making their profession in the Convent of San Antonio the same day. Her austerities were extraordinary, but they were supported by a solid and constant piety and virtue. Having become abbess at the age of twenty-five, she erected a new convent near the city, which is still standing. Through life she petitioned the Holy See to define clearly two points made *de fide* in our time—the Immaculate Conception of the Blessed Virgin and the Infallibility of the Sovereign Pontiff. She died on Whitsunday, 1665, and the process of her canonization, begun soon after her death, has been revived in our day." \*

Her *Mistica Ciudad de Dios* (The Mystic City of God) was condemned by the Sorbonne, and for some time the Holy See "permitted its circulation only in Spain and Portugal." † "The discussions as to her revelations became quite a controversy, and occupy several volumes, but no final decision was ever made in their favor." ‡ "During her life she underwent a rigorous examination before the Inquisition, of which her long and clear answers are preserved. \* \* \* Her correspondence with Philip IV. ("Cartas de la Ven. M. Sor Maria de Agreda y del Señor Rey Don Felipe IV., Madrid, 1885) show a clear political judgment, a firmness and decision, that the king and his counselors seemed to lack." §

As the *History of the Conversion of the Xumanas* will form the subject of a later article, these few notes may suffice to correct the misapprehension in Mr. Kenney's valuable paper.

\* SHEA, *Hist. Cath. Ch. in Col. Days.* p. 198. Note 1.

† *Ibid.*

‡ SHEA, *Hist. Cath. Miss. Among the Indian Tribes in the U. S.* p. 81. Note †.

§ SHEA, *Hist. Cath. Ch. in Col. Days.* p. 198. Note 1.

## NOTES AND FRAGMENTS.

THE KILLING OF ——— ROGERS.\*—Rogers came very near being killed by the Indians on the Colorado in February, 1839, at the same time with Mrs Coleman. When they appeared he and a young son of Mrs. Coleman were working in a field near the house. The boy was captured and was never recovered, but Rogers succeeded in making his escape.†

In 1840 Rogers was stopping at Kenney's Fort on Brushy creek. This fort had been built by Thomas Kenney,‡ and was the first white settlement in that quarter. One day in the fall, when the buffalo began to come in, Rogers and a man named Ladd went hunting north of the place towards where Georgetown is now located. By and by they discovered some twenty Indians on the divide about half a mile away. Immediately they ran for timber, which was about four hundred yards distant. Rogers, being rather an elderly man, fell behind and was overtaken, speared to death, and scalped. This enabled Ladd to reach one of the dense thickets which then skirted the stream, but which have since disappeared. The Indians followed, but failed to find him. Then they unsaddled their ponies, kindled a fire, and ate in plain view of him as he lay concealed amid the undergrowth and afraid to stir. When they had finished eating, they prepared a target at the edge of the thicket, and much to his discomfort began to practice with their bows and arrows. Fortunately he was not struck, and as soon as they were gone he returned at once to the settlement, or fort, as it was called, and reported. Thereupon a party went out, hunted up the body of Rogers, and buried it.

The grave is now under the plow. As nearly as the place can be located, it is on the farm of John Palm.—*J. W. Darlington, Taylor.*

THE FREEDMAN IN THE LEGISLATURE.—On the adoption of the Constitution of 1868, my old body-servant, Tom, who had been

\* Mr. Darlington cannot recall the initials.

† See Wilbarger's *Indian Depredations*, p. 147.

‡ See *Indian Depredations*, p. 265, for a short account of the building of the fort and an unsuccessful attack upon it by the Indians.

faithful both to my father and to me, decided to run for the place in the legislature which I myself had previously held. In his speeches in the campaign by which he stepped into my shoes he said he wanted to go to the legislature in order to keep up the record of the family. He claimed to run as an "old member," and his constituents knew no better. The whites were not permitted to vote, and he was therefore elected almost unanimously by the negroes and went from my old district to take my place as representative. As a member of the House he served his people as well as he knew how, drawing his eight dollars per diem from the treasury with the utmost regularity.

Tom was a good man; far better, in fact, than his white associates. I now have in my possession a bill of sale executed in the days of slavery for this member of the Texas legislature, and it is barely possible that he was not the only member that was ever bought and sold. But of this, let him that knoweth speak.—*J. K. Holland, Austin.*

THE ATTITUDE OF THE SPANISH IN TEXAS TOWARDS THE INDIANS.—The attitude of the Spaniard toward the Indian, which finds expression in the official documents of the time, and which undergoes significant changes during the century of Spanish occupation, is a romantic paragraph in our history. When the Spaniard originally came to Texas he was cautioned to win the Indian to allegiance by kindly methods. This was done in a large number of instances. But there was an air of superiority about the Spaniard, a tone of haughty condescension in his voice, when he spoke of the red infidel. He had little respect for the rover, and less for his institutions, and paid no heed to his prowess in battle.

What is here said, it should be noted, applies not to the Franciscan missionaries, but to the Spanish soldiers.

But this state of feeling came to an end with the massacre of San Saba in 1758 and the failure of the Parilla expedition to the *Islas Blancas* a few years thereafter. Previously the Indians had been spoken of as infidels. Now those of the North especially became "*nuestros enemigos barbaros.*" Later the coast Indians gave the Spanish trouble, and won for themselves the same appellation.

Toward the end of the eighteenth century there was another change, and the Indians became known as "*nuestros aliados.*" The

Spanish, who wished no more enemies, were disposed to designate all of them as allies. This disposition was shown especially when the eastern boundary dispute arose.—*W. F. McCaleb, Carrizo Springs.*

RELIGIOUS BELIEF AND CUSTOMS OF TEXAS INDIANS.—The one single instance known to me of faith in the Great Spirit as a being of supernatural power is afforded by a trivial incident, often related in the early days in Austin.

Flacco, a Lipan brave, was listening to a young lady who was drumming on the piano for his amusement. He was a faithful attendant on Captain Mark B. Lewis, and some one knowing it remarked that the young lady was the captain's favorite.

"Oh, no," she said, "I am not tall enough." She was, in fact, very short and remarkably fleshy.

"Yes," said Flacco in his broken English, "you tall, too, but the Great Spirit"—here he raised his hand as if indicating the abode of the Being he mentioned—"he put his hand on head and mash you down."

The ceremony of calling back the spirit of the dead was witnessed by a friend of mine who was present in a Tonqua camp at the death of one of the tribe. Without knowing the Indian custom of using on such occasions a secret name, he described the calling or rather shouting of the name as one of the most impressive things he ever heard. He regarded it as a kind of mourning ceremony, the constant calls being kept up all night.—*Julia Lee Sinks, Giddings.*

TEXAS IN POORE'S CHARTERS.—Under this title appears in the Nation of September 16 the following communication:

To the Editor of the Nation:

Sir: In the matter relative to Texas in Poore's "Charters and Constitutions," there are some mistakes, and a seriously important omission, which are very misleading to those who rely absolutely on the work. Under the title "Texas Declaration of Independence" is printed (Part II, pp. 1752-3) the declaration adopted November 7, 1835, by the consultation at San Felipe de Austin, in favor of the Mexican Federal Constitution of 1824, and against the revolutionary aims of Santa Anna. The foot-note (p. 1752), which says, "This Declaration of Independence was adopted by a convention which assembled at Washington, on the Brazos river, March

1, 1836," applies properly not to "this Declaration, etc.," but to the actual Texas Declaration of Independence, which was adopted March 2, 1836, and has passed by the name into history. The latter is, unfortunately, omitted altogether.

My attention was first directed to these errors by my colleague, Prof. John C. Townes.—*George P. Garrison, University of Texas, Austin, September 3, 1897.*

*The Texas Magazine* has been moved to Dallas, and is now published by William G. Scarff. Judge C. W. Raines' "Life of Santa Anna," which was commenced in Vol. I., No. 1 of the Magazine, continues one of its attractions. Ex-Governor O. M. Roberts contributes to the August number an interesting paper on "The Shelby War." "Personal Recollections of Stephen F. Austin," written by Moses Austin Bryan for the information of his son, is one of the most valuable as well as readable articles of the September number. A prominent feature of the new Magazine is the emphasis laid upon woman's work in Texas and elsewhere. The Magazine has a fine field and a promising future.

*The Midsummer Gulf Messenger* (Houston, Texas) is a very creditable number. Besides the usual departments, the following are the leading articles: "Psychical Research," a club paper, by Mrs. C. Lombardi, of Houston; "Women in the Music Teachers' National Association" (illustrated), by Caroline Somers; "Our Relations," a story by Eleanor Kirk, editor of Eleanor Kirk's Idea, and author of "Libra," and "The Influence of the Zodiac on Human Life"; "Will Allen Dromgoole as a Poet," with frontispiece, by Louise Preston Looney. A popular feature of this magazine for some months has been the series of sketches of Women's Clubs in the South, with leading club papers. With this number it inaugurates a regular "Department of Women's Clubs," and invites the co-operation and correspondence of club women everywhere, with a view to exchange of ideas on club work.

QUERIES AND ANSWERS.

The Quarterly will have, in every issue for which appropriate material is offered, a special department under the above title. Questions concerning Texas history are invited, and it is hoped that those prepared to do so will contribute answers.

Where was General Houston, and what was he doing, in the interval between the adjournment of the San Felipe convention, April, 1833, and the beginning of hostilities with Mexico, October 1st, 1835?

C. W. RAINES.

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THE AFFAIRS OF THE ASSOCIATION.

The name of the first life member, Mr. D. M. O'Connor, of Anagua, Victoria county, has been placed upon the rolls of the Association. In a modest but enthusiastic letter expressing his interest in the objects of the organization, Mr. O'Connor encloses a check for fifty dollars, and adds a promise to give as much or more annually while alive and able. May he live long and be always as rich as he is generous.

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Here is an example worthy of imitation. There are many men in Texas of abundant means who are greatly interested in having the materials for the history of the Republic and the State preserved. If these persons only knew how well it is possible to spend money given for the purpose, they would doubtless contribute enough to enable the Association to build up a valuable library at once.

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The history of Texas can not be written until the materials are collected, but the work of collection necessarily involves great expense. A large proportion of the documentary sources of Texas history is to be found only in the archives of various cities in Mexico. Copies might be procured, but not without the expenditure of some money. The Department of Insurance, Statistics,

and History has been charged with this duty; but its appropriations have been too small to attempt such work, and hitherto it has done nothing along that line. The Association could secure competent persons to do the copying at relatively small cost. All that is needed in order to begin is the funds.

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The people of Texas have been too careless also about the historic materials that lie scattered through the State in private possession. The opportunity to gather and preserve them is being lessened continually by their destruction or loss through accident or neglect. But it costs something to gather them, even when the owners are willing to give them to the Association. Simply to locate them and ascertain their nature is often a matter of extensive correspondence and great trouble. This is most cheerfully undertaken by the Association, but in order to succeed it must have patriotic co-operation throughout the State.

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Attention is therefore called to the circulars of inquiry which have been sent out by the Association. These have already elicited some information concerning old letters, papers, etc., which are owned by private parties, and it is hoped that still other replies will come in. The members especially, when they know anything concerning the existence or whereabouts of such matter, should communicate the fact at once to the Librarian.

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Exhortation for the purpose of awakening interest in the work of the Association ought to be unnecessary. History like that of Texas is rare. In its color, its dramatic movement, and its instructiveness when viewed from the standpoint of political and social science, it has few parallels. These characteristics make it well worth preservation and study. To the genuine Texan, however, or the man that feel thoroughly identified with the State, one of the strongest motives to the cultivation of the subject will be found in his patriotism. Is it seeming, is it not discreditable to the people of Texas, that they should leave the collection of material for the history of the State to the great endowed North-



ern libraries, so that her own citizens, when they wish to learn of her past, must go to Boston, or New York, or Madison? Shall outsiders be permitted to lead in perpetuating the memory of the patient endurance and heroic deeds of those who builded the Republic? It is to be hoped that the neglect so long shown the graves of Houston and of Rusk will not be reflected in popular forgetfulness or disregard of their public services. Let Texas arouse herself for very shame, and begin at once the discharge of her filial duty.

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THE BERNARD DIARY.

Judge C. W. Raines has presented to the Association a scrap-book containing a copy of the diary of Dr. J. H. Bernard, which was printed in installments by *The News*, presumably the *Galveston News*. The diary covers a period from December, 1835, to March 27, 1836, and is one of the sources of our information concerning the Goliad massacre. Bernard was saved by a Mexican officer.

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THE SINKS SCRAP-BOOK.

This scrap-book contains a few original letters, which are mostly of recent date; but it has exact copies of several very interesting documents in the John H. Moore papers. Among these are:

A letter from Andrew Ponton, alcalde of Gonzales, to the Committee of safety of Mina (Bastrop), dated September 25, 1835, and stating the fact of his refusal to deliver the cannon to the Mexican authorities on their demand.

An undated letter from D. C. Bassett, chairman Committee of Safety of Gonzales, to Col. John H. Moore, commander of the troops at Gonzales, communicating information of Indian outrages, and resolutions of the Committee to send coffee to the soldiers there, and to summon volunteers to their aid.

A letter from George W. Davis, secretary Committee of Safety of Gonzales, dated Gonzales, September 25, 1835, to Committee of Safety of Mina (Bastrop) and to Col. John H. Moore, asking for help in view of the refusal of the alcalde to surrender the cannon demanded by the Mexican authorities and the consequent danger from the Mexicans.

A letter from Stephen F. Austin to Committee of Safety of Gonzales, dated San Felipe, October 2, 1835, stating that volunteers are gathering to

the help of the people of Gonzales. He says: "I think that Bexar must be cleared of the enemy before the present campaign closes. I expect five hundred men from the *Nacogdoches country*."

An order of Thos. J. Rusk, Aide-de-Camp, dated Headquarters above San Antonio, November 5, 1835, and addressed to James Bowle, Adjutant General, commanding a general review and inspection of the troops the next morning at sunrise.

A communication from President Lamar to Col. John H. Moore, dated August 31, 1839, authorizing the latter to raise troops for a campaign against the Indians.

The commission (undated) of Col. John H. Moore as commander of volunteers for a campaign against the Indians.

The commission of Col. Moore to effect an exchange of prisoners at the Waco Indian village, dated January 16, 1843.

The act of the Texas Congress providing for the collection and conveying of Indian prisoners to the Waco village, dated January 9, 1843.

A letter from Col. John H. Moore to General Castro, dated September 12, 1840, asking the latter to bring twenty or thirty of his Indians and join the former in an expedition against the Comanches.

Mrs. Sinks' own account of the recovery of the remains of the decimated Mier prisoners, and the Dawson men, and their burial at La Grange in 1848.

A letter from Edward Manton to Mrs. Sinks containing an account of the Dawson fight, in which he took part.

Some interesting recollections of early days in Texas, told by old settlers.

Several of the narratives are illustrated with drawings by Mrs. Sinks.

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THE WILSON SCRAP-BOOK.

The more interesting and valuable contents of the Wilson Scrap-Book are as follows:

The commission of Wm. F. Wilson as quartermaster of the second regiment, second brigade Texas Militia, dated Washington, Texas, June 20th, 1843, and signed by Sam Houston.

Mrs. Wilson's certificate of membership in the Texas Veteran Association, signed by Moses Austin Bryan.

A collection of badges, five in number, worn at reunions of the veterans between 1879 and 1889.

The commission of W. F. Wilson as sheriff of Galveston county, dated Houston, July 10, 1833, and signed by Sam Houston.

A call by W. F. Wilson for volunteers to form a company of rangers which he was organizing to enter the Confederate service, and a list, dated Winchester, Va., July 5, 1861, of those agreeing to join.

The commission of W. F. Wilson as captain in the Virginia volunteers, dated May 8, 1861, and signed by Gov. John Letcher.

A Confederate States 6 per cent bond for \$100.

The passport of W. F. Wilson from Castle Perote, in Mexico, to Vera Cruz, dated August 25, 1844.

Three letters written by W. F. Wilson, one dated Headquarters Texas Army, May 16, 1837; another, Castle Perote, April 22, 1844; and the third, New Orleans, October 10, 1844.

A letter from Col. John C. ("Jack") Hays, dated Oakland, May 21, 1877.

A letter from Jefferson Davis, dated Mississippi City P. O., August 10, 1877.

The muster roll of the Galveston Volunteers, William F. Wilson, Captain, dated September 8, 1839.

A letter from G. Clinton Fralley, Commissary Subsistence, Texas Army, dated Texana, July 8, 1837.

The commission of William F. Wilson as Indian agent at the Omaha Agency, dated June 5, 1858, and signed by President Buchanan.

A pamphlet of twelve pages containing the reminiscences of Mrs. Wilson.

A considerable number of clippings from old newspapers relative to various subjects.

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THE JONES COLLECTION.

The relics in this collection were enumerated in the last issue of the Quarterly. The collection, however, contains a real treasure in a miscellaneous lot of old newspapers printed between 1846 and 1857. As will be seen from the list given below, there is no series among them, and not more than two consecutive issues of the same paper; but the various numbers were selected with reference to their historical importance, and each contains something of great value, as a letter from Houston, or Rusk, or Jones, or other matter of the kind. This number of the Quarterly contains a letter from Houston on the subject of Annexation, which is reprinted from one of the papers.

This gift was obtained through the kind offices of Mrs. Dora Fowler Arthur, Secretary William B. Travis Chapter, Daughters of the Republic.

The list is as follows:

The New York Weekly Globe of March 15, 1851.

The Galveston Weekly News of September 15, 1857.

Five numbers of The Texas Ranger (Old Washington), dated respect-

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ively January 16, 1849; March 9, 1849; October 8, 1851; August 23, 1856; August 29, 1857.

Six numbers of *The Civillian and Galveston Gazette*, with the respective dates: August 14, 1847; November 6, 1847; December 18, 1847; August 17, 1848; December 7, 1848; May 31, 1849.

*The Southwestern American* (Austin) of February 4, 1850.

*The Weekly Dollar Democrat* (published at Louisville, Ky.) of September 22, 1855.

Two numbers of *The Western Texian* (San Antonio), with the respective dates December 29, 1848, and January 12, 1849.

*The Lavaca Journal* of January 14, 1848.

*The Henderson Democrat*, June 27, 1857.

Three numbers of *The Weekly Union* (Washington, D. C.), dated respectively July 14, 1849; December 17, 1849; March 15, 1851.

Two sheets of different numbers of the same, the one issued about June, 1847, and the other about November, 1849.

Two numbers of *The Tri-Weekly Union*, the one dated March 17, 1846, and the other December 29, 1846.

*The Texas Republican* (Marshall) of June 29, 1849.

Two numbers of *The Texas Banner* (Huntsville), one dated October 21, 1847, the other May 26, 1849.

Four numbers of *The Texas Democrat* (Austin), all belonging to the year 1846, and dated respectively January 21, January 23, March 11, and December 16.

Two numbers of *The Weekly National Intelligencer* (Washington, D. C.), one of May 18, 1844, the other of May 5, 1849.

The daily issue of the same for December 25, 1846.

Two numbers of *The Mississippian* (Jackson), one of October 6, 1848, and the other of March 9, 1849.

*The Semi-Weekly Star* (Washington, Texas) of July 11, 1850.

*The Lone Star and Southern Watch Tower* (Washington, Texas) of April 5, 1851.

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### AMENDMENT TO THE CONSTITUTION.

The amendment to the constitution of the Association proposed by the Executive Council at the June meeting has received the affirmative votes of more than two-thirds of the membership, and has therefore become effective. This amendment makes the Professor of History in the University of Texas *ex officio* Librarian and Recording Secretary, and changes the title of the Secretary and Treasurer as originally fixed to Corresponding Secretary and Treasurer.

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A LIST OF THE MEMBERS OF THE ASSOCIATION.

*I. Honorary Life Members.*

The Constitution of the Association provides that "Persons who rendered eminent service to Texas previous to Annexation may become Honorary Life Members upon being recommended by the Executive Council and elected by the Association." At the meeting on June 17, 1897, all persons who participated in the battle of San Jacinto, or in previous campaigns during the Texas Revolution, were made Honorary Life Members. A few additional names were also put on the list by special vote. The list given below is incomplete. Corrections, additions, etc., should be sent to the Corresponding Secretary. Honorary Life Members receive all publications free; they pay no dues.

- Ex-Gov. P. H. Bell ..... , S. C.
- Jackson Berry, Esq. .... Callahan County.
- S. R. Bostic, Esq. .... San Saba.
- Mrs. Andrew Briscoe ..... Houston.
- Hon. Guy M. Bryan ..... Quintana.
- Joel Bryan, Esq. .... Velasco.
- Col. John S. Ford ..... San Antonio.
- Joseph Highland, Esq. .... Leander.
- J. M. Hill, Esq. .... Austin.
- Mrs. Anson Jones ..... Houston.
- John Karner, Esq. .... Limestone County.
- Alfred Kelso, Esq. .... Gallinas.
- Nat Mitchell, Esq. .... San Antonio.
- George Petty, Esq. .... Brenham.
- Robert Price, Esq. .... Johnson City.
- Hon. John H. Reagan ..... Palestine.
- Ex-Gov. O. M. Roberts ..... Austin.
- Mrs. Julia Lee Sinks ..... Giddings.
- J. F. Sparks, Esq. .... Rockport.
- J. L. Standifer, Esq. .... Elgin.
- Alfred Steele, Esq. .... Limestone County.
- William P. Tindale, Esq. .... Eastland.
- John Tom, Esq. .... Leakey.

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J. W. Winters, Esq. ....Big Foot.  
Capt. W. P. Zuber .....Iola.

*II. Fellows.*

The Constitution of the Association provides that "Members who show, by published work, special aptitude for historical investigation may become Fellows. \* \* \* The number of Fellows shall never exceed fifty." The dues are five dollars per year:

Mrs. John Henry Brown .....Dallas.  
Hon. Guy M. Bryan .....Quintana.  
Lester G. Bugbee, Esq. ....Austin.  
William Corner, Esq. ....San Antonio.  
Prof. H. F. Estill .....Huntsville.  
Col. John S. Ford .....San Antonio.  
Judge Z. T. Fulmore .....Austin.  
Judge R. R. Gaines .....Austin.  
Prof. George P. Garrison .....Austin.  
A. C. Gray, Esq. ....Houston.  
Mrs. Fannie Chambers Gooch Iglehart .....Austin.  
Ex-Gov. F. R. Lubbock .....Austin.  
Mrs. Anna J. H. Pennybacker .....Palestine.  
Judge C. W. Raines .....Austin.  
Hon. John H. Reagan .....Palestine.  
Ex-Gov. O. M. Roberts .....Austin.  
Mrs. Julia Lee Sinks .....Giddings.  
Mrs. A. V. Winkler .....Corsicana.  
Hon. Dudley G. Wooten .....Dallas.

*III. Life Member.*

D. M. O'Connor, Esq. ....Anaqua.

*IV. Members.*

Judge F. E. Adams .....Cleburne.  
Mrs. Dora Fowler Arthur .....Austin.  
Casey Askew, Esq. ....Tyler.  
H. G. Askew, Esq. ....Austin.  
William H. Atwell, Esq. ....Dallas.

William Aubrey, Esq. ....	San Antonio.
Mrs. Charles S. Austin .....	San Antonio.
D. The. Ayers, Esq. ....	Galveston.
Hon. J. W. Bailey .....	Gainesville.
F. B. Baillio, Esq. ....	Cleburne.
Hon. F. W. Ball .....	Fort Worth.
Miss Betty Ballinger .....	Galveston.
W. W. Barnett, Esq. ....	Houston.
Prof. W. J. Battle .....	Austin.
Prof. R. L. Batts .....	Austin.
Hon. J. A. Beall .....	Waxahachie.
Dr. E. P. Becton .....	Austin.
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Dr. Milton J. Bliem .....	San Antonio.
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J. Alleine Brown, Esq. ....	Austin.
Miss Lizzie C. Brown .....	Dallas.
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T. A. Brown, Esq. ....	Austin.
Judge T. J. Brown .....	Austin.
Dr. W. H. Bruce .....	Athens.
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Guy M. Bryan, Jr., Esq. ....	Bryan.
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Miss Lucy P. Bryan .....	Velasco.
Perry Bryan, Esq. ....	Quintana.
W. H. Burgess, Esq. ....	El Paso.
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Prof. H. W. Harper .....	Austin.
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Mrs. J. D. Osborn .....	Cleburne.
A. W. Orr, Esq. ....	Omen.
W. W. Oxsheer, Esq. ....	Cameron.
Sir Swante Palm .....	Austin.
Howard Parker, Esq. ....	Mt. Vernon.
Hon. T. M. Paschal .....	San Antonio.
James E. Pearce, Esq. ....	Austin.
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Miss Julia Pease .....	Austin.
Hon. George C. Pendleton .....	Belton.
Daniel A. Penick, Esq. ....	Baltimore, Md.
Dr. Constance Pessels .....	San Antonio.

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Judge H. Clay Pleasants . . . . .	Cuero.
Robert L. Pollard, Esq. . . . .	Austin.
Hon. William L. Prather . . . . .	Waco.
Prof. Sylvester Primer . . . . .	Austin.
President H. C. Pritchett . . . . .	Huntsville.
Mrs. Fannie Reese Pugh . . . . .	Houston.
G. A. Quinlan, Esq. . . . .	Houston.
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Dr. Frank Rainey . . . . .	Austin.
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Tom Randolph, Esq. . . . .	Sherman.
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Miss Laura Reese . . . . .	Gonzales.
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Dr. W. E. Robertson . . . . .	Alvarado.
Hon. A. J. Rose . . . . .	Salado.
Hon. Joseph D. Sayers . . . . .	Bastrop.
W. G. Scarff, Esq. . . . .	Dallas.
Charles Schreiner, Esq. . . . .	Kerrville.
Dr. William B. Seeley . . . . .	San Antonio.
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# THE QUARTERLY

OF THE

## TEXAS STATE HISTORICAL ASSOCIATION.

Vol. I.

JANUARY, 1898.

No. 3.

*The Publication Committee disclaim responsibility for views expressed by contributors to the Quarterly.*

### PREHISTORIC RACES IN TEXAS.

O. M. ROBERTS.

That prehistoric men existed in Texas is made manifest by the flint arrow-heads that may be found in most parts, if not all over the country, wherever the surface rocks are exposed, amongst which they are usually discovered. In some places there have also been found stone knives, scrapers, hatchets, and hammers, especially in Western and Northwestern Texas.

These instruments, even the arrow-heads, required skill in their uniform construction, which makes it probable that the making of them was a vocation of those who were proficient in it, and that they were an object of commerce amongst those primitive people. This is rendered more probable from the fact that the very fine flint rock from which they are made is not found, so far as is generally known, in this country nearer than the flint hills and mountains of Arkansas and Alabama. In all the prairies west and north of the Trinity river, and in the mountains and high plains of the west, there are not, so far as known, any mounds of earth or rocks constructed by prehistoric men, and therefore it is to be presumed that those who inhabited or roamed over those

parts of Texas were a nomadic race, not usually confined to any particular locality.

The prehistoric mound builders, probably a different race of people, were evidently located in their habitation, as shewn by the many earth mounds constructed by them, that are to be found in Texas and Louisiana.

During the years from 1842 to 1845, when I attended the district courts at Nacogdoches, in Eastern Texas, there was discovered an earth mound of oblong form fifty feet long and ten feet high, with a large sugar maple tree (then dead) that had grown near the middle of it, and in connection with the mound were four other less mounds, fifty yards apart, located in the line of a large circle, so that each of the small ones could be plainly seen while standing at the large one, indicating that they were constructed for some social purpose, either for habitations or for burial places, or for both, as has been the custom of the primitive races.

Another much larger mound, at least thirty feet high, stood in the edge of Mr. Bradshaw's field, about eighty yards south of the traveled road (then called Old San Antonio road) running from Nacogdoches to Crockett, three miles east of the Neches river, in what is now Cherokee county. Though I often saw the mound when passing along the road, I never stopped and examined it, as I did those at Nacogdoches.

Ten miles north of Palestine there was a set of lower mounds, situated in what was called Mound Prairie, south of which ran a small creek.

The town of Mount Pleasant, in Titus county, Texas, derived its name doubtless from one of those earth mounds in or near its original location.

The large population of mound builders were located in Louisiana, within and near the broad bottom about forty miles wide, formed by the overflows of the Arkansas, Red, and Mississippi rivers. A set of very large mounds, one of them forty feet high, was found near Bayou Tensas above Delhi. They were in a row, like those at Nacogdoches. There was a large one at Monticello, upon which a house was situated, and another one with a house on it in the village of Grand Cane on Bayou Rouge, and others lower down the bottom. None of them, however, could compare in size with the De Soto mound, situated two or three miles to the west



of the Mississippi river, thirty miles above Vicksburg. It covered at least two acres of ground at the base, was sixty feet high, and had an area of a square acre on the top, on which had been constructed a fortification that was garrisoned with negro soldiers, commanded by white Federal officers in time of war. That mound was made memorable as the place of a battle on the 28th of May, 1863, in which the Confederates captured a large number of negro soldiers.

However much these mound builders may have wandered to the east or west for temporary pursuits, their permanent habitation must have been in the region where we find their mounds. That must have been their central location for association and primitive government, of which the erection of so many and so large mounds furnishes ample evidence. Whatever was the use made of them, whether as habitations, burial places, or places for worship, or as refuges from attacks of savage animals at night, they were erected under some strong incentive and conviction for their necessity; for they required great labor, regulated by some system in the control of those who constructed them. For instance, the De Soto mound contained many thousands of cubic feet of earth, and the digging and carrying the earth, and piling it up to the height of sixty feet, required an immense amount of labor, directed by some common design.

These mounds were not built as a protection against overflows of the rivers entirely, though they might have served for that purpose occasionally in the Mississippi bottom, for many of them were erected where there were no such overflows. All of them were found near some stream of water, which may indicate their use for fishing, but certainly for domestic purposes. The location of those mounds, at distances apart of easy travel from one to the other, indicated the association of a race of people in some sort of organized combination. It is probable also that this race of people, inhabiting the territory of Texas and Louisiana, were only a part of a very numerous race that extended in association all along up the Mississippi river and to what is now the State of Ohio, where numerous mounds have been discovered since its settlement by the Anglo-American population.

The most important subjects of inquiry about the mound builders are as to how they subsisted, and why they became extinct as a

people. It can be well imagined that in their time there was a rank forage of grasses spread over the prairies and forests, and of reeds and canes in the branches, creeks, and rivers, that attracted and sustained large numbers of herbivorous animals, such as bisons, elks, deer, and other less animals, and that carnivorous animals, such as bears, panthers, wolves, cats, foxes, and others, preyed upon those grazing animals. There must have been a continual war for supremacy by those people upon those ravenous beasts. In addition to animals fit for eating the numerous fruit-bearing trees, and the birds and fowls that resorted to them, and the fishes in the creeks and rivers, furnished an abundant supply of food, and the skins of animals served for clothing when necessary.

They may also have had occasionally to contend with other races of people for the protection of their homes and hunting grounds. Daniel Boone, we are told, tried the experiment of such a life for about two years in the wilds of Kentucky, and got tired of it. It made him notorious—perhaps from the singularity of it. "Boone's Lick" is left behind to commemorate his primitive exploit of savagery. This is referred to in order to show that men who know a better way will not endure such life long, except on compulsion. The compulsion of the prehistoric men was their want of knowledge of, and consequently their want of desire for, any better way.

They were somewhat like the Indian chief of one of the wild tribes, who had lived all his life on buffalo meat and pecans, and who was carried by an Indian agent to Washington, and was there asked by some person what he thought of the great houses, steamboats, and railroads, and other fine things that he had seen. His answer, in effect, was that he was not surprised that white man could make all these things, but he was surprised that the white man could first think that he wanted them.

The Indian spoke from his own standpoint, and was mistaken in thinking the white man first thought he wanted those things. For that want was the final product of growing wants during numerous past centuries, from a primitive start upwards from the condition of prehistoric races of men.

Much of what can be said about these prehistoric races is necessarily speculative surmises or presumptions from facts, not leading to conclusions of absolute certainty. But there is one circumstance pertaining to them from which may be deduced a most im-

portant moral, social, and political lesson, instructive to the people of this or any other age, and this is their extinction as a race of people, and the reason of it. It is not known, nor is it even probable, that the American Indians were descendants of the mound builders; and if they were, they had advanced but little from the condition, as we suppose it to have been, of the prehistoric races. Their habitual indisposition to labor, and the absence of any works or fabrics requiring it, when America was discovered by white men, rebuts any such presumption of fact.

The reason why those prehistoric races became extinct, if they were not destroyed by succeeding and more powerful races, is that they did not till the soil as one of or the principal means of subsistence. There is no evidence left where they existed of their having thought of or adopted that better way of perpetuating their race. The cultivation of the soil for such a purpose, as from our information of its earliest adoption upon the Nile in Egypt and upon the Euphrates in Asia, draws men closer together, makes more intimate their association, causes the construction of houses and other improvements, and leads necessarily to the claim of rights of person and property, and the establishment of government to protect them; all which puts men in the attitude of combined organization for individual well-being and the common protection of the body politic thus formed. This has been the starting movement upwards in all of the great nations of people that have existed and that still exist. In most if not all of them there has been a period of their growth when rural homes, with their occupations and surroundings were the most cherished and the most honored abodes of men. Then prosperity filled the horn of plenty to overflowing, then patriotism knew no bounds in the love of home and country, and then independent manhood rated honor with life. The nation then, large or small, was intrinsically powerful and happy, and so continued until ambition ran riot after the glittering bauble of national greatness with its costly magnificence, and after national power or superiority over other nations; and then, just as it grew in reputed grandeur in its superstructure, the great mass of people, upon whose shoulders it was reared, sank under the exactions necessary to build up and sustain it; and that is the malady with which all of the great nations of the past have sickened and died, that are no more. Any country whose government allows

agriculture with its concomitant interests to be repressed and degraded, to promote the objects of the greed and selfishness or the love of power, is hazarding the prosperity, patriotism, and independent manhood of the mass of the people governed by it.

Nor is this merely pessimistic imaginings, but simply the calm interpretation of human destiny, when the Cincinnatus-like homely virtues of practical life are lost in the aspiring evolution to attain to higher civilization and national fame, as it has been illustrated in the history of the past, ever since mankind struggled up from the condition of the prehistoric races.

## THOUGHTS ON ECONOMIC HISTORY.

BY MAJOR C. E. DUTTON.

It needs but the most superficial knowledge of history to realize that the material or economic condition of the civilized nations has through many centuries been improving, and at no period so rapidly as during the Nineteenth century. During the decline and dismemberment of the Roman empire, and for three centuries after its fall, there was undoubtedly a general economic deterioration, reaching its lowest depths in the Eighth and Ninth centuries. But when the feudal system became established and comparatively settled, the first signs of recuperation began to appear. They were faint indeed, and were confined to a few localities. They might be regarded as the premonitions rather than the reality of improvement; valuable more for what they promised than for what they actually effected. The recuperation was at first exceedingly slow, and it requires close scrutiny and comparison to see that the condition of men and of society was better in the Tenth century than in the Ninth, and better in the Eleventh than in the Tenth. But after the Eleventh the signs of real improvement were plain enough. From that time onward not only was the progress continuous, but it is certain that in each century it was more rapid than in the one which preceded it, until we come to the Nineteenth, in which the advancement has been so rapid that we seem to be separated by a great gulf from all anterior time, and to be living in a new world.

We are accustomed to attribute this progress to the continuous improvement in the arts, whereby man's power to command the resources of nature and to convert the forces and materials of the earth to his uses is greatly multiplied. That this is the proximate means is obvious. But back of it is the slowly acquired and cumulative knowledge of nature and her laws which renders such arts possible to us. Still further behind is the slow growth of mental habits, logical processes, methods of thinking and reasoning, which are necessary to the acquisition of such knowledge, and which we term scientific philosophy. So that, after all, this wonderful mate-

rial progress is but a phase of the growth of human philosophy, of ideas, of mental culture. So, too, is the political and moral progress of the world. In truth, all phases of our civilization, whether social or individual, whether moral or material, whether economic or political, are interwoven so closely and are so interdependent that we can not separate them except ideally. Every phase of it implies the others. Yet they all reflect certain central ideas, and these ideas are the moving forces of the whole.

In turning our attention to the subject of economic history, it is obvious that in an hour's discourse only a few thoughts can be offered, and these must be of a general rather than of a specific character; and it has seemed to me that the most suggestive thoughts would relate to the growth of economic ideas rather than to economic incidents, though incidents must be referred to for purposes of illustration. I know of no study more interesting than the research into the condition of peoples of past ages, to learn how they lived, what was the scope and interest of their daily life, what kind of food did they eat, what sort of clothing did they wear, how were they housed, and what was the degree of bodily comfort or discomfort which they enjoyed or suffered. Above all, it is interesting to inquire what were their thoughts and opinions on each or any class of subjects. These questions engage the attention and labor of present historical writers far more than the older ones. In fact, it is only in comparatively recent years that historians have given such questions much thought. Such information as we possess has not been handed down to us in any one book written by a contemporary writer, giving a systematic, fairly complete and detailed account of such matters in a single volume. It is gathered in numberless fragments from numberless sources, and pieced together by comparison. Much of it is inferential, though the inferences seem to be well sustained. Not merely histories, but poetry, dramas, treatises on all subjects, laws, church canons, inscriptions, books of controversy, and finally old letters abound in materials of this fragmentary sort, which, when collated and carefully compared, throw much light upon the condition and customs of past generations. This information, however, is much fuller and more circumstantial with respect to the condition of the higher classes than of the lower, as might be expected, for their doings and their relations to the world around them were more conspicuous, and they alone as individuals performed the leading parts in the dramas of history.

Yet I fancy the condition of the lowest and poorest classes has been much the same in all ages of the past, and there is little to tell that we do not know already. But the point on which positive information is most needed is a somewhat precise and definite knowledge of what proportion of the peoples in the various ages were absolutely destitute and dependent upon charity or rapine in order to keep soul and body together; what proportion were self-supporting, what proportion were well-to-do or rich. Though absolute figures are scanty, we still know that the farther we recede into the past the greater was the proportion of destitution and misery, and the smaller the proportion of those who enjoyed a comfortable living. We also know that in all classes the scale of living becomes lower the farther back we go, until we reach the dark ages, when even feudal lords and princes lived in a manner that we should consider insufferable, when a middle class hardly existed, and when the vast mass of the peoples lived in a way compared with which the living of the Mexican palado is sumptuous.

Yet there are those who are ever contending that the tendencies of the present day are to make the rich richer and the poor poorer. History gives us a very different state of facts. It teaches us that in the progress of the last ten centuries, and especially in the present one now expiring, the material condition of the civilized world has enormously improved; that the rich indeed have grown richer, but that the poor have become better off in still greater proportion; that absolute poverty and dependence upon charity has become incomparably less, and is in general still decreasing; that the great masses of the communities have become self-supporting, and that the scales of living among all classes have been immensely raised, and in the largest proportion among the poor.

We are accustomed, as I have said, to attribute this growth of material wealth to the development of the useful arts, and this in turn is a result of increased scientific knowledge, which is in a general sense an evolution of mind and ideas. It is to these ideas, and their long, slow evolution through thousands of years, that I would ask your attention, although time will allow us only a hasty glance at them.

Looking back to antiquity, the great economic fact which looms up before us in ancient Rome was its gigantic system of slavery. It inherited it from time immemorial, from periods far older than the earliest twilight of history. It had never been nor heard of other-

wise. Nor was it peculiar to Rome. It was universal among the Greeks and Persians, the Phoenicians and Egyptians, the Germans and Gauls, the Carthaginians and Iberians. The idea of it was ingrained among all races of antiquity. They could not even conceive of the absence of it, and they never questioned either the right or the expediency of it. Generous and kindly men, indeed, often pitied the hard lot of the slave, but it no more suggested to them the idea of a general emancipation than an overworked horse or mule suggests to us the idea of turning all of them loose and giving them the suffrage and postoffices. Plato, in the Republic, where he sets forth his conceptions of a perfect society in the form of extreme communism of property, relegates the manual labor to slaves. Aristotle, whose philosophy was as materialistic as Plato's was idealistic, while repudiating any such socialism as Plato conceived, held the same general opinion on the subject of slavery. To him it was in the due course of nature, and inevitable. Along with these ingrained ideas was another, which pervaded the ancient minds and bears an intimate relation to it. Manual labor they looked upon as degrading, unbecoming a freeman, and the proper occupation of slaves and menials. And as a matter of fact, a large part of the artisan labor was by slaves. The great patricians of Rome owned thousands of them, and among them were blacksmiths and carpenters, masons and bricklayers, potters, saddlers, shoemakers, tailors, weavers, dyers, and millers. Their products, too, were sold in open market in competition with those of free artisans. The result was that the condition of the free laborer was most miserable. Except that he had his liberty, his condition was worse than that of the domestic or house servants, whom the master was constrained by custom to dress and feed well, out of regard for his own dignity. In general, the poverty of the free laborer, and the hardship of his struggle for existence, was such that he often preferred to become a proletarius, even when not driven to it. Thus, there was no great middle class of industrious, energetic men, supporting themselves in comfort and leading lives of honorable industry, and recognized as the bone and sinew of the land and the main support of the state. We can not wonder, then, that in the times of the republic Rome was an almost constant scene of turbulence and riot; that under the empire it took an army of Pretorians to preserve even a faint outward semblance of order; that its streets swarmed with vagabonds, loafers, sharpers, and plug-



uglies; that its long streets of six-story tenement houses were densely packed with vice and vermin, filth and wretchedness, and exhibited phases of life as horrible as a Chinese opium-joint.

In the middle ages, the state of labor presents different aspects. In place of the slave, we find the serf or vilein. The serf had some rights, the slave had none. The serf could marry and have legitimate children, the slave could not. The serf could have personal property, the slave could not. On the other hand, the exactions of his lord were at first severe, and though they seldom took all, they often took the greater part of what he had or might produce. In process of time, the rights of the serf grew larger, and the rights of his lord over him grew less, and in passage of centuries serfdom slowly died out. It would be interesting, if time permitted, to go over the incidents of this transformation, and study the changes of ideas which led to it. But it appears so clearly, and the facts are so well described in Hallom's *History of the Middle Ages*, that a reference to that work must suffice. Yet there was one agency to which brief reference may be made. It was the rise of the free cities of France and Germany, whose importance has been made so clear and conspicuous by Guizot. It was in the early free cities that manual labor became honorable, and at the same time secured some degree of protection from robbery and immunity from the competition of the slave. The laborer now could support himself, and hold up his head as a man entitled to respect. He could cultivate thrift and accumulate something, and life could offer him something to strive for. Here is the real beginning of modern civilization as distinct from the ancient.

Let us now glance at another economic order of facts in the Roman commonwealth, the tenure of lands. Here the conspicuous feature is the great number of large landed estates owned by rich patricians and operated principally by slave labor. They were scattered all over the empire, though more numerous in some provinces than in others. Not all the agricultural land was in the *latifundia*, as these great estates were called, nor probably was even the greater portion of it, for there were great numbers of small farms and homesteads as well. But the general tendency usually was for land to drift into the great estates, especially during the first two centuries of the empire. There had never been a time when the *latifundia* did not exist. They often broke up, but new ones took their places. The ownership of land was as absolute

with the Romans as it is with us in fee simple, and the original theory of the Roman law was that every citizen should be a land owner, though the theory stood in strong contrast with the facts. It was, however, the spirit of the law to encourage in every possible way the acquisition of small farms by the lower classes of citizens, and under the republic many vigorous attempts were made to do so. The agrarian laws were for that special purpose, and though they produced for a time some relief, they were fruitless in the end. In a few years the great estates had swallowed the little ones, and the laws were disregarded, and became obsolete.

It may be permitted to diverge here a moment to say that the modern conventional meaning of the word agrarian is very different from its meaning among the Romans. It is usually supposed to imply legislation or agitation adverse to private property in land. Not so among the Romans; for, however lax their observance of law might be in other respects, no laws were enforced with more rigor, certainty, and justice than those which guaranteed property rights in land. But agrarian lands were not private property at all, but public property, and their titles vested distinctly in the state. If the state granted them away, they ceased to be agrarian, and it often did so to newly created citizens and to discharged veterans of the army. Whenever new territory was conquered, large tracts—never less than a tenth, and often much more—were taken by the state and appropriated as public land, and as the spoil of war. It thus came under the agrarian laws. It then granted permits to settle upon these lands, but still retained the title, so that the occupants were virtually tenants at will, and were required to pay a tithe of their produce to the state as the price of tenancy. No person could be granted more than 500 jugera (330 acres). The right of the state to resume these lands and dismiss its tenants at any time was unquestioned by the Roman jurists. But long tenancy naturally begets in the mind of the occupant a feeling equivalent to that of ownership, and that he has a natural right to it. The *latifundia* had encroached upon the agrarian lands and occupied thousands of acres of them; the people clamored for their resumption, and sometimes secured it. The celebrated Licinian and Sempronian laws embodied resumptions of this character and a redistribution, but they never touched the private property owned and held under a clear title, whether in large estates or in small ones. This view of ancient agrarian legislation was ferreted out in the

early part of the present century by the great German jurist Heyne and the Danish historian Niebuhr.

The state of the latifundia was often a source of the gravest anxiety to intelligent, patriotic Romans of all classes. Juvenal thunders against them in his satires, Seneca and Quintilian sound frequent notes of warning, and the saying, "Latifundia perdiderunt Romam" (the great estates have been the ruin of Rome), was often repeated. But remedy was impossible. No earthly power could break them up without destroying all that was left of Roman power and greatness, and breaking society not merely into fragments, but even into dust and molecules. For at that time there was nothing which could be put in the place of them. They existed by forces incomparably more potent than imperial power or decrees of the senate.

Let us for a moment turn our thoughts, for purposes of comparison, to some facts connected with land property in the present century. Whoever has visited southern France, and especially southern and middle Germany, must have been much impressed, and perhaps amazed, by the minute way in which the farm lands are divided up. As many of you have probably seen them, I will not take time to describe them. So far in many of the German states has this subdivision been carried at times, and so burdensome had it become, that the state has repeatedly been led by common consent to intervene, wipe out all the existing subdivisions, and reapportion the land as equitably as possible among the proprietors, in subdivisions of greater convenience. Laws have been passed which fixed the minimum amount of cultivated land which could be sold, in order to check the tendency to break up into absurdly small pieces. Some of these rearrangements date as far back as 1617 in Bavaria, and in the same kingdom there have been no less than five redivisions in the present century. In Prussia, Hanover, Wurtemberg, Nassau, and Baden there are, or formerly were, permanent statutory provisions for this process of "koppelwerthschaft," by which it could be carried out in a regular, legal way, and under due forms of law.

Here we see an exactly opposite tendency to that which prevailed in Rome. What should cause such an extreme difference? Is there any principle, or group of principles, under which both can be brought? The answer in full is a complex one, and I can not enter into it at length here. It must suffice to say that it is pri-

marily a question of the profit of farming on a large and small scale respectively. In a country where labor is free, the profit is in a large majority of cases in favor of the small farm, but when the labor is by slaves the reverse is usually the case. There is, however, another condition which is to be considered. In despotic and aristocratic countries, where there is a class raised to high rank and enjoying great privileges and dignities, great landed estates have always been deemed necessary to maintain their social rank and perpetuate it in the family through succeeding generations, and this idea may even overrule the dispersive tendency of greater profit. In conformity with this idea is the system of primogeniture and entail. In Rome, greater profit and the aggrandizement of the patrician class both conspired to form larger estates. In Germany, the greater profit was on the side of small farms, and the German bauer is just as anxious to perpetuate his estate as the German noble.

It was not the latifundia that ruined Rome. The cause lay much deeper. They were effects, and not causes; the symptoms, and not the disease. During the decline of the empire, the imperial policy by slow degrees undermined them, and at length broke up the greater part of them. But it only made a very bad matter still worse. Instead of replacing large estates with small ones, whole provinces were depopulated or turned into pastures and forest. The empire became impoverished, so that it could no longer support armies, or even strong civil government. The barbarians broke in, and soon made an end of it.

Historians have been in the habit of attributing the break-up of the Roman empire to moral and political causes, which is certainly true. And yet, if they had carried their analysis as thoroughly and masterfully along the economic line as they have along the moral, political, and social ones, they would, I fancy, have made this mighty subject still clearer.

After the dismemberment of the empire, the tenure of lands was radically changed in western Europe. In most of the ancient Germanic tribes, the social unit was the clan living as a village commune and enjoying the land as common property. When communes became knit into tribes, and tribes into nations, the communal idea underwent a corresponding change. It belonged still to the people and the nation, but the king or chief distributed it in behalf of the nation to the tribes, and the heads of tribes distributed

it to their people. In each case the grant was conditioned with the requirement that military service, or equivalent produce, should be rendered in consideration of the grant. In theory, then, the land was communal still. But history presents us with only two conditions in which the communal tenure of agricultural lands is the normal tenure fitting the actual state of society. The first is found in a low order of barbarism, and the second is in a state of caste, like India; and caste is the final result of despotism run to seed. Civilization, carrying civil liberty with it, is sure to destroy the communal tenure sooner or later. The theory of feudal tenures soon became a mere legal fiction from natural causes, and as civilization slowly advanced the lands became private property, much as they were under the Romans. But though these forms of tenure have become fictions, they have left a profound impression upon modern Europe. The history of the middle ages is in a conspicuous degree the history of a number of landed aristocracies, whose destinies have been different in different countries. Those of Germany gradually became a host of petty princes or kings, whose tendency was towards the formation of numberless small principalities, each independent or highly despotic, thus weakening the bonds of national unity. The tendency, also, was towards hard, impassable lines of class distinction, separating the nobility from the people. This alone would have drifted towards caste. But such a people as the Germans, of all races, could never be dragged in that direction by any nobility, however absolute or despotic. In France, the nobility either voluntarily or by compulsion gathered around the throne of the nation. The strong, masterful policy of Richelieu cemented that union, but unhappily at the expense of the people, and at terrible cost alike to their liberties and their material welfare. Under the absolutism of the monarchy, and the unjust privileges of a landed aristocracy, France showed even a stronger tendency towards caste than Germany. But the French people could no more be dragged that way than the German, and when the tension became insupportable the bonds of society snapped everywhere, and its fabric was shaken to pieces by a social earthquake.

In England, the course of evolution was in strong contrast with that of the continent. There the landed nobility from an early period identified their interests with those of the people, and made common cause with them. They have never, since the days of Magna Charta, contended for any increase of privileges at the ex-

pense of the people, and have by degrees yielded ancient privileges without serious contest, when the advanced state of the people made it for the general good. They have in past centuries borne the principal burden of taxation, and never attempted to lay cruel burdens upon the backs of the people. They have always been found on the side of civil liberty. No hard and fast line separates them from the people, for their ranks are constantly replenished from the commons, and into the commons all but their eldest sons must descend. Thus the English aristocracy has always been sustained and upheld by the English people, and instead of becoming their oppressors have become their natural leaders and the embodiments of their social aspirations and ideas.

We see, then, how these ideas interweave, economic, moral, political and social, all forming that almost infinite complex which we call civilization. It is only by an imaginary process that we can unravel and study its innumerable threads.

Of capital in ancient times we may speak more briefly. As regards fixed capital, it played a far less important part, both absolutely and relatively, than in the present age, as must follow from the fact that the industrial arts were rude and primitive, machine-tools unknown, and the only source of mechanical power being men or beasts. The relative importance of circulating or money capital was much greater, and the ideas of antiquity on this subject are interesting. Among all the nations of western Asia, and Asia Minor, and among the ancient Greeks, usury and interest on loans was regarded as wrong, unjust and highly iniquitous. The aversion to usury, however, was a very qualified one. The practice of it between members of the same gens or clan-family was regarded with almost universal abhorrence, and the usurer was practically outlawed or boycotted by his own people. Between members of different gentes classes or clans, its disapproval was speculative rather than practical. But between different nations, religions, and cults, it was hardly a moral question one way or the other. The idea of a common brotherhood of mankind had no existence until Jesus appeared. Among the Romans, usury was at first regarded in much the same way; but after the conquests had become extensive, Rome became heterogenous in its population, and usury came to be regarded as a necessary evil by the people, though many of the most enlightened Romans who studied Greek philosophy contracted the Greek ideas upon the subject. Usury was practiced on a large

scale at Rome. The objections to it, and even abhorrence of it, were natural and inevitable. In the first place, interest was seldom less than one and a half per cent a month, and might be anything more than that. In the second place, really good security was out of the question. The machinery for handling loans was crude and cumbrous, and only the rudiments of modern banking or loan and trust existed. The business, therefore, in great part, fell into the hands of the most rapacious, cruel, and merciless class of men, who lay in wait for victims like the spider for the flies. Woe betide the poor wretch who was caught in the usurer's web. His blood was quickly sucked, and it was well if his body were not sold into slavery. Christianity denounced it from the beginning, but at first made it binding only on the clergy by exacting severe penances or excommunicating for it. It was not until the Eighth or Ninth century that the church made it binding upon the consciences of the laity by requiring them to answer for it at the confessional. In the reign of Charlemagne, the prohibition of usury became a substantive part, both of the canon law and of the civil law, which prohibited it under severe penalties, and for several following centuries these prohibitions multiplied.

But borrowing and lending can not be prevented in this world, though it may be restricted and reduced to very narrow limits. Civilization, as we understand it, can not go on without it. As industries in the feudal and middle ages began faintly and slowly to revive, the necessity for it became stronger and stronger, and the canons and laws were not only disregarded, but the disregard was often winked at. At length the princes of Europe began to grant special licenses and exemptions to Jews to loan money at usury, and of course the Jews soon had a monopoly of it. Meantime, ideas on the subject of usury began to undergo a slow change. The controversies and discussions of the subject which have come down to us from the middle ages were almost exclusively by theologians, for they were almost the only scholars and writers. First, it began to be urged that there were a few very exceptional cases in which usury might be just and not sinful. Gradually these cases began to multiply. Then the exceptions began to be more numerous than normal cases. But there was a reluctance on the part of controversialists to give up the idea that the principle involved in usury was unjust, sinful, and deleterious. The general notion was that the restitution of the principal was full compensation for the loan,

and to demand more was plainly to demand more than had been given. And this view was as old at least as Aristotle.

At length, in the Sixteenth century, one government after another made laws expressly authorizing interest on loans, but in most cases fixing a maximum rate, and making any rate in excess of it unlawful, and working a forfeiture of the claim. And finally a series of decisions by the Holy See, in the first half of the present century, require confessors not to trouble penitents on the matter of usury per se pending the further consideration of the subject. The modern view is simple enough. Interest or legitimate usury is the difference between present and future values. One hundred dollars cash in hand and a promissory individual note for the payment of one hundred dollars in future have not the same value. A bird in hand is worth two in the bush. The difference between the two values is interest. To make them equal, and to make the interchange a strictly just one, the borrower is in duty bound to allow a deduction from the money he receives or else make an addition to the amount he promises to pay.

And now let us glance for a moment at the results which have attended this change of ideas on the subject of interest or usury. Ancient usury was often employed to ruin the debtor and gain his property without giving him a full equivalent. No doubt there were many honorable and just men among usurers, but the unjust and rapacious ones were so numerous, and their cruelties so frequent, that they were regarded as types of the whole system. Modern interest, on the other hand, is an essential part of a system for benefitting the borrower and not for destroying him, to build him up and not to break him down. The typical modern usurer is the banker. His interests and those of his customers are one and the same. They are bound up together by the strongest possible tie. If they prosper he prospers, if they languish he languishes. If they are broken he is mulet. He must seek his profit by profiting them. If he would protect himself against loss, he must protect them also.

But we are only at the beginning of this theme. Interest lies at the foundation of modern credit and is one of its corner stones. Of all institutions controlling or animating the economic affairs of men, the most impressive is modern credit. Behind labor, behind capital, it is the most vital and subtle animating force.



Credit, indeed, in some of its aspects, has existed at all times among civilized peoples; but no credit system such as exists to-day. It is not my intention, however, to enter into this great subject further than to indicate that interest is an essential factor of it, without which a credit system would not exist.

I have selected the subject of usury or interest as an illustration of the change and evolution of ideas which mark the difference between old civilizations and the new. It is only an instance and example. Correlative changes have taken place in many other economic ideas, and each category presents a world of interest and instruction. The ideas which people hold concerning such far-reaching subjects as the tenure of land, of the dignity and moral value as well as the economic value of labor, of the nature and functions of money, of taxation, of commerce, of fiscal policy, all these have had their changes and evolutions. Yet all of them are interdependent, and their changes have moved along slowly through the ages, seeking an adaptation to and a coördination with each other. Interwoven with them, and really an inseparable part of them, are our fundamental political and moral ideas. These, too, have had their changes and progressive development, and have been more frequently studied than the economic ideas, but not more deeply. The whole constitutes the basis of modern civilization.

But as I approach the limit of my time-allowance you see that I have only reached the beginning of modern economic history. I have been following two or three roots of it deep down, geologists' fashion, into the palaeozoic strata of human history. Of that great organism, that giant sequoia of modern economies which towers so high and spreads so wide, I have said almost nothing. How could I in a few brief sentences even outline its many branches or even its general contour? And how could I in such limits describe their unfolding and growth through ten centuries? And yet history has much to tell us about it that is thrilling in its interest, solemn and awful in its instruction. If we were to make research of that progress we should find that it has not been made without manifold bitter experiences; that under the influence of false ideas it has often been checked or even turned back for a time towards barbarism again. We should learn how, under mistaken notions of economic relations of labor, oppressive laws have been passed, working new and rank injustice and entailing untold

misery when the real object was to benefit all; how under mistaken notions of commerce ruinous commercial policies were adopted; how under mistaken ideas of the nature and functions of money, disastrous measures were resorted to which brought increased poverty and misery where they were expected to bring prosperity. And the most singular thing about it is that the same errors were committed over and over again in succeeding generations. As they did not foresee the results, so did they fail to attribute the results to the true causes. The next generation or two forgot the experiences of the preceding one, and like the moth flew again and again into the same candle. But in the course of time experiences began to have some effect. The world was growing both in knowledge and wisdom. Men became more and more numerous who studied these matters deeply, and by degrees worked out the causes and the true relations, and made the real nature of economic laws gradually apparent by sifting the false from the true. Not that a complete system of economic philosophy was suddenly created, but step by step and with increasing pace through the centuries.

At length the time came when the results of human experience acquired by many generations, analyzed by hundreds of the acutest and profoundest thinkers of their times, and subjected to the sharpest controversy and criticism, could be gathered together into a single or collective body of philosophy. Adam Smith's great work, *The Wealth of Nations*, appeared in the year 1776 and marks a great epoch in human thought. A similar attempt had been made by Quenay in France about ten years before; but Quenay's work, though arousing great interest and stimulating thought greatly at the time, proved otherwise barren, and the world has rejected his system. But Adam Smith's work grew in importance with time, and is still growing. And yet there is hardly a chapter or section in that work which the growth and knowledge of philosophy has not more or less modified. Some minor portions of it have been completely and definitively rejected. The value and importance of the work lies in the fact that it constitutes a system. It gathers together all the great factors of the economic machine and shows their mutual dependence, how they act, react upon, and condition each other, and gives us an intelligible view of the actions and functions of the economic organism as a whole.

The work was slow in sinking deeply into the convictions of men. Two generations passed before the leading philosophers had with

general unanimity accepted it as the basis of the science of political economy. Its diffusion after that was much more rapid, and its doctrines soon became a part of an ordinary liberal education. They became at the same time a part of the convictions of the leading men among the ruling classes of England, and were soon made operative in the laws which affected the economic affairs of the nation.

The doctrines of political economy, however, are slow in reaching the minds of the people at large. The reasons are obvious. From the nature of the case the system is a very complex one, requiring long and earnest study to fully comprehend it and absorb its real spirit. It has always been known as the dreary science, and its special votary bears the name of Dr. Dryasdust. To the popular mind it is usually without the sympathetic attractions of the novel and drama and the sensuous or aesthetic attraction of art. Moreover, it is a field of thought adapted to mature minds and well disciplined faculties, and not to youthful ones unless they are precocious. By the time the mind and its experiences have reached sufficient maturity habitual and hereditary ideas have become settled and are hard to modify or displace. But the importance of sound economic ideas is rapidly becoming so great, and the interests which depend upon them are become so momentous, that the public welfare and the public safety demand that no effort be spared to make them a part of the intellectual equipment of the people at large.

ALVAR NUÑEZ CABEZA DE VACA: A PRELIMINARY  
REPORT ON HIS WANDERINGS IN TEXAS.<sup>1</sup>

MISS BROWNIE PONTON AND BATES H. M'FARLAND.

Outside of the Arabian Nights and the realms of fairy tales and fiction, there is perhaps no stranger story of adventure than that of Cabeza de Vaca's ten years wanderings in Texas and Mexico.

The first that we hear of this interesting Spaniard is in 1527, when he was made chief treasurer of an expedition under Pamphilo de Narvaez, bound for the Gulf shores of the New World. "Notwithstanding," says Buckingham Smith, "the most zealous devotion of scholars, and the ceaseless delvings of antiquaries, the place and period, both of his birth and decease, have evaded their research."

But as he was a man in 1527, his boyhood, youth, and early manhood must have been spent in one of the most wonderful periods of time—the age in which the Old World found the New,—the age in which the warm southern blood of Italy, Spain and France, as well as the cold northern blood of England, was being intoxicated with the love of adventure, with the dream of untold

<sup>1</sup>The following works have been used in the preparation of this paper: Relation of Alvar Nuñez Cabeza de Vaca. Translated from the Spanish by Buckingham Smith. New York. 1871.

Nafragios de Alvar Nuñez Cabeza de Vaca. This was published in 1799 in Barcia's *Historiadores Primitivos de las Indias Occidentales*, and reprinted in *Biblioteca de Autores Españoles* (1877), the last of which only we have used.

H. H. Bancroft, *North Mexican States and Texas*, Vol. I.

A. F. Bandelier, *Contributions to the History of the Southwestern Portion of the United States*.

Justin Winsor, *Narrative and Critical History of America*, Vol. II; article, *Ancient Florida*, by John Gilmary Shea.

George Parker Winship, *The Coronado Expedition*.

John M. Coulter, *Botany of Western Texas*.

The letter of Cabeza, Dorantes, and Castillo, which was used by Ovi-edo in his *Historia General*, has been accessible only in extracts quoted by Smith and Bandelier.

wealth. Every explorer believed that in this new land lay his Mexico, his palace of Montezuma, waiting for him its Cortez.

One of the many expeditions bearing the Spanish flag was that of de Narvaez, with whom as we have said went Cabeza de Vaca as treasurer. The tract which had been granted to Narvaez stretched from the southern part of Florida to the Rio de las Palmas, which has been identified with the Rio Grande. As was usual, the expedition first stopped in Cuba. While waiting here, two vessels were sunk by a terrible storm and sixty men were lost. Terrified by this, Narvaez waited here until the following spring, when, a pilot having been found, he sailed for his grant. When only a few days out, a strong westerly wind arose, and, beaten out of their track, the ships were driven off the coast of Florida. The pilot assured the Spaniards they were near the Rio de las Palmas. Narvaez then, strongly advised to the contrary by Cabeza, divided his men into two parties, one to sail the vessels along the coast, the other to make an inland expedition, of which he himself was to be the leader. These two parties, he said, would unite at some good harbor; and taking with him some three hundred men with whom was Cabeza, he started inland. Let me anticipate here, and say that after a year's fruitless searching, those aboard the vessels returned to the islands, bearing the sad news that Narvaez and his men had perished on the mainland.

What, in truth, was the fate of this luckless expedition? Necessarily unable to carry but a few days' provisions, they soon began to suffer from hunger. True, they found Indian villages, but in them there was little food, and no treasure. Farther on, the Indians said, in the village of Appalache, there are treasures, and all those things that white men desire. Weary and worn, they pushed on. Twice they went to the coast, but could find no harbor; no welcome vessel came in sight. At last they came to the village of Appalache, which proved a bitter disappointment. No treasure was found, and the Indians were treacherous and hostile. However, they stayed here several months, living chiefly on maize. The Indians here told them of another village, Aute, nine or ten days south of there, on the seacoast. Toward this point they directed their course.

They reached Aute in the last stages of despair, after fighting their way through swamps and forests, frequently in water that came above the knees. The Indians were hostile; there was little

to eat. Weak and emaciated from hunger and travel, hampered by the sick and dying, threatened with mutiny, the outlook was dreary, not to say hopeless. To march inland was to march to certain death; on the sea lay their one chance for life.

With rude implements of their own manufacture they made five rough boats, their spurs and the stirrups from their saddles furnishing the nails. Their few remaining horses were killed, the flesh eaten, and the skins from their legs made into bags, which served as the only means of carrying water. Forty-nine men or more were crowded into each boat. The instinct of self-preservation was to be their only guide, for they knew but little, if anything, of the art of navigation. From a strange land they sailed out on strange waters.

Not daring to trust themselves far out at sea, and in the vain hope of finding some Spanish settlement, they kept close to the shore. For thirty days or more they sailed along in this manner. Then the water bags rotted, and many of the men, delirious with thirst, drank the briny water of the sea, and died in agony. While a like death seemed inevitable to all, they came to an Indian village, where was food and water. After a day and night's stay, during which they were attacked by the Indians, they re-embarked and sailed on. In this manner they continued for many days, suffering all that men can suffer from want of food and water.

At length they came to a broad river, at the mouth of which were many little islands—a river which, for several reasons, is supposed to have been the Mississippi. The current being too strong to allow them to land, they were borne out to sea, and, in the darkness, separated from each other. The captain's boat finally reached land, but two others, one of which was Cabeza's, drifted out to sea, for the men were too weak to row. For several days these two boats stayed together, but a storm arose, and they, too, drifted apart.

Cabeza's boat was finally cast ashore on an island, which, for reasons to be given later, we believe to have been Galveston island. The Spaniards named it Malhado, meaning "Ill-luck." The Indians came down to the shore, gave them fish and roots, and treated them kindly. In an endeavor to launch the boat on the following day, it was capsized and borne out to sea. They were now entirely at the mercy of the Indians. These, however, were kindly disposed, and took them to their village. In a few days they were

joined by a party from one of the other boats, which had been wrecked at another part of the island.

They now numbered forty; but to go on in such weather was impossible, as those of the first boat had even lost their clothing. It was, therefore, agreed that they should remain on the island, while four of the men should go on in search of the Spanish settlement, which they supposed to be very near the west. Soon after the departure of the four, a plague broke out on the island, and the number of the Spaniards was reduced to fifteen. These were separated by the Indians, who had practically enslaved them; some were being taken to the mainland, others left on the island. The weather was very severe and food scarce. In the springtime the Spaniards, except Cabeza and another, who were too sick to travel, escaped from their masters, and started westward down the coast. Nothing had yet been heard of the four who had previously set out.

For six years Cabeza led a slave's life, sometimes on the mainland, sometimes on the island. From October to February they stayed on the island, living on a certain kind of root. At the end of this time they went into other parts, for the root was then beginning to grow, and not fit to eat. "I had," said Cabeza, "to get roots from below the water and in the cane, where they grow in the ground, and from this employment I had my fingers so worn that did a straw but touch them they bled." Later on he fared better, for, getting in the good graces of the Indians, he was allowed to become something of a trader, going far inland on his trading expeditions. In this way he became acquainted with the surrounding country.

At the end of these six years, he and his companion, Lope de Oviedo, escaped from the Indians, and started down the coast. After having crossed four rivers, of which we shall speak more definitely, they came to a bay, most probably Matagorda bay. On the farther side of this bay they met a party of Indians coming to visit the Indians on the island. These told them that beyond were three men like the Spaniards. The Indians also said that if Cabeza wished to see them that in the next few days they would be at a walnut grove not far distant. At this point Lope de Oviedo, terrified by the Indians' tales of cruelty, refused to go farther, and returned to his former masters.

Two days later Cabeza joined the other three in the walnut grove. They were three of the party who had left the island six years before. Their companions had been killed by the Indians or had died from hardships. Of the powerful force which, not long before, Narvaez had led into the swamps of Florida, there now remained only this mere handful of wretched creatures, who maintained a precarious livelihood as slaves of the Indians.

We believe we can identify the vicinity in which this meeting occurred. But of this we shall speak more at length in another place; it is sufficient to say here that the Spaniards were most probably in the neighborhood of Matagorda bay, and, perhaps, near the mouth of the Colorado river. They remained quietly here for six months, waiting until the Indians should go to the prickly pear region, at which time, many tribes being gathered together, they thought they could best make their escape. For three months in the year the Indians in that part of the country lived entirely on the fruit of the cactus. So luxuriant and thick is the growth of this plant in southwestern Texas that we can safely say it was to this region that the Indians came yearly.

As the Spaniards had anticipated, they were taken in due season to the prickly pear region, where they planned their escape. On the day settled upon for their departure the Indians quarreled among themselves, and the Spaniards were separated. After a year's weary waiting, at the next prickly pear season they were again brought together, and again separated before they could escape. In despair they appointed a meeting place, and each pledged himself to elude the vigilance of his master, and join the others at the appointed time. This time they were successful, and the four men began their desperate journey to find the Spanish settlements in Mexico.

For the first few days they travelled very rapidly, fearing greatly lest the Indians should overtake them. They soon came to another Indian tribe, where they were kindly treated. From here they went on to another tribe, where they stayed eight months.

At this point, their social position, if such it may be called, was exalted beyond their wildest hopes, and they entered upon a career that probably has no parallel in all history. As far back as Cabeza's slave residence on Malhado island, he had on occasions been called upon to perform cures after the Indian fashion; he had done so



with seeming reluctance, not dreaming of the tremendous power over the tribes which lay within his grasp. However, he and his friends had scarcely begun their journey towards civilization before the Indians forced this unexpected greatness upon them. "That same night of our arrival," says Cabeza, "some Indians came to Castillo and told them they had great pain in the head, begging him to cure them. After he had made over them the sign of the cross, and commended them to God, they instantly said all pain had left, and went to their houses, bringing us prickly pears, with a piece of venison, a thing little known to us. As the report of Castillo's performances spread, many came to us that night sick, that we should heal them, each bringing a piece of venison, until the quantity of it became so great that we knew not where to dispose of it. We gave many thanks to God, for every day went on increasing his compassion and his gifts."<sup>2</sup>

New hopes were thus kindled, and the Spaniards continued with deliberate purpose the practice which had accidentally opened a new career to them. Their fame spread, and from this time forward their march was the progress of triumphant medicine men, often attended by hundreds, even thousands, says Cabeza. The Indians surrendered all their earthly possessions to these children of the sun, and served them as willing slaves. The sick were brought to them from far and near, and often they were importuned to go out of their way to relieve the afflicted. We must no doubt make some allowances for exaggeration in Cabeza's account, but on the whole he probably gives us a fair idea of what really happened. We find, for instance, when Coronado crossed the route of the wanderers, the Indians again brought their possessions to these other children of the sun, saying that in such fashion they had received the four whom we are following.

Our faith in the efficacy of Cabeza's cures, however, must stop at certain limits; it taxes our credulity too much when he tells of reviving the dead. As regards this, he says: "Coming near their huts, I perceived the sick man we went to heal was dead. Many persons were around him weeping, and his house was prostrate, a sign that one who dwelt in it is no more. When I arrived I

<sup>2</sup>Relation of Alvar Nuñez Cabeza de Vaca. Translated from the Spanish by Buckingham Smith, p. 117.

found his eyes rolled up and the pulse gone, he having all the appearances of death. I removed a mat with which he was covered and supplicated the Lord fervently as I could that he would be pleased to give health to him and to the rest that might have need of it. After he had been blessed and breathed upon many times, they brought me his bow and gave me a basketful of pounded prickly pear. The next morning the report came that he who had been dead had got up whole and walked, had eaten and spoken to them. . . . This caused great wonder and fear and throughout the land the people talked of nothing else.”<sup>3</sup>

In a very interesting chapter Cabeza also tells us of some of the queer customs of the tribes through which he passed. In one tribe, when a child died it was mourned for a whole year, the weeping beginning in the morning and lasting until sunset. If a brother or a husband died, none of that family would go in search of food for three months, but would starve to death if not provided for by the rest of the tribe. In war they were keen and vigilant. The warriors dug ditches in front of their huts, and lying down in them, completely covered themselves with brush and twigs. Thus concealed, they could do much damage. They drank a liquid, made by roasting a certain kind of leaf, upon which water was then poured. This had an intoxicating effect, and for three days at a time they would take nothing else. From the time it was ready to be used until it was consumed they cried continually, “Who wishes to drink, who wishes to drink?” When a woman heard this she stopped instantly whatever she was doing. If she moved, it was thought an evil spirit went into the liquid and it was thrown away and the woman was beaten with sticks. The mesquite bean, an important article of food with them, was prepared for eating in a peculiar manner. A hole was dug in the ground and in this the beans were placed and pounded with a club. Dirt and water were poured in on them and all stirred up together. Then the Indians gathered around and ate out of the hole. If it did not taste right, more dirt was stirred in.

Among these tribes Cabeza and his companions wandered for many days, always followed by a great number of Indians. On approaching a new tribe, the Indians came out to meet them, lay-

<sup>3</sup> Relation of Cabeza de Vaca, Smith’s translation, pp. 121, 122.

ing all their possessions at the Spaniards' feet. Cabeza then turned over these goods to his followers and dismissed them. The Indians who had thus given up all they possessed followed the white men to the next tribe, where they were reimbursed for their loss, and so on, indefinitely.

At last they came in sight of mountains. They travelled along the base of these for some little distance, and then struck inland. After traveling many days, they came to a village, on the banks of a very beautiful river. The people here lived on prickly pears and the nut of a certain kind of pine tree, the nut being beaten into balls when it was green, and when dry pounded into flour. "We left here," says Cabeza, "and travelled through so many sorts of people, of such divers language that the memory fails to recall them." Then they crossed a large river, coming from the north.<sup>4</sup> After crossing this river, their journey lay for some time through a desert, mountainous country, where they suffered much from hunger. Again they crossed a river, flowing from the north, and from this time many of the Indians sickened and died on account of the great privations. That the Spaniards survived is a matter of marvel. But from this time on they found fixed habitations and cultivated fields.

On desiring the Indians to take them on toward the west, they found them very reluctant to do so. However, on the Spaniards showing their displeasure, the savages yielded to their request, and, having sent out women as scouts, they went on.

From this time, they were loaded down with buffalo skins, and Cabeza called the people the Cow-Nation.<sup>5</sup> They lived largely on beans and calabashes. Whenever these people wished to cook anything, they heated large stones and dropped them into the half of a large calabash, which had been filled with water. When the water had been thus heated, whatever was to be cooked was dropped into it.

As they went on, food became more plentiful, and settled habitations more frequent. In one town they were presented with six

<sup>4</sup> Probably the Pecos.

<sup>5</sup> They seem, however, not to have been in the buffalo region at this point. The Indians were accustomed to leave their villages for the hunt. The Spaniards were probably on the Rio Grande.

hundred hearts of deer, on account of which they called the town Corazones. This town was the entrance into the South Sea provinces, or the provinces on the Gulf of California. While here the Spaniards saw on the neck of one of the Indians the buckle of a sword belt, to which a nail was fastened. It came, the Indians said, from white men, who wore beards, and who had gone to the south.

Hope rose in the hearts of the Spaniards. Were they at last near the Spanish settlements, or had these men been but passing explorers? But as they went on, they found the Indians fleeing on account of this party. The villages were deserted, the fields untilled. The people were living on the roots and barks of trees, and to a like means of subsistence Cabeza and his companions were forced to resort. A few days' journey more, and the tracks of the Christians were visible. They were in the neighborhood of a party of Spanish slave hunters. Day by day they gained upon them, and at last Cabeza, leaving the others some little distance behind, came up with four Spanish horsemen. They took him to their leader, and to him Cabeza told the story of his marvelous wanderings.

Through the influence of Cabeza, many of the Indians were persuaded to return to their villages and bring out food, which they had concealed. The slave hunters, unable to find the Indians, had been hard pressed. The Indians could not be persuaded to believe that Cabeza and his companions were also Spaniards, of whom they were very much afraid.

These Spaniards gave Cabeza two guides, who should lead them to the Spanish settlement. The guides, according to their orders, took them in such a way that they should not again see the Indians, whom the Spaniards, contrary to their promises, seized as soon as Cabeza had gone. All of Cabeza's party came near perishing from hunger and thirst, and many of them did. But at last they reached the town of San Miguel, April 1, 1536, the first Spanish settlement they had seen since they left Cuba, nearly ten years before. They stayed here some time, and letters written by them to the Spanish king have been of some value in determining their route. On the ninth of August, 1537, Cabeza de Vaca, having passed through almost incredible adventures, landed at Lisbon, Spain.

That four men should thus travel through an unexplored region

is a matter of marvel, and as the first Europeans to traverse this country, their route a matter of great interest.

The only data for determining this is Cabeza's account, necessarily unreliable as to dates and definite information. It is a question that has excited great interest and one that has been discussed with widely varying results. To make positive assertions is under the circumstances impossible; to make approximate ones difficult. Were proof of this needed, it is conclusively shown in the fact that after careful study on the part of three or four of our great historians, Buckingham Smith, H. H. Bancroft, A. F. Bandelier, and others, men too well known to need comment, they have each settled on a different route.

We believe it is possible to determine definitely, at least within certain limits, two points in the route of the Spaniards. Cabeza's description mentions certain physical features of the country, and dwells particularly on the plant and animal life. Certain plants that he mentions, such as the cactus and the piñon, are characteristic of limited regions of our country, and it is from considerations of this kind that we have reached our conclusions.

The place where Cabeza met his friends was probably some point on the Colorado river a few miles above its mouth, where there was a walnut grove. This conclusion is based on the following data given by the Relation.

First, Cabeza says that he crossed four rivers shortly after leaving Malhado. We know that at least one of these flowed directly into the Gulf; for in crossing it one of the Spaniards' boats was carried out to sea.<sup>6</sup> From his description it is also perhaps a fair inference that the other three flowed directly in, as no bays are mentioned. There is only one locality on the coast of the Gulf of Mexico where even one river flows directly into the gulf without a bay. East and west of the Brazos, we can count four such streams, at distances varying slightly from those mentioned by the Spaniards.<sup>7</sup> These are Oyster creek, the Brazos, the San Bernard, and Caney creek.

<sup>6</sup> Relation of Cabeza de Vaca, Buckingham Smith's translation, p. 87; Oviedo, *Historia General*, quoted in Buckingham Smith's translation of the Relation, p. 95.

<sup>7</sup> According to the letter of Cabeza de Vaca, Dorantes, and Castillo, which was written in Mexico after their return, it was two leagues to

Cabeza says that shortly after crossing the last river they came to a bay about a league wide, which he crossed, and a few miles up a river found his friends. As they were keeping close to the coast, they probably did not notice Matagorda bay until they had gone some distance down the peninsula of that name. This is one instance in which Cabeza's distances tally very closely with the facts. He says the bay which he crossed was a league wide, and Matagorda bay is uniformly about that wide. If he crossed this bay about half way down the peninsula, he landed in the vicinity of the Colorado. He does not say he was on a river; but we know he must have been from the fact that the Indians told him he would find other whites "up the river."

Second, we know that when the Spaniards met they were in a few days travel of certain sand hills which were sufficiently high to be seen "from a distance at sea." This we gather from the account afterwards given by the Spaniards. Some distance along the coast at the mouth of the Guadalupe are some very high sand hills standing seventy-five or eighty feet above the bay.<sup>8</sup> They form one of the most remarkable features of that coast, and the surroundings coincide very closely with the Spaniards' description. East of this point on the coast there are no sand mounds worthy of notice; west of it they are numerous but insignificant.

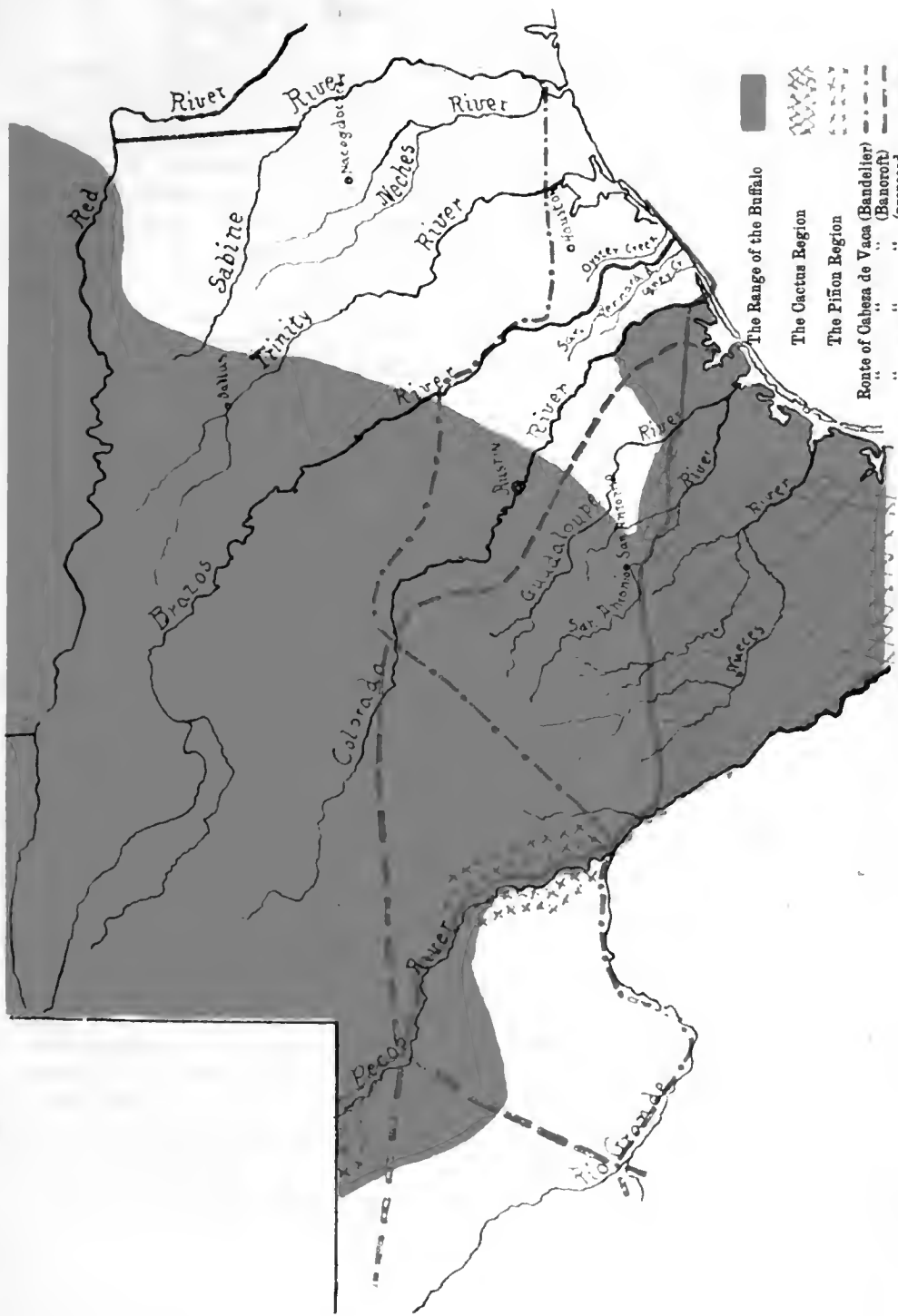
Third, according to Cabeza's account one of the most prominent characteristics of the country through which they travelled was the abundance of the prickly pear, the fruit of which constituted the chief food through a long part of the journey.<sup>9</sup> Six months after their meeting, the Spaniards were taken by the Indians some thirty leagues to where they gathered this fruit, and where they remained several months living upon it alone.







The Spaniards then must have met at some point about thirty leagues distant from the prickly pear region. The cactus is a

the first river from Malhado; thence three leagues to the second; thence four to the third; and five or six to the fourth.—Oviedo, *Historia General*, quoted in B. Smith's translation of the Relation, p. 96, Addendum.

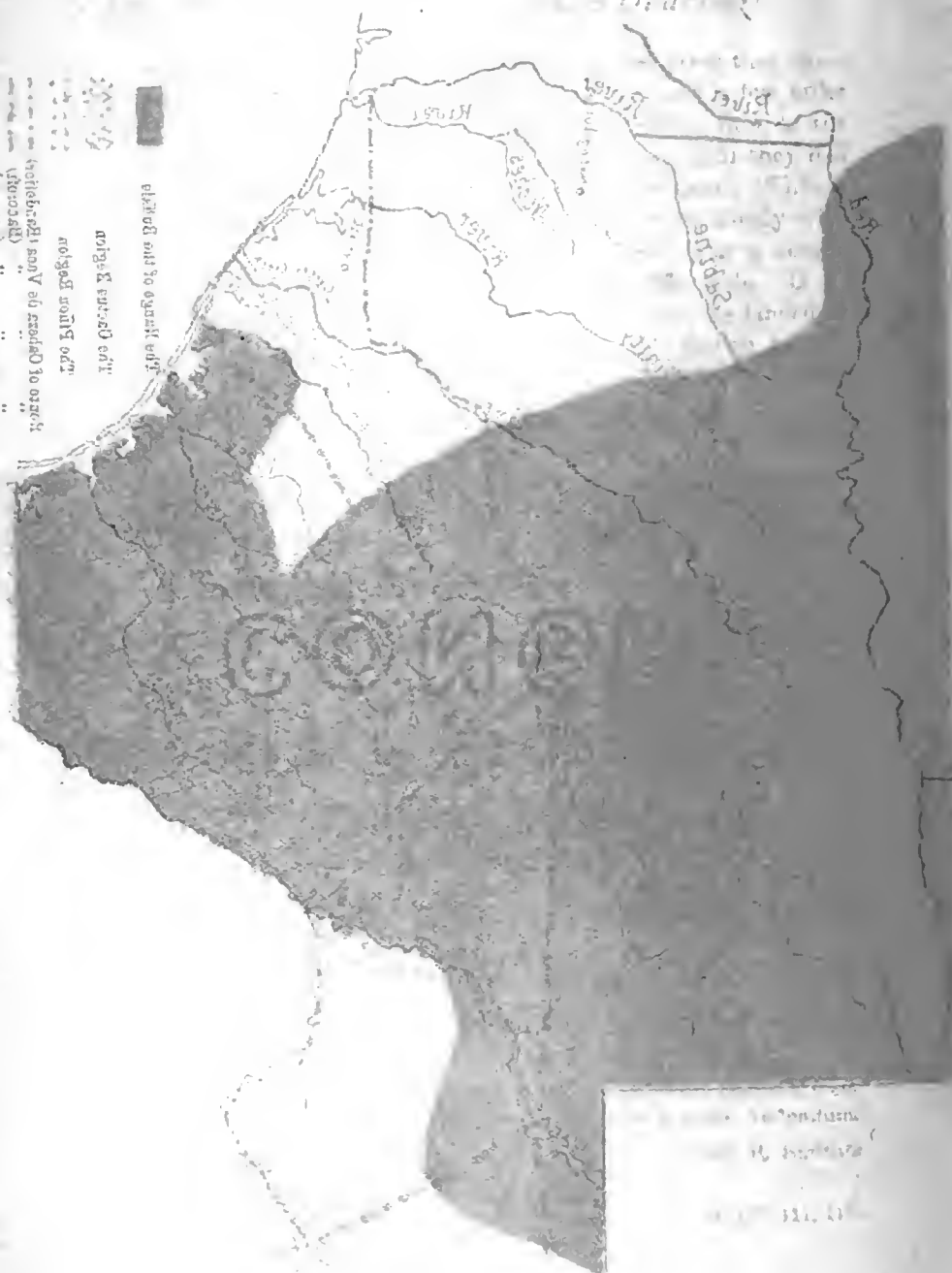
<sup>8</sup> Report of U. S. Coast Survey, 1859, quoted in p. 325; B. Smith's translation of the Relation, p. 89, note.

<sup>9</sup> Relation of Cabeza de Vaca, Smith's translation, pp. 91, 105, 111, 118, 120, 125, etc.



-  The Range of the Buffalo
  -  The Cactus Region
  -  The Pilon Region
  -  Route of Cabeza de Vaca (Baudelier)
  -  " " (Banorff)
  -  " " (proposed)
- in this paper)

The range of the Bagdad  
 The Ogish Region  
 The Milton Region  
 The North-Western Area  
 The Eastern Area  
 The Southern Area  
 The Western Area  
 The Central Area  
 The Northern Area  
 The Eastern Area  
 The Southern Area  
 The Western Area  
 The Central Area  
 The Northern Area



The range of the Bagdad  
 The Ogish Region  
 The Milton Region  
 The North-Western Area  
 The Eastern Area  
 The Southern Area  
 The Western Area  
 The Central Area  
 The Northern Area  
 The Eastern Area  
 The Southern Area  
 The Western Area  
 The Central Area  
 The Northern Area



widely distributed plant occurring in the west, northwest and southwest of Texas and in many parts of Mexico, particularly in the northeast; the region, however, in which it grows in such abundance as to constitute a food plant is limited to the country west of the Guadalupe river. The region of abundant cactus where the Indians would be likely to congregate for the purpose of living on it begins about ninety or a hundred miles west of the spot we have settled upon.<sup>10</sup> The migration of the Indians to this cactus region was an annual occurrence.

Fourth, Cabeza says "Cattle came as far as here."<sup>11</sup> The buffaloes in Texas, according to J. G. Shea and others, probably never ranged east of the Colorado, at least not in the southern part of the state.<sup>12</sup> The range extended from near the point we have reached westward and northward over the great elevated table land and the Llano Estacado.<sup>13</sup>

The point where Cabeza met his friends, then, according to the narrative must have been a short distance west of four rivers that flowed directly into the Gulf without passing through bays; it must have been within a few days journey of sand hills on the coast which could be seen some distance at sea; it must have been within about thirty leagues of the prickly pear region; finally, it must have been near the eastern limit of the range of the buffalo. These conditions are all satisfied by the locality mentioned, viz: the vicinity of the mouth of the Colorado. No two of these, moreover, are satisfied by any other point on the Gulf coast.

Furthermore, if we are correct, some thirty or forty leagues east of the Colorado we are to look for the Island Malhado on which the boats were wrecked; to satisfy the conditions of the narrative, it

<sup>10</sup> We are indebted for our information concerning the cactus region to the following: Robert T. Hill, U. S. Geological Survey; William L. Bray, University of Texas; J. Reverchon, Dallas; T. H. Stone, Houston; J. H. Seale, Jasper; Geo. E. Beyer, Tulane University; W. W. Clendenin, La. Geological Survey; J. V. Vandenberg, Victoria; C. H. Tyler Townsend, Las Cruces, N. Mex.; F. Vandervoort, Carrizo Springs; W. F. Woods, San Antonio; E. A. Blount, Nacogdoches.

<sup>11</sup> Relation of Cabeza de Vaca, B. Smith's translation, p. 106.

<sup>12</sup> John Gilmory Shea, in Winsor's Narrative and Critical History of America, Vol. II, p. 244.

<sup>13</sup> See map for buffalo and cactus regions.

must be some five leagues long by one wide. We at once think of Galveston island, which fits the description with a considerable degree of accuracy.

We have studied in this connection the routes proposed by three eminent historians, Buckingham Smith, H. H. Bancroft, and A. F. Bandelier. None of these seem to us in accordance with the facts given by the narrative. We confess we can not mark exactly the path of the wanderers; but we believe we have succeeded in fixing as definitely as may be done the limits in which certain conditions alluded to in the narrative can exist. Thus we so restrict the possible variation of their path as to get at least its general direction. It is by these same limitations of physical aspects and plant life that we expect to show the incorrectness of the other theories.

Buckingham Smith died before his revised translation was published, and it lacks the two maps by which he intended to show his idea of Cabeza's wanderings. His first theory was as follows: Cabeza started on his wanderings from somewhere near Mobile bay. The long sand island near the mouth of that bay he identified with Malhado. From here, he thought, Cabeza went to Mussel Shoals on the Tennessee river, thence across the Mississippi to the junction of the Arkansas and Canadian. Then up the Canadian through New Mexico to the Pacific near the Gulf of California.<sup>14</sup>

Everything in the narrative goes to show that the Spaniards could not have been east of the Mississippi after their shipwreck. Mr. Smith is the only one of those who have written on the subject who ever held this opinion. In the first place, it is almost certain had Cabeza crossed a stream of such magnitude, he would have described it in terms admitting of no misconception; still we can not be positive that he would have done so. But he does not mention crossing a single river, after starting on his inland journey, where it was necessary to use a raft. But he does call some rivers very large, which they were able to cross, the water coming only as high as the breast.

But there is abundant disproof of this view without reference to the Mississippi. It would be impossible to find the four rivers, or the cactus in the vicinity of Mobile. All the rivers in that region flow through bays before entering the Gulf. If there

<sup>14</sup> Relation of Cabeza de Vaca, B. Smith's translation, Appendix, p. 235.

is any cactus in Alabama, Mississippi, and Louisiana, it is only in isolated bunches, and could not be looked upon as a food plant. Mr. Smith himself afterwards abandoned this theory, and in his last edition inclined to the view that Cabeza crossed Texas from the neighborhood of Espiritu Santo bay.<sup>15</sup>

Bancroft says the meeting place of the Spaniards was the Espiritu Santo bay, in Texas.<sup>16</sup> But he simply makes the assertion, without giving the reasons which led him to adopt it. In fact, he is very brief on the whole subject of Cabeza de Vaca, dismissing it with a few pages.

A. F. Bandelier, whose reputation as an archaeologist gives his statements more importance than those of the two historians mentioned above, thinks the four wanderers started from some point in Western Louisiana or Eastern Texas. On his map he makes it the coast region around Sabine lake. The wrecking of the boats, he says, took place near the Mississippi delta. The only reason he gives for this conclusion is a rather indeterminate one. He thinks he can positively identify a certain point farther along in Cabeza's narrative. He then counts the rivers the Spaniards have crossed and identifies them with Texas rivers. Thus he gets back to the starting point.<sup>17</sup>

We object to Mr. Bandelier's reasoning, first on this very point. If we take a definite point in western Texas and Mexico and count a certain number of rivers to the east, we will arrive at different results according as we cross the northern or southern part of the State. That is, we would cross more rivers near the coast. But we do not think Mr. Bandelier's theory will hold for other reasons.

First, it is too remote from the cactus region, whose limits we have already mentioned.

Second, it does not agree with Cabeza's statement about the buffaloes. They probably did not range so far east.

Third, we can not reconcile Sabine lake region with the description of the four rivers which were crossed just after leaving Malhado. There is not even one river, as we have already stated, any-

<sup>15</sup>Relation of Cabeza de Vaca, B. Smith's translation, Appendix, p. 235.

<sup>16</sup>H. H. Bancroft, North Mexican States and Texas, Vol. I, pp. 63, 64.

<sup>17</sup>A. F. Bandelier, Contributions to the History of the Southwestern Portion of the United States, pp. 49-53.

where near Sabine lake, east or west, which flows directly into the Gulf. We are, therefore, forced to the conclusion that the Spaniards were never in the vicinity of Sabine lake.

But in proceeding with the discussion, conclusions are not so safely drawn. There is only one other point to which we feel we can safely assign any definite location. This is the southern portion of New Mexico or the western portion of Texas. This opinion is based on the following facts, taken from the Relation. Cabeza thus refers to a tree, the nut of which was used by the Indians for food. "There are in that country small pines, and the cones of these are like little eggs; moreover, the seeds are better than those of Castile, for they have very thin shells."<sup>18</sup> Elsewhere, the trees are thus described by the Spaniards: "And they gave them a great number of pine nuts as good and better than those of Castile, for they have shells of such nature that they eat them with the rest of the nut; the cones of these are very small, and the trees thick in those mountain ridges in quantities."<sup>19</sup> Compare with these descriptions the botanical description of the *pinus edulis*: "A low, round-topped tree, six to nine metres high; cones subglobose, five centimetres long; seeds brown, wingless, and edible. In mountains of western Texas and westward."<sup>20</sup> The shell of this nut is so thin that it may be easily eaten "con lo demas."

These three descriptions coincide so nearly that there can scarcely exist a doubt that the piñon of Cabeza is the *pinus edulis* of New Mexico and Western Texas.<sup>21</sup> The region in which this pine grows

<sup>18</sup>"Hay por aquella tierra piños chicos, y las piñas de ellas son como huevos pequeños, mas los piñones son mejores que los de Castilla, porque tienen las cascarras muy delgadas."—Cabeza de Vaca, Naufragios, p. 540.

<sup>19</sup>"E dieronles alli mucha cantidad de piñones tan buenos y mejores que los de Castilla, porque tienen las cascarras de manera que las comen con lo demas; las piñas dellos son muy chiquitas, é los arboles llenos en aquellas serranias en cantidad."—Oviedo, Historia General, p. 606, quoted in Bandelier's Contributions, p. 57, note.

<sup>20</sup>John M. Coulter, Botany of Western Texas, p. 554.

<sup>21</sup>Bandelier denies this, and says the tree must have been a North Texas cedar. Dr. V. Harvard, of the U. S. Army, in a letter on this subject, states that no juniper (cedar) in Texas bears "a fruit larger than a large berry. Bald cypress (*Taxodium disticum*), or Sabino of

covers nearly all of New Mexico; but is found in Texas only on the mountains west of the Pecos river.<sup>22</sup> This indicates that Cabeza and his friends must have been at least as far north as these mountains; that is, nearly as far north as the latitude of El Paso.<sup>23</sup>

Furthermore, there is evidence of the strongest character that the Spaniards crossed the route traversed only a few years later by Coronado, which, according to the monograph of George Parker Winship, published in the fourteenth annual report of the Bureau of Ethnology, at no point east of the Rio Grande extended further south than the 35th parallel. If this be true, Cabeza must have been well up in central New Mexico. The evidence on which this assertion is based is an extract from the narrative of Pedro de Castañeda, who accompanied Coronado on this expedition. It reads as follows: "The general sent Don Rodrigo Maldonado with his company forward from here. He traveled four days and reached a large ravine like those of Colima, in the bottom of which he found a large settlement of people. Cabeza and Dorantes had passed through here, so they presented Don Rodrigo with a pile of tanned skins and other things, and a tent as big as a house. \* \* \* When the general came up with the army and saw the great quantity of deer skins, he thought he would divide them among his men and placed the guard so they could look at them. But when the men arrived and saw the general sending some of the men with orders for the guards to give them some of the skins, and that these were going to select the best, they were angry because they were not going to be divided evenly, and made a rush, and in less than a quarter of an hour nothing was left but the empty ground. The

the Mexicans, sparingly found on a few creeks as far west as Ft. Clark, bears a globular fruit an inch in diameter, but no one who has seen a pine cone could mistake one for the other."

<sup>22</sup> We are indebted for information on this subject to the following: Robt. T. Hill, U. S. Geological Survey; William L. Bray, University of Texas; C. H. Tyler Townsend, Las Cruces, N. M.; Mrs. Anna B. Nickels, Laredo; Joseph A. Taff, U. S. Geological Survey; J. Reverchon, Dallas; Theo. D. A. Cockerell, Mesilla, N. M.; L. M. Kemp, El Paso; President Herrick, University of New Mexico; B. Coopwood, Laredo; Dr. Havard, U. S. Army.

<sup>23</sup> A recent letter from Judge Williams, of Fort Stockton, necessitates a modification of this statement. See note 27 on p. 183.

natives who happened to see this also took a hand. The women and some others were left crying, because they thought that the strangers were not going to take anything, but would bless them, as Cabeza and Dorantes had done when they passed through here."<sup>24</sup>

It will be remembered that the Indians who followed Cabeza and his friends were so thoroughly under his influence that they surrendered to him all their earthly goods, and even dared not eat or drink until he had given them permission. When Coronado appeared, their remembrance of the four caused the Indians to act as above. Certainly, then, Coronado met at least one tribe that had seen Cabeza. But might that tribe not have seen him at another place further south? This is possible. Castañeda, however, when he wrote the passage quoted above, evidently believed and explicitly stated that such was not the case, but that "Cabeza and Dorantes had passed through here."

But in tracing their route from the starting point to this place, we meet with difficulties. After traveling for some time from the cactus region, Cabeza says they came in sight of mountains. Most probably they were going up the San Antonio river, which flows down through the cactus region. This river has its source in the hills which form the southern limit of the Edwards plateau. These, it would seem, would be the first "mountains" of which he speaks. At this point, however, Cabeza states that they are still near the coast, within fifteen leagues.

Furthermore, after traveling along the plains at the foot of the hills, and inland some fifty leagues, they find themselves in the piñon region. The distance from the Colorado to the piñon region of New Mexico is more than twice as great as that given by Cabeza. This is one difficulty we have not been able to conquer. The fact remains, however, that he ate the pine nuts and came near the route subsequently followed by Coronado, and so must have been as far north as New Mexico. These facts we regard as fundamental, and matters of time and distance, recorded many months afterwards, must yield to them when found in conflict.<sup>25</sup>

<sup>24</sup>George Parker Winship, translation of the Narrative of Castañeda, 14th Annual Report of the Bureau of Ethnology, pp. 505, 506.

<sup>25</sup>See note 27, p. 183, which partially clears up this difficulty.

It must be remembered that the Spaniards were without means of carrying water, so their route was necessarily determined by natural water courses and a due regard for the food supply. The most favorable route, then, from the San Antonio or Guadalupe river, where they probably ate the prickly pear, to New Mexico, would be up the San Antonio river to the escarpment of Edwards plateau, thence west across the various creeks which run into the Nueces to the Pecos; then up the Pecos to the first rivers flowing into it from the west, which would offer the wanderers an opportunity to cross the desert mountains to the Rio Grande.

The probability that this was the route pursued is further strengthened by the fact that the Indians were conversant with the least difficult ways of passing from one tribe to another, and would so direct these men, who, in the eyes of the savages, had become little less than gods. Such a route we believe they pursued.

But another difficulty arises here: they do not mention ascending a river before reaching the piñon region, which is an omission hard to account for. Still, the fact remains that it would be an impossibility to reach the piñon region without carrying large quantities of water, unless they did ascend some river.<sup>26</sup>

Still another difficulty confronts us. After leaving the tribe where they first found piñones they traveled an unrecorded distance, then crossed a great river coming from the north. Then, again, crossed thirty leagues of plain, or most probably went up the valley of some tributary from the west, then traveled fifty leagues of desert mountains to another great river. The descriptions given in the Relation fit the Pecos-Rio Grande country in southern New Mexico or Western Texas with a considerable degree of accuracy. But if that is the country described, it would transfer the piñon region to the east of the Pecos, which is not in accordance with the facts.<sup>27</sup>

<sup>26</sup> See note 27.

<sup>27</sup> Since this paper was read at the meeting of the Association on December 29, we have received a letter from Judge O. W. Williams of Ft. Stockton, which, it is gratifying to note, clears up some of the difficulties here mentioned. Judge Williams informs us that the piñon "is found in rough brakes near Pecos river (on each side) near the Pontoon bridge, and from there to the Rio Grande on both sides. . . . North of the Pontoon Bridge on the east side of the river, it is not found until you get

But since other data also identify this New Mexico region, we feel justified in still maintaining that his route lay in that country. The piñones, buffalo range, and Coronado's expedition, are facts so essential in this discussion that we can not set them aside for facts less essential.

Bancroft believes that, after leaving Espiritu Santo bay, the Spaniards went northward, following the general course of the Colorado river as far as San Saba. From here they went westward to the Pecos, and crossed it very near the southern boundary of New Mexico. From this point, Bancroft's description is marked by a great deal of uncertainty. He suggests two routes. One goes southwestward to the Rio Grande near the mouth of the Conchos; then up the Conchos some distance; thence across the mountains to the Yaqui, and down that and the coast to Culiacan. The other route proceeds from the Pecos due west along the southern boundary line of New Mexico to the Rio Grande near El Paso; thence almost along the United States boundary line to the upper waters of the Sonora; from here down the coast to Culiacan.<sup>28</sup>

The theory advanced by Bancroft, at least the one which takes Cabeza very close to New Mexico, is the most reasonable one so far as published. It is, however, exasperating that no reasons are given for the positions taken. The great objection to the route is that in following up the Colorado the Spaniards are kept out of the cactus region until they strike the Pecos. Then, too, the country from San Saba mountains west to the Pecos is dry and barren and almost impassable. It is, therefore, unlikely that they crossed it. Both routes suggested by Bancroft are, perhaps, a little too far south to pass through the edible pine region; and through this we feel sure they passed.<sup>29</sup> The hypothesis that they went from the

high up in New Mexico." The conditions of the Relation are satisfied by this fact; the distance from the Colorado to the Pecos is approximately that mentioned by Cabeza; the great rivers flowing from the north (Pecos and Rio Grande) no longer present difficulties. It will be noticed that the route of the Spaniards is thus drawn farther toward the south than is indicated by the body of this article. The route proposed by Bancroft becomes more probable as it is consistent with the likelihood that Cabeza ate piñones on the lower Pecos. See map.

<sup>28</sup> H. H. Bancroft, *North Mexican States and Texas*, Vol. I, pp. 64-70.

<sup>29</sup> See note 27, p. 183.



Pecos to the mouth of the Conchos and up that river is entirely untenable, as it would keep them out of the piñon region.<sup>30</sup> Both routes are also too far south to agree with Castañeda's statement that Coronado crossed Cabeza's path in New Mexico.

We have already shown that Bandelier blundered in making Sabine bay the meeting place of the Spaniards. We believe that in his suggestion of the latter part of the route he has settled upon the impossible. He states that the Spaniards crossed the Trinity not far from the coast, thence westward to the Brazos, and up that stream for a considerable distance. Crossing this, they journeyed to the neighborhood of San Saba, where they crossed the Colorado. Then turning southwestward, he believes they crossed the Rio Grande near its junction with the Pecos. The line of march from here follows the bend of the Rio Grande to the mouth of the Conchos, thence to the mountain region westward and southward to San Miguel.<sup>31</sup>

As we have said, there are well-founded objections to this route.

First, he excludes the Spaniards from the great prickly pear region. This plant is not to be found along the route thus marked out in sufficient quantities to serve as a food supply.

Second, if Cabeza's route lay so far to the south, Coronado would probably never have heard of him on his journey.

Third, the passage along the bend of the Rio Grande was an absolute impossibility. From the Conchos to the Pecos, the Rio Grande does not receive a single tributary, and flows through a series of rocky cañons, often as deep as two thousand feet.<sup>32</sup> When the boundary line between Mexico and the United States was first surveyed, long detours were made to avoid the difficulties of this route.<sup>33</sup> It is hardly probable that Cabeza, without any means of transportation, should have attempted this route, where not a drop of water was to be had.

<sup>30</sup> See note 27, p. 183.

<sup>31</sup> A. F. Bandelier, Contributions, etc., map.

<sup>32</sup> This statement is made on the authority of Robert T. Hill of the United States Geological Survey.

<sup>33</sup> In following the course of the river "we had frequently to make detours of twenty-five and thirty miles, in order to advance our work a few hundred feet." Report on the United States and Mexican Boundary Survey, Washington, 1857, vol. I, p. 76.

From the piñon region in New Mexico, or Western Texas, somewhere reasonably near the path of Coronado, to the settlements in Mexico, we are not yet prepared to definitely locate the route of the four wanderers. Perhaps they reached the upper course of the Gila and followed that river until they could cross to the watered country to the south; or perhaps they found their way more directly to the south. Of this, we shall have more to say on another occasion.

In conclusion, we believe we have established the following points:

First, Cabeza met his friends, after their long separation, somewhere near the mouth of the Colorado. This is the only place on the Gulf coast which satisfies all the conditions given in the Relation: (1) It is about thirty leagues from the great cactus region; (2) it is within a few days' journey from a group of sandhills seventy-five feet high, an uncommon feature on the Texas coast; (3) the buffalo range extended to this point, and probably no farther; (4) there are four large streams, east of Matagorda bay, which flow directly into the Gulf.

Second, he passed through the southern part of New Mexico, and probably ascended the Pecos or Rio Grande to near the central part. This we believe, (1) because the piñon region does not extend into Texas beyond the Guadalupe mountains, and we know that Cabeza traveled many days north after entering this region;<sup>34</sup> (2) there is also positive evidence that Coronado, who did not come farther south than the 35th parallel, found traces of Cabeza and his friends.

Third, between these two points, he probably followed the natural route indicated on the map. The evidence as to the exact route is not so conclusive, and the results not so positive as it is in regard to the two points mentioned above. But these seem to fix the general direction of the route, and nothing is found in the narrative which is contradictory; but, on the other hand, much of the description serves to strengthen this conclusion and render it fairly probable.

<sup>34</sup> This conclusion is necessarily modified by Judge Williams' statement that the piñon occurs along the lower course of the Pecos. See note 27, p. 183.

J. PINCKNEY HENDERSON.

An Address Delivered on the Occasion of the Obsequies in Memory  
of General Henderson, August 21st, 1858.\*

F. B. SEXTON.

*Ladies, Fellow-Citizens, and Brother Masons:*

The wisdom, no less than the goodness and mercy, of Almighty God, are eminently exhibited in the varied and numberless forms in which the solemn thought of death is presented to, and withdrawn from, our consideration. It is continually before us, yet ever absent from us. Decay and death are written upon every falling leaf and faded flower, while every joyous spring-time, every bright rosebud that lifts its gilded petals to the morning sun, speaks to us of life—hopeful, expansive, unending life. Were it otherwise, and were the hopes and fears, the joys and sorrows, the cares and delights, the ambitions and disappointments of this life the only objects which claimed our attention, or awakened our interest, we should be but illy prepared for the great change which is to sever our connection with all of them; while, on the other hand, were the pathway of our terrestrial pilgrimage entirely walled in with tombs, and spectres and winding sheets, were all our wreaths of laurel transmuted into wreaths of cypress—the atmosphere of our being would be so overcast with gloom, our reflections would take such pallid and sombre hues, that we could never fulfill the practical duties of life; we could never consummate the useful, benevolent and glorious purposes to which, in the economy of the Grand Artificer of the Universe, we have been dedicated. Truly, we should say with the Royal Psalmist of Israel, “Oh the depth of the riches of the wisdom and knowledge of God! how unsearchable are His judgments and His ways past finding out!”

\* This address has, through lapse of time, become historical in itself, aside from the facts given relative to General Henderson. It is therefore published entire.—PUBLICATION COMMITTEE.

Yet it is strangely and remarkably true that, amid the equal distribution of attractions to life and memorials of death, men are prone, with a perversity nearly amounting to madness, to reject or postpone all considerations of the latter. While we know that the dazzling visions and alluring pleasures of time are but transient—that they must end at the dark valley and shadow which connects it with endless futurity — it is wonderful that we fasten all our thoughts, affections and cares about them, with ligatures than can not be dissevered until rudely broken, and with energies exhausted, and spirits broken down in their pursuit, leave to

“ \* \* \* a day, an hour,  
The vast concerns of an Eternal scene.”

In the impressive language of the Masonic burial service, “notwithstanding the various mementoes of mortality with which we daily meet—notwithstanding death has established his empire over all the works of nature, yet through some unaccountable infatuation we forget that we are born to die.” But if there be a future—and who, that feels the spontaneous throbbings of immortality in the soul which God has breathed into him, can doubt it?—if there be a future, we shall have no ground to complain that this important and serious change came upon us without previous warning. No; we shall rather reproach ourselves with our inexcusable neglect of the many admonitions which were given us, for they hang thick upon every column that supports this vestibule of Eternity. We are reminded that we must die by every tree that falls, and every blade of grass that dies — by the desolate cities, ruined palaces, fallen columns, overgrown gardens, and broken-down walls, which make up the pages of history—by the ten thousand monuments which overlay the bones of Earth’s renowned ones, and herald what they were, or “what they should have been”—by the ten thousand times ten thousand more unmarked graves, to whose occupants the “tribes that tread the earth” “are but a handful”—by the “pestilence that walketh in darkness,” from before which our brother-men fall, as grass before the reaper’s scythe—by the pale forehead, the wan cheek, the sunken eye, the hectic cough and stooped form of our fellow-beings who walk among us. We are to-day most forcibly reminded of it by the absence from among us of our distinguished fellow-citizen, our friend, our neighbor, our

brother, JAMES PINCKNEY HENDERSON, whom, if integrity of character and purity of purpose, if the confidence of his friends and neighbors, the admiration of his fellow-citizens, the respect of his senatorial peers, the attachment of his brethren of the "mystic tie," and the love of an affectionate family, could have retained on earth, *"he had not died."*

Gen. Henderson was born in Lincoln county, North Carolina, on the 31st March, 1809. He descended from an ancient, an honorable, family. His father was a prominent leader of the Federal party, and his name is yet much revered by the older citizens of the "old North State." I have not been able to collect as many incidents of the early life of Gen. Henderson as I desired, or as I could have done had more time been allowed. In his boyhood a strong affection for his mother was manifested—a development which is discernible in the character of most distinguished men. His mother having once been asked if he had not been refractory, replied: "No, some of my other boys were headstrong, but Pinckney was *always* a good boy." As a youth he was far more than ordinarily intelligent, and gave promise of the brilliant career he afterwards attained. He was a student for several years at the University of Chapel Hill. He studied law, and was admitted to practice in North Carolina before he was twenty-one years of age. While preparing for his profession, his application was most intense; for, as he himself has told me, he often studied eighteen out of the twenty-four hours. Such injudicious labor injured his constitution, and, it is to be feared, laid the foundation of the fatal disease from which he never entirely recovered. At the age of twenty-two he was appointed aid-de-camp, with the rank of major, to Maj. Gen. A. McDorrett, of the Fifth Division of the Militia of North Carolina, and later was elected colonel of a militia regiment.

In the autumn of the year 1835, Gen. Henderson removed from North Carolina to Mississippi, and having settled in Madison county, in that State, commenced the practice of law with the brightest prospects for success. He had, however, not more than located himself in his new home, when the struggles of the then province of Texas to throw off a degrading and oppressive pupilage, begun to attract the attention and enlist the sympathy of the noble and generous in every land. As I have observed before in speaking of him, he at once resolved to make the Lone Star the

star of his destiny. In the spring of the year 1836, he aided in raising a company of volunteers in Mississippi for service in Texas. He came to Texas himself in 1836, reaching here before that company. Soon after his arrival, he was commissioned by the then President, David G. Burnet, to return to the United States, and recruit for the Texas army. One company raised in North Carolina was brought to Texas at his own expense. Gen. Henderson returned to Texas in November, 1836, and so soon as he arrived at the seat of government was appointed by President Houston Attorney General of the Republic, which position he held until the month of December following, when he was appointed Secretary of State, that office having become vacant by the death of the venerated and lamented Stephen F. Austin.

In the early part of the year 1837, Gen. Henderson was appointed minister plenipotentiary and envoy extraordinary from the Republic of Texas to France and England. He was commissioned to solicit the recognition of the Independence of Texas, and was invested with plenary powers as ambassador, also to conclude treaties of amity and commerce. During his term of service the independence of Texas was recognized by both England and France. Amid the brilliant array of statesmen and diplomatists, which is always presented at the courts of St. Cloud and St. James, and which, at that time, too, was adorned by talent of the first order from both continents, our worthy and lamented senator commanded respect for his fidelity to the objects of his mission, and esteem for the sincerity and true nobility of his nature. He acquired for Texas—then weak and with difficulty maintaining a bare existence as a separate nationality—a position of respectability and dignity. Texas should ever be grateful for his services, and proud of her adopted son. His success as minister is one of the strongest evidences of the native superiority of his mind. He was only in the twenty-ninth year of his age when he negotiated commercial treaties between two of the greatest governments of the world, and the then infant Republic, without money, resources, armies or navies; in short, with nothing but the justice of her cause and the favor of Heaven. None but a mind of the greatest vigor, and a soul of the highest firmness, one which could not be discouraged by disappointments, or driven back by obstacles, could have suc-

ceeded in the delicate and difficult mission with which he was charged.

It is proper to state that Gen. Henderson, on all occasions, in public and private, expressed without reserve his sense of obligation to Gen. Cass for valuable aid in accomplishing the objects of his mission in France. Mr. Cass was then the resident minister from the United States at the French court. He was not only interested in the fate of Texas, but was attracted toward Henderson by his talents, and his noble manly bearing. From him Gen. Henderson frequently received distinguished attention, and often shared his confidence. The good opinion of that eminent and venerable statesman, thus early acquired, was never lost. Not more than two years since some citizens of Texas in Washington City were speaking in his presence of the probable election of Gen. Henderson to the United States Senate, when he expressed his warmest gratification at the intelligence, and spoke of him in the highest terms of commendation and friendship.

While in Paris Gen. Henderson became acquainted with Miss Frances Cox, of Philadelphia, who was residing in that city with her father, Mr. John Cox. Mr. Cox was then in Paris for the purpose of educating his children, two daughters and a son. Gen. Henderson and Miss Frances were married in October, 1839, in the city of London. Mrs. Henderson lived for sixteen years in our village, and her intelligence and private worth are well known and appreciated by our citizens. Her loss calls forth our deepest sympathy; but private grief, while it is great, is sacred from public intrusion.

General Henderson returned from France to Texas in the beginning of 1840, and was everywhere welcomed by the warm gratulations of his countrymen. At Galveston a complimentary dinner and ball were given him; invitations to accept public demonstrations of respect were extended to him from several other places, but with characteristic modesty he declined them all. At the expiration of Gen. Lamar's term of office, he was strongly urged to become a candidate for the Presidency of Texas. He answered that he was not old enough, as the Constitution of Texas required the incumbent of that office to be thirty five years of age. His friends replied that that would cause no difficulty, as he was generally taken, by appearance, to be forty, and no questions would be asked.

To this he said that he would "never violate the Constitution of his country, though no one on earth should know it but himself." His own heart, he said, would know it and would condemn him. Can Roman history furnish an instance of more rigidly virtuous practice than this? Even Aristides, who would not deceive the countryman who asked him to write the ballot for his own banishment, was not more conscientious than Henderson in the discharge of his obligations to his country and her laws.

In 1840 Gen. Henderson made his home in our village, and commenced the practice of his profession. As a lawyer he was distinguished for the vigor of his mind, the clearness and quickness of his perceptions, and the perspicuity of his reasoning. His early reading was most accurate and thorough. He paid the most careful attention to elementary and general principles. Probably no man understood better than he the great fundamental principles of the common law. So extensive and laborious was his practice in Texas that it was impossible for him to pursue a regular and constant course of reading, which no lawyer should neglect, and the inability to do which he much regretted. But his very constant practice supplied the want which a failure to read would have created. His mind and his elementary knowledge were kept in continual exercise, and in keeping up with the practice he necessarily kept up with the progress of law as a science. If called upon to give an opinion upon any question or state of facts, it would much more likely be the deduction of his reason from some well known general principles than the statement of a decision made by any judicial tribunal. And the deductions of his reason thus made rarely ever failed to concur with and be corroborated by the judgments of the most enlightened tribunals of our country. My brethren of the bar will recollect how often many of us have observed what a remarkable coincidence existed between the professional opinions of Gen. Henderson, formed and expressed as I have just stated, and the "lex scripta," as found to be laid down after laborious investigation and research by the most erudite and accomplished authors on jurisprudence. He was gifted, too, with an extraordinary memory. He kept no written digest of the decisions made in the court where he practiced, but if you asked him if a certain question or principle had been decided he could tell you,



and when, before whom, in what case, how the question arose, and the full scope, extent and limitations of the decision.

Not many lawyers can boast of a more successful professional career of Gen. Henderson. I doubt if many have even equalled his success. His practice was confined to no district—wherever there were difficult or important cases his services were secured if they could be. In his fidelity to his clients he was a model to which every lawyer can point with pride. When once engaged no labor was too arduous for him to perform, no obstacle too serious for him to overcome, if in the way of service to his client. His sincerity and ingenuousness, which were the controlling traits of his character, were especially manifested in his professional life. He never would entrap or brow-beat a witness, but if he found one evading or contradicting the truth wilfully he would expose him in manner and terms the most scathing and overwhelming.

His courtesy and kindness in his intercourse with his professional brethren will not soon be forgotten. He was utterly and entirely above what a distinguished lawyer has singularly termed the “snapparadoes of practice.” His noble heart scorned equivocation and deceit, while his great mind taught him that they never secured any permanent success. Gentlemen of the bar who are present, I doubt not, will sustain me in saying that when we could not be associated with him, it was pleasant to have him as an adversary; for no one feared from Henderson the exercise of an illiberal or technical advantage. But it was especially to the younger members of the profession that he endeared himself. I have never met a young lawyer who knew him and did not love him. None ever approached him for assistance or instruction who went away rebuffed — and when he did impart information or instruction, there was a kindness in his manner which all who have ever experienced must well remember, but which no words can properly describe. He was wholly free from that patronizing and self-important air, which too often characterizes great lawyers and learned men, and renders their great powers and attainments useless. If you came to Henderson for advice or consultation, you were not met with that pompous and lofty demeanor which seems to say, “be careful, you stand in the very shadow of greatness;” but *he* took you at once to his heart; if you were doubtful, he re-assured

you; if you were timid, he encouraged you; if you were obscured, he threw light upon your pathway.

No class of men will more sincerely mourn the death of Henderson than the lawyers of Texas. None should place a brighter wreath upon his tomb than they.

GENTLEMEN OF THE BAR, he was one of the noblest exponents of that great conservative element of human liberty which our profession, in its purity, constitutes. None of us will blush to own him as an example. We shall miss his fine eye, his friendly smile of recognition, and the warm grasp of his hand, at the assembling of our courts. The flow of social feeling which is always produced by our pleasant reunions on the circuit, will be checked for a moment, as we pause to think that our eloquent and generous brother, who most loved to encourage this feeling, has gone down to the realms of death. The bench, the bar, and the people, will feel that a great light has gone out—that a noble heart has ceased to beat — that a powerful mind has been relieved from its earthly labors.

In the year 1844, the Congress of Texas having made an appropriation to pay a minister to go to Washington City, to act in concert with Col. Van Zandt, the Chargé of Texas to the United States, in negotiating a treaty for the annexation of Texas, Gen. Henderson was appointed by President Houston Minister Plenipotentiary for that purpose. Gen. Henderson and Mr. Van Zandt had but little difficulty in negotiating a treaty with Mr. Calhoun, who was then Secretary of State of the United States. This treaty was, however, rejected by the Senate. Subsequently the resolutions of annexation passed. Gen. Henderson was warmly in favor of annexation, and his exertions and speeches in behalf of that measure must be well remembered by many who now hear me. In 1845 he was elected one of the members from San Augustine county to the Convention which framed our State Constitution. This is generally conceded to have been the ablest political body which ever assembled in Texas, and he was one of its leading members. It may not be improper to mention here, as an illustration of the liberal and enlarged views by which Gen. Henderson was always actuated, that one of the ablest and most extended speeches he made in the Convention was in opposition to that clause of our Constitution which unconditionally prohibits ministers of the gospel from

being members of the Legislature. He did not think it would be inconsistent with the notions of propriety which every minister ought to entertain for him to engage in political contests, but still he thought that was a matter for his own consideration. He regarded the prohibition not only as a reproach upon the ministry, but as absolutely depriving a citizen of one of the ordinary rights of freemen merely because he followed his own judgment and inclination in adopting a profession. His reasoning on this subject exhibits his usual clearness and power, and will well repay a perusal. In the course of his speech he paid a merited tribute to a worthy and faithful minister who survives him, and is now present, and who, I trust, will not forget the efforts of Henderson to remove the stigma which the Constitution has placed upon his sacred calling. He was, however, unsuccessful in opposing the provision, and it became a part of the Constitution, although his views were sustained by some of the ablest minds in the Convention, among whom was his predecessor in the Senate, the lamented Rusk.

In November, 1845, Gen. Henderson was elected Governor of Texas. In the spring of 1846, the war with Mexico having commenced, a requisition was made on Texas for four regiments of volunteers. They were raised, and Governor Henderson took command of them in obedience to a resolution of the Legislature of Texas inviting him to do so. When the troops from the neighborhood of Austin left for the seat of war, Gen. Henderson was unable to leave his bed. A week later he started in a carriage with only one or two friends and without an escort, though his route lay within a short distance of a large body of Mexican troops. He led the second Texas regiment in person on the third day of the attack on Monterey. There are those present to-day, doubtless, who know how gallantly he bore himself on that field of danger. On one occasion, on the last day, in an attack upon a house from which a murderous fire was pouring, Gen. Henderson, in reconnoitering, before he observed it, was cut off from his men. In order to regain them he had to pass for some distance along a narrow street, lined on both sides with houses, the tops of which were covered with men to whose guns he offered the only aim. Deeming it reckless to throw away his life if he could save it, he made his way to his command on his hands and knees—in this respect imitating the great Napoleon, who was forced to adopt the same method of avoid-

ing the murderous volleys fired at him when he effected his entrance into Vienna. That noble and chivalrous son of the South, the Hon. Jefferson Davis, whose command was near Henderson's on that important day, in describing this circumstance uses the following language: "On the third and last day of the attack, when night was closing around us, and we were near to the main plaza, we learned that we were isolated; that orders had been sent to us to retire; that the supports had been withdrawn, and that we were surrounded by a large number of the enemy. A heart less resolved, a mind less self-reliant than Henderson's might have doubted, wavered and been lost. The alternative was presented to him of maintaining a post which he was confident we could hold, or of retiring, when it was doubtful whether we could cut our way through the enemy; he asked no other question than 'Are we ordered to retire?' On learning that such was the fact, he decided, at whatever hazard, to obey; and narrowly on that occasion escaped with his life. The sense of duty rose with him superior to all other considerations; and he obeyed an order which he might have been justified in disobeying, because of the dangers to which it would subject him."

Could a higher eulogy be pronounced on any man? And in every department of life wherein he was called to engage, we see this "sense of duty rising superior to every other consideration." At the bar, in the cabinet, in the field, in private life, whenever he was called upon to do an act, or a subject was proposed for his consideration, he asked but the one question, "Is it right?"

It is unnecessary to say anything of Henderson's courage to you, his personal acquaintances and friends. To quote again from the eulogy of Col. Davis, you know that he was "gentle as the lamb in the midst of his friends, but bold as the lion in the face of danger, and when confronted by an enemy." No Sir Knight ever fought more valiantly than would Henderson for his country, or for a just cause, and none could be more kind and generous than he to a fallen foe.

Gen. Henderson was one of the commissioners appointed by Gen. Taylor to negotiate with Ampudia for the surrender of Monterey. For his services in that battle Congress voted him a sword in connection with the heroic Quitman and two other major generals.

As another instance of the probity he practiced in the discharge of his public duties, it may be mentioned that while in the war with Mexico he was appointed a major general in the service of the United States, and was entitled to the pay of that office as well as to his salary as Governor of Texas. But he declined to receive any portion of the compensation due him as Governor while he was absent from the seat of government, and accepted only his pay as an officer in the army, deeming that most clearly due him for labor performed, and considering also that as between Texas and the United States the former was much more in want of every dollar in her treasury. After the close of the war Gen. Henderson returned to Texas and resumed his duties as Governor. At the expiration of his official term he declined a re-nomination, and resumed the practice of his profession. He steadily declined to hold any other public office until November last, when, after the death of Gen. Rusk, he was unanimously chosen his successor by the Legislature of Texas, in response to what was the general voice of the people, according to the most unmistakable indications.

In politics Gen. Henderson has always been recognized as belonging to the great Democratic party founded by Mr. Jefferson. He was zealous and energetic in behalf of his party, yet he would advocate no measure, he would support no principle he did not believe to be right, and which could not secure the approbation of his conscience and the conviction of his judgment. He was one of the few public men who acted out the maxim of Paley—that “what is morally wrong can not be politically right.” Majorities were sometimes against him, but they moved him not when his own mind and heart were satisfied with the position he was occupying. To borrow the language of one of his great compatriots, he “could neither be coaxed or dragged into doing anything he believed to be wrong.” He liked to agree, as all would, with majorities, if he could do so upon principle, but if he could not, he felt assured that—

“One self-improving hour whole years outweighs  
Of stupid starers and of loud huzzas.”

While Gen. Henderson was a National Democrat, it is most unquestionably true that an attachment to the rights and interests of the Southern States was a controlling feature in his political

creed. But I feel that on this occasion it is proper that I should, and that I am fully authorized to say, that Gen. Henderson was *not a disunionist*, in the offensive sense which that term is sometimes made to assume. He believed that true conservatism consisted in never yielding a right principle; hence he was generally opposed to all the so-called compromises on questions affecting the rights and interests of the South with regard to negro slavery. He believed the Southern States to be *equal*, not *inferior*, members of our great confederacy. He thought that our citizens had a right to go with their slaves to any of the common territories of the Union, and he was not willing to say or do anything, to make any agreement which would, to the slightest extent, compromise or jeopardize this right. He believed that if the South could be united and firm in the maintenance of her rights, and would exhibit a determination to resist if trampled upon, the North never would perpetrate the great wrong of depriving us of equality in the Union; of preventing the voluntary expansion of our institutions; or worse, of dispossessing us violently of our property, inherited to a great extent from Northern ancestors. In the last letter I ever received from him, but a short time before his death, he expresses in strong terms the earnest and burning desire of his heart to see the Southern States for once united in sentiment, feeling and action.

I say that Henderson was not a disunionist—that he believed the North would not oppress the South, or palpably violate the Constitution if she saw we were united and resolved to resist such wrong; *but if she did*, he could see no fancied sanctity in the word *Union*, when its objects and purposes were forgotten and abandoned. He could not see that we of the South were bound in perpetual fealty to uphold it if it should ever be made the instrument of our oppression and subjugation. He hoped and most fervently prayed, as must every patriot, that it might never be made so. But to say that he desired a dissolution of the Union for the mere sake of its destruction, is a foul misrepresentation of his political opinions, as it is also of those of any man of ordinary intelligence. Putting patriotic considerations entirely aside, no man who is not stupid wants to see the Union separated for the mere sake of breaking up the government. But there are many, very many, who believe that the South is not the inferior section

in wealth, resources, patriotism and intelligence; who are wearied and irritated with the everlasting cry of *sin* of negro slavery; who do not believe that it is a *sin*, morally, politically, religiously or socially; who think that its natural expansion throughout the South and West is the means designed by the Great Creator for the redemption of our rich and uncultivated valleys; who believe that as it exists in the Southern States, under the ameliorating influences of Christianity and Education, it is the normal condition of the negro race; who believe that its existence in its present form, and with its prospects of improvement, is promotive of the happiness of both races, the white and the black; and who are not willing to submit to any measures which have in view, directly or remotely, now or in the future, the crushing out or ultimate extinction of that much abused "peculiar institution." Among such was Gen. Henderson.

And upon questions of this sort, as in anything else, he believed it best to be perfectly candid. He would not equivocate or conceal an opinion he had on any subject; and more especially in regard to matters of so much importance to us and our children. He believed it better, both in justice and policy, to let the North understand precisely where we stood; that we sought no interference with their legitimately domestic affairs, and would permit none with ours; that we were entitled equally with them to share the common territories of the Union, and should insist upon all our rights.

Hence, his boldness in asserting his opinions, and fearlessness in maintaining them, together with his abhorrence for anything like duplicity or political conciliation, if it involved concession of right, may have contributed, in some small degree, to aid the efforts of those who desired to represent him, and all who think with him, as disunionists. But he was not so; he loved this great country, and when called upon was ready as the quickest to draw his sword in her defence; he desired to see *the* Union under *the* Constitution perpetuated to the "last syllable of recorded time;" he desired her prosperity to enlarge, and her influence to expand until she could rival the proudest powers of the earth; but he ardently desired, meanwhile, that in the fruition of her greatness his native and beloved South should have no brand of inferiority fixed upon her.

It is furtherest from my desire to wake a partisan spirit upon this solemn occasion. But I appeal to Henderson's friends personally—

to those who knew the man—to Texians, irrespective of political party names—to Southern people everywhere, from the valley of the Potomac to the valley of the Rio Grande—to ask themselves the question, if we do not need more such men as he and his compeers? It is *possible* that their counsels may be wrong, and that I may be wrong in thinking them right. But has not the policy of concession and compromise been pursued ever since the unfortunate agitation of the question, which has kept up a hostile feeling between the North and South; and how much brighter is the prospect of our being allowed to repose in the quiet enjoyment of our rights, property and pursuits than forty years ago it was? They only counselled us to caution and watchfulness, and no man can speak truly and say that these will do us harm. The surest way to prevent oppression is not to give to any who may desire to do it the power to oppress you. A distinguished Southern senator who still lives while recently expressing high hopes and patriotic desires for the perpetuity of our glorious Union, has said that we should “mark time and be ready under any circumstances or terms to act promptly in resisting any actual interference with our rights.” And at this important and solemn period when Rusk, Butler, Quitman, who may be aptly styled the “Iron Duke” of the South, and Henderson—all ardent, and as admitted by all, *honest* friends of the South—have just passed away, does not the respect for their memories, the light of past experience, a just regard for our own rights, and love for our children, and the land which must be their home, impel us to pause above the graves of these distinguished patriots and inquire if there is not much wisdom in their opinions, and much sound policy in their candor and boldness in expressing them?

To my Masonic Brethren I have much pleasure in saying that our Brother Henderson was a devoted friend and patron of our Order. He was somewhat later in life in forming a connection with our Fraternity than is usual, but for this his reasons were entirely satisfactory. He always admired the principles and objects of the time-honored society; he always believed it a friend to virtue and promotive of the good of man. But in the earlier days of Texas, owing to the promiscuous character of our inhabitants, it is lamentably true that many unworthy men became



connected with us, with whom not only good men not Masons refused to associate, but with whom also Masons from the older States refused to fraternize. This evil time soon remedied. General Henderson was made a Master Mason in Red Land Lodge, No. 3, in December, 1852. There are present several Brothers who with me participated in the ceremonies of his initiation, passing and raising, and they will well remember the very solemn and favorable impression made upon his mind by our ritual. He expressed himself gratified with our organization, and to the day of his death was a zealous and faithful craftsman.

Must anything be said of Gen. Henderson as a neighbor and friend to those among whom he lived for sixteen years? This large assembly, who have come out to lay garlands of friendship on his tomb, attest how much he was beloved. The noble and generous qualities of his heart were more fully drawn out in the ordinary transactions of private life. His purse, his example, and his influence encouraged every measure of public improvement, and promoted every enterprise of benevolence. His kindness to the poor, and his sympathy for the distressed, are proverbial among the citizens of San Augustine county. It was universally known that his professional services could be had in behalf of a meritorious cause, or an injured or oppressed client, "without hope of fee or reward." I shall not soon forget with how much emotion a venerable and worthy citizen of Rusk county described to me one of his speeches in defence of a poor and friendless orphan boy who had been indicted for an aggravated assault upon a man who had calumniated the boy's mother. Said he, "Never—and I have frequently heard him—have I heard Henderson make such a speech; the court house was filled to overflowing, and among all present not a heart was free from feeling, and hardly an eye was free from tears."

To sum up in brief the imperfect sketch of the life and public services of General Henderson, which I have attempted to give to-day, two features are plainly discernible as the chief and controlling elements of his character. They are *the integrity of his purposes*, and *the practicality of his mind*. No "Roman Statesman," "in the happiest days of the Republic," no citizen, public or private, in any land, was ever more conscientious in his opinions, or more honest in his practices. There are those who have gone further in ana-

lyzing abstractions, who have made further explorations in the fields of science, who have made deeper researches into the tomes of history and literature, who have wasted more time in the regions of poetic fancy, but there are few who have done more in promoting the practical, actual good of society than Henderson. Everything he said or did had some immediate practical end in view. If he made a speech at the bar, it was to gain his client's cause; not to enrapture or amuse the jury. If he proposed or advocated a change in legislation, it was to effect some *real* good, to remedy some present evil. If he espoused a political measure, it was to uphold some important right, or redress an actual or impending wrong. In nothing was his practicality more manifested than in his speeches, of which I have thus far said nothing. He was eloquent, as every one felt and knew who heard him. But his speeches were not modeled after treatises on rhetoric, or conformed to any arbitrary rules of elocution. He spoke as he felt. All who heard were impressed with his sincerity. It was the eloquence of truth in his speeches which carried all his hearers with him. He did not deal in far-fetched expressions or unnatural figures. The humblest man who heard him understood what he was talking of, while the most learned wondered that he had never before perceived the power of plainness of language, and simplicity and clearness of style.

His aged and venerable colleague in the senate never spoke more truly than when he said, "He was a bold, enterprising spirit; a man of indomitable will, of daring enterprise, and firm of purpose."

Texas may be justly proud of Henderson. When all her sons shall be as faithful to her interests, as conscientious in their views of public duty, as observant of all the requirements of a private citizen as he, we shall reach a degree in prosperity hitherto unattained. Young men of Texas, let me commend you to the imitation of his virtues and his industry. It is not often that you see a man no older than he, who has filled so many stations of trust and confidence, or who has arrived at such a high degree in the admiration and respect of his countrymen. No man labored more intensely than he at whatever he undertook. All of you may not be able to become his equal intellectually; but you *can* devote *all* of your energies and abilities, honestly and faithfully, to whatever of life's duties may fall to your share; and if you do this, you will not

fail to accomplish much that will be useful to yourselves and the age in which you live.

“Lives of great men all remind us  
We can make out lives sublime;  
And departing, leave behind us  
Footprints in the sands of time.  
“Footprints that perhaps another,  
Sailing o’er life’s stormy main,  
A forlorn and shipwreck’d brother,  
Seeing, may take heart again.”

The last hours of Gen. Henderson were calm and peaceful. To some of his friends around his bedside he said, substantially, that though he had made no ostentatious profession of religion, yet that he had felt it in his heart.—But amid the love of his friends and his countrymen, the respect of his peers, and the sorrows of his family, he has passed away. How forcibly does his death teach us “what shadows we are, and what shadows we pursue!” He had just arrived at a position where his talents would have been most useful to his country; he was at the very culmination of his honors. Yet, death, relentless, spared him not. While the very necessities of human existence *will* consume much of our time, should we not be taught by this solemn admonition, to employ some of it in preparing to meet the messenger, who may come “at an hour when we least expect him?” While we are paying worthy honors to the memory of our departed friend and brother, let it be a useful lecture to us, who survive him, on the uncertainty of human life, and the mutability of human pursuits. Death has recently been busy with the great conservative patriots of our country. Senators, diplomatists and jurists have been stricken down to the level of the tomb. While we mourn their loss, and pray for direction from Heaven in the choice of their successors, let us not forget the lesson their death so impressively teaches:

“The boast of heraldry, the pomp of power,  
And all that beauty, all that wealth e’er gave,  
Await, alike, the inevitable hour,  
The paths of glory lead but to the grave.”

## SIEUR LOUIS DE SAINT DENIS.

REV. EDMOND J. P. SCHMITT.

One of the most striking figures on the stage of early Texas history, undoubtedly, is the Sieur Louis de Saint Denis, called Huchereau de St. Denis for the first time by Yoakum in his *History of Texas*.

The writer of these lines had for ten years been investigating the career of the Sieur Louis Juchereau de St. Denis, the founder of Poste Juchereau on the Wabash (or lower Ohio) river, when he came across the aforementioned statement in *Yoakum*.

From the collation of *documentary* evidence I am led to believe that the Sieur de St. Denis who plays such an important and interesting part in early Texas history is confounded by the writers on this topic with Juchereau de St. Denis; for, not once in all his correspondence does the Texas St. Denis sign himself Juchereau (or Huchereau), nor is there a single piece of documentary evidence to bear out the assertion that he bore that name. For, though *Yoakum*, in his *History of Texas*, calls him Huchereau, and quotes in evidence the *Testimonio de un Parecer*, from the *Archives of Bexar*, the original document as reprinted in the *Appendix* calls him Don Luis de San Denis.<sup>1</sup> All subsequent writers on the subject, such as French in his *Historical Collections of Louisiana and Florida*, Sydney Lanier, H. S. Thrall, John H. Brown, have failed to produce or quote any authority for the name of Huchereau.

When Anthony Crozat obtained the charter to farm the revenues of the Province of Louisiana, he directed the newly appointed Governor of the Province, Lamothe Cadillac, to establish a trade with Mexico. To carry out these orders he selected Louis de St. Denis, who had been an efficient officer in the French colonial army, but having failed to receive any salary, had retired to his plantation (of Ile St. Jean). Pursuant to the orders of Governor Cadillac, St. Denis set out from Mobile to Natchitoches, where he

<sup>1</sup>H. Yoakum, *History of Texas*, pp. 47, 49, 390, Vol. I.

left "a few men to form a settlement. With twelve men and some friendly Indians," says Yoakum, "he continued his journey, and in August, 1714, reached the mission of St. John the Baptist on the Rio Grande. They were received with hospitality by Villescás, the commandant of the post; and, making known the object of their long journey, were requested to wait till their business was communicated to Don Gaspardo Anaya, the Governor of Coahuila, and an answer returned. The Governor, for reply, sent a guard, who seized St. Denis and Jallot, his friend and surgeon, and conveyed them to the capital of the province! Here they remained in prison till, by the order of the viceroy, they were conducted to Mexico, and there imprisoned. At the end of six months they were released, or, as some say, escaped, and after two years returned to Mobile, the then capital of Louisiana. St. Denis having courted and married the daughter of the commandant of the mission of St. John, it is likely that he made arrangements for smuggling. The influence acquired by St. Denis over the Texan Indians was considerable; and when the Spaniards under Ramon, the uncle-in-law of St. Denis, established themselves at Adaes, the Indians were alike friendly with them. This all goes to sustain the assertion of Du Pratz, that the Spaniards were introduced there by St. Denis for illicit trade."<sup>2</sup>

The subsequent history of St. Denis is related by *Brown*, in his *History of Texas*, in the following words:

"It has been said that he had great magnetic power. This was acknowledged to a wonderful degree by the Indians. He had been appointed to command the fort at Natchitoches, and was brought in contact with them far and near, and could at any time on short notice command the willing services of 6000 or 7000 warriors.

"The Natchez particularly feared him, and after the massacre of the French settlers in Louisiana by that tribe on the 28th of November, 1729, the chiefs, believing that he would collect his friendly Indian forces and exterminate them, sent 200 warriors to entrap him. These, upon arriving near the fort (garrisoned by 30 soldiers) were discovered by the guards. The Natchez warriors sent a delegation to him, addressing him as 'big chief,' and begged him

<sup>2</sup> Yoakum, *History of Texas*, pp. 47, 48, Vol. I.

to make up the quarrel between him and the French. As proof of their desire for peace they proposed to surrender to him a French woman whom they had long held a prisoner. To this St. Denis agreed, stipulating only that but ten warriors must come within the fort to surrender the woman. The Indians retorted that to refuse to receive them all showed a lack of confidence in them that they did not deserve. He persisted, and ordered them to instantly surrender the prisoner, for whom he promised to pay a ransom.

"The Natchez, suspecting the real condition of the fort, thereupon began fortifying their camp, and erected in front of their tents a funeral pyre, upon which they bound the woman. St. Denis hastily sent messengers to his friendly Indians, and with twenty men from the fort at once made a furious attack upon the Natchez. At the first onslaught all of his men but eight were killed. For two hours he fought against desperate odds, hoping that reinforcements would arrive. 'He was seen,' says an historian of the time, 'springing like a lion among the crowd of warriors, forcing them back. He looked like an angel of vengeance accomplishing his work of destruction, invincible himself in the terrible fray. He fell at last, hit by three bullets in the head and two arrows in his breast.' There were but two survivors. The Natchez ceased firing and retired."<sup>3</sup>

In spite of these statements, St. Denis was still living five years later, for on Christmas day, 1735, he writes to the lieutenant general at Adaes, the ensign Joseph Gonzales.<sup>4</sup>

My chief object in presenting these thoughts to the notice of investigators of Texas history was to open the question as to St. Denis' identity to discussion and investigation, and by this means to arrive at a solution of the question. The chief point to be borne in mind, is to find *Documentary Evidence*. Flashes of intuition may brighten up the pages of history; they will seldom be the truth. And yet, if history is to be investigated and studied from a scientific point of view, truth must be the ultimate result sought for in our researches.

<sup>3</sup> John H. Brown, *A History of Texas*, pp. 18, 19, Vol. I.

<sup>4</sup> Pierre Margry, *Découvertes et Établissements des Français dans L'Amérique Septentrionale*, p. 238, Vol. VI.

The facts relating to Louis Huchereau de St. Denis are embodied in an article published by the author several years ago.<sup>5</sup>

In the fourth chapter of his history, *Dillon*, the father of Indiana history, says: "The wars in which France and England were engaged, from 1688 to 1697, retarded the growth of the colonies of those nations in North America; but soon after the peace of Ryswick, Louis XIV determined to send a large number of colonists to Louisiana, and to maintain garrisons among them, for their protection. Lemoine D'Iberville was appointed governor of Louisiana, and M. de Bienville was commissioned as lieutenant-commandant of the province. Under the direction of these officers, a number of adventurers emigrated from France, in 1698; and, in the course of the succeeding year, formed a settlement at Biloxi, on the northern shores of Lake Borgne, between Mobile Bay and Lake Pontchartrain.

"The early efforts which were made by France to establish colonies in the valley of the Mississippi, from Canada to the Gulf of Mexico, excited the jealousy and roused the fears of the English statesmen of those times. In the year 1698, Dr. D'Avenant, inspector-general of the customs, published some discourses on the public revenues and trade of England. In one of these discourses he said: 'Should the French settle at the disemboguing of the River Mississippi, they would not be long before they made themselves masters of the rich province, which would be an addition to their strength very terrible to Europe, but would more particularly concern England; for, by the opportunity of that settlement, by erecting ports along the several lakes between that river and Canada, they may intercept all the trade of our northern plantations.'

"During the period that elapsed between 1700 and 1712, the hostility of the Five Nations, or Iriquois confederacy, defeated the attempts which were made by the French to establish trading posts in the regions which lie adjacent to the southern shores of Lake Ontario and Lake Erie; but, in the month of June, 1701, Antoine de Lamotte Cadillac, accompanied by a missionary and one hundred men, left Montreal, and, in the month of July, arrived at the site of Detroit, where the party formed a permanent settlement.

"As early as 1705, Louis XIV invested Lamotte Cadillac with power to grant, or concede, the lands about Detroit, in small lots, to actual settlers."<sup>6</sup>

<sup>5</sup> Edmond J. P. Schmitt, *The Catholic Story of Indiana and the founding of Vincennes*: in four numbers of the *Catholic Record of Indianapolis, Indiana*.

<sup>6</sup> John Dillon, *A History of Indiana*.

It was the idea of France to withdraw all the Indians from the influence of the English, who were encroaching on the western territory; and, for the same reason, France did not strive to establish any posts along the Ohio or the Wabash. The route to Louisiana lay almost along the lines of Father Marquette's original return voyage of discovery from Michillimackinas to Dakansea. Penicaut, who lived for twenty-three years in the lower colony [1698-1722], writes, in 1700, that the Ohio leads to Canada, but that it is by the Illinois that one goes to Canada. The subsequent establishment of a post at the mouth of the Ohio, or Ouabache as it was then called, and the descent of the Sieur Juchereau by the above route confirm this statement; while among the many documentary relations, published by *Margry* and others, we learn that this was invariably the route chosen from which they set out on their western discoveries, either from Louisiana or the Upper Province. Henri de Tonty, who had accompanied La Salle in his exploration of the Mississippi, had already demanded a concession of the Arkansas country, and the government of a post on the Wabash.<sup>7</sup>

In a letter to Jerome Pontchartrain, dated Paris, 27 February, 1700, the Sieur Juchereau de Saint-Denys writes:

"Monseigneur:— I have the honor to send your lordship the memoirs which you demanded, agreeable to your intentions of establishing a colony on the Mississippi. The last article will show you that the general permission to go there can but augment the revenues of the king, and reimburse him for the expenses of the establishment.

"If, for the execution of this project, your Excellency is desirous of employing my services, I will strive to render my experience useful, and show you that I have not in vain applied myself during twenty years in learning to know what can establish and render a colony flourishing."<sup>8</sup>

Jerome Pontchartrain, in a letter dated Versailles, 4 June, 1701, to MM. de Callieres and de Champigny, announces authorization of Juchereau de Saint-Denys to go to the Mississippi, with twenty-four men:

"The king being favorably inclined towards the enterprise by which he is assured he may profit by the discovery of the Mississippi, has listened to the proposition made by the Sieur Juchereau de Saint-Denys, to establish tanneries there under certain conditions, of which he sends him a copy. His Majesty advises that this establishment give no occasion for any abuse, and that he be exactly

<sup>7</sup>Cfr. *Margry*, *Découvertes*, etc., Penicaut's Relation *passim*, and p. 349, Vol. V.

<sup>8</sup>*Margry*, *Ibid.*, pp. 349-350.



informed of anything that may come to their notice on this subject."<sup>9</sup>

The Concession itself is dated Marly, June, 1701, worded as follows:

"Concession accorded to the Sieur Juchereau to establish a tannery on the Mississippi.

"His Majesty having accepted of the proposition made by the Sieur Juchereau, lieutenant-general of the jurisdiction of Montreal, of establishing tanneries in the lands occupied by the French on the lower Mississippi, has accorded him the following conditions:

"1. His Majesty permits him to pass from Canada to the Mississippi, with twenty-four men, who may take eight canoes, while he may choose in that colony two trustworthy persons, to aid him in the successful issue of his enterprise, deciding that he be, during the period of three years, commissioned to exercise judicial powers at his place, provided he be accepted and approved by the Sieur de Champigny, intendent of Justice, Police and Finances in New France.

"2. In case he thinks it advisable not to go to the Mississippi in person, his Majesty, nevertheless, permits him to send those twenty-four men and two trustworthy persons.

"3. He may take along in those canoes all the tools and utensils necessary to the workmen he may send, and all merchandise of which he may be in need, except rum, of which he shall not carry more than he may need for the Frenchmen in his employ, his Majesty forbidding him to sell any to the savages.

"4. His Majesty permits him to establish tanneries in the places he may deem fit, and for this purpose may also put up all the store-houses and buildings he may need.

"5. He may send during the first three years of his establishment, three canoes each of the three years to Montreal, to get those things of which he may be in need.

"6. To trade and buy all sorts of skins which can be tanned, or raw hides, with the exception of beaver skins, in which his Majesty will not suffer him to traffic, neither directly nor indirectly, declaring him forfeited of all the privileges and conditions, mentioned herein, if he violates his intentions in this matter.

"7. His Majesty also grants permission to work the lead and copper mines, should he discover such.

"8. He shall be obliged to have an almoner, for saying mass and administering the sacraments to his workmen. His Majesty gladly permits that he himself choose the one, but he shall not

<sup>9</sup> Margry, *Découvertes*, etc., pp. 350, 351.

send him before he has been accepted by his lordship the bishop of Quebec, or in his absence by his vicar-general.

"His Majesty commands and ordains the said Sieur de Callieres, governor, and his lieutenant-general in New France, and to the said de Champigny, to see that this concession be executed."<sup>10</sup>

The Chevalier de Callieres and M. de Champigny wrote to the minister on the 5th of October, 1701, begging that France rather than the colony make this establishment; that the colony of the Ouabache be limited, and expressed the fear that the beaver trade, which was one of the chief sources of revenue for Canada, would be drawn into other channels.

"The permission," continued the letter, "which has been accorded the Sieur Juchereau, to take from this place to the Mississippi twenty-four men in eight canoes, under pretext of there establishing a tannery, will consummate our ruin, since he will not fail to carry away, in going, all the beaver and smaller furs which he may find, and will thus have the better share of the trade of the country at the exclusion of the colony. For, if he had not this design in mind, what reason could he have of carrying merchandise to the Mississippi by way of Canada, the expense being enormous, being able to obtain them at much better bargains from the vessels that come direct there from France? Nor does it seem likely that the said Sieur Juchereau comes here to seek persons who are fit to go with him to establish a tannery, since those who have establishments in this country are obliged to bring them over from France to work here. Hence it is obvious that they have nothing else in view than the trade in beaver skins and other furs, which at present are the sole income of Canada. In the meanwhile we will follow out the instructions which you have given the Sieur Juchereau, and the Sieur de Callieres will permit him to depart whenever he asks."

They then requested that the new colony be limited to the River "Ouabache," "where our allies the Miamis hunt, that we may establish several posts to prevent any one from going by this route to the English."<sup>11</sup>

In the meanwhile, the directors of the company framed the following petition:

Copy of a request presented to Monsieur the Governor-General of Canada, and to Monsieur the intendant by Messieurs the directors of the company of Beaver-Castors, against the enterprise of the Sieur Juchereau for the commerce in leather on the Mississippi.

<sup>10</sup> Margry, *Découvertes*, etc., pp. 351, 352.

<sup>11</sup> *Ibid.*, pp. 356-360.

To Monsieur the governor-general and to Monsieur the intendant:

"The undersigned directors-general of the company of the colony of France, humbly show that they have received information that M. de Juchereau, lieutenant-general of Montreal, has obtained permission from the king to make an establishment on the Mississippi River, and to send there twenty-four men in eight canoes, or to take them with him to establish tanneries; and that he may send three canoes to Montreal every year to bring him those things which he may need. On which the said directors most humbly beg to remark that Sieur Le Sueur obtained permission to go to the same place for the discovery of mines, should there be any in those regions. He was forbidden, as is the said Sieur Juchereau, to traffic in beaver skins, which commerce he has now carried on for more than three years, since he received the aforesaid permission, without having done anything at all towards the exploitation of said mines, having devoted himself solely to the traffic in pelts, which he has sent to his correspondents at Montreal. But if the said Le Sueur has caused great hurt by this commerce, the said Sieur Juchereau will cause considerably more, since, leaving Montreal with eight canoes, he will obtain the best bargains in the trade with the savages, buying the better furs, which he will send back immediately to Montreal, if he be permitted, as he is in fact permitted, to send three canoes every year. And, if such grants abound, the consequence will be that those who have obtained them will do all the trading. The Sieur de la Forest is evident proof; he was only to trade at the Illinois. But in reality he has a house at Michillimackinac, where he openly trades with the savages at that place and surrounding country, and under pretext of going or sending to the Illinois, he received at Michillimackinac the merchandise, making bargains with those who are in charge before a notary, afterwards he makes his private bargains with them to barter the goods in secret with all the savages indifferently. Thus all these grants will ruin the entire commerce of the country, and will make it impossible for the company to sustain the expense which it must bear to keep the post of Detroit, and to pay the sum of six thousand livres which his Majesty has ordered to be given to the poor families of this country. If the said Sieur de Juchereau says that he will not deal in beaver skins, it is not credible that he can keep his promise, since it is too difficult to pass among the nations who have them, without buying them, giving them at the low prices they ask.

"Moreover, it is impossible to know this, on account of the difficulty of employing persons in a country so far away from this place, as they will cost us too much, when they can remain here without any danger of their lives. If the aforesaid Sieur de Juchereau had

nothing else in view than the establishment of tanneries, on the Mississippi, he could go down, as did Le Sueur, in the vessels that go there direct, and which would have carried, and will carry, the men and those things of which he is in need more easily and cheaper; and he need not make a threefold expense, did he not desire to benefit by the trade, and be able to send his beaver skins whither he desires.

“It is these considerations, and many others, that oblige the said directors in order to acquit themselves of their duty towards the Company-general of this country—which relies on them as to those things which regard their business, and who would be entirely ruined by similar grants—beg you to delay the departure of the said Sieur de Juchereau and the said twenty-four men until we have new orders from the court. You will act in justice to have the goodness to inform his Excellency the Count de Pontchartrain of these reasons and those which you fully conceive.

[Signed]

CHARTIER DE LOTBINIERE,  
FRANCOIS HAZUR,  
GOBIN,  
MACART ET PEYRE.<sup>12</sup>

The Sieur Juchereau defended himself against these accusations in a memoir which he addressed to Mme. the Comtesse de Saint-Pierre:

“Some persons have been found in Canada, so jealous of that which Monseigneur de Pontchartrain, at your request, has accorded me, that they insinuate to the people that they should oppose themselves against the execution of the king’s order, which I have obtained, to establish the leather trade on the Mississippi, because they have presented a request that my enterprise should be arrested until his Excellency gives me further orders, on the supposition that the commerce in leather which I proposed was but a pure pretext to obtain for myself the largest part of beaver and other pelts that reach Canada, whereas, in order to enjoy the privileges which Monseigneur de Pontchartrain granted me, I was obliged to give in writing:

“First, That I promised under such penalty as they thought proper to impose on me, never to trade in beaver skins, in any manner whatever, nor in any other furs, until I should have reached the place designated by my order.

“Secondly, I signed an agreement that inspectors should be sent with me, who could render an account of my conduct.

“These two articles I willingly signed, because I have always believed that they were agreeable to the intentions of his Excellency;

<sup>12</sup> Margry, *Découvertes*, etc., pp. 363–365.

but, besides this, I am forbidden to make use of the privilege granted by order of the king, to send during the first three years of my establishment, three canoes each year to Montreal.

"You will please to ask Monseigneur de Pontchartrain that he allow me to enjoy the privilege of those three canoes, for should, unhappily, the vessel that is to bring my stores from France be lost in coming to the Mississippi, I would have no other resource than wait until such stores were established in this new colony, should the three canoes be prevented from going to or coming from Canada.

"Moreover if my enterprise succeeds, as I have reasons to believe it will, I will be obliged to have my family brought to that place, which I could not do if I had not the privilege of the canoes, since it is most certain that the governor might perhaps never permit me to go back, if I should return: It is absurd to believe that I wish to use the three canoes to carry furs into Canada, since it is so much easier for me to have them sent by vessels on the Mississippi, by which I can also more easily obtain the goods I need, when I can get them there; for, to go to Canada, I will be obliged to make six hundred leagues more than to the vessels coming to the Mississippi, going or coming.

"I must also ask Monseigneur de Pontchartrain, in consideration of the expense I am obliged to undergo, which amounts to more than four thousand livres, to grant me four thousand-weight of fine powder every year, paying him the same price as traders pay the king; but he should have the goodness to order that the powder be sent in the king's ships, to be sold on the Mississippi, where I will pay at the rate noted below."<sup>13</sup>

Accordingly the post was established at a point where the Ohio disembogues itself into the Mississippi. When M. d'Eraque in 1701 abandoned Fort Huillers, and with his party returned to Mobile, he met at the Ouisconsin, M. de Juchereau, whom Penicant in his *Relation* styles "lieutenant-criminel of Montreal in Canada." He was accompanied by thirty-five men, and the entire company descended to Illinois.

In the *Relations des Affaires du Canada* (1606-1702) is a letter of P. Gabriel Marest, S. J., to Father de Lamberville, wherein he says: "M. de Juchereau takes with him P. Mermet. Since I understood that M. de Pontchartrain has this establishment much at heart, I have rendered M. Juchereau every service in my power, and accompanied him to thirty leagues from my village, to find Ronsa, the place where he will spend the winter, and to make the attempt to assemble the Illinois at Ouabache: but there are many obstacles, and I think they will have trouble to come to a result.

<sup>13</sup> Margry, *Découvertes*, etc., pp. 366-368.

M. de Juchereau makes too great promises, but he believes his undertaking will be successful. The father who is with him is not altogether satisfied; he is neither missionary, there being no savages under his care, nor almoner, having no salary. At the same time, he has no one to assist him in his need. The only documentary traces of Father Mermet's labors there is what the letter of Father Marest, dated *Kaskaskia*, 9 November, 1712, contains:

"The French had come to establish a fort on the river *Ouabache*: they asked for a missionary and the Pere Mermet was sent to them. This father thought he should also labor for the *Mascoutens*, who had made a village on the banks of the same river: they are a nation of savages who speak the Illinois language, but by the extreme attachment they have for the superstitions of their charlatans, they are not well disposed to listen to the instructions of the missionary." This was a band of the *Mascoutens*, drawn to the mouth of the *Wabash* by *Lemoyne d'Iberville*, when in his memoir of 1702 he recommended the occupation of the Illinois country by the *Mascoutens* and *Kiekapoos*. Father *Charlevoix*, who passed the spot in his voyage down the *Mississippi*, refers to it as follows: "The labors among the *Mascoutens* met with less success. The *Sieur Juchereau*, a Canadian gentleman, had begun a post at the mouth of the *Ohio*, which empties into the *Mississippi*, constituting the shortest and most convenient communication between *Canada* and *Louisiana*, and a great many of the *Indians* had settled there. To retain them, he had persuaded Father *Mermet*, one of the *Illinois* missionaries, to endeavor to gain them to *Christ*: but that missionary found an indocile tribe, excessively superstitious, despotically ruled by medicine men." Then he relates the anecdote following, as told by Father *Marest* in the above letter. "The way he took was to confound, in the presence of the whole tribe, one of these charlatans whose *Manitou*, or *Great Spirit*, which he worshipped, was the *buffalo*. After leading him on, insensibly, to the avowal that it was not the *buffalo* that he worshipped, but the *Manitou*, or *Spirit* of the *buffalo*, which was under the earth, animated all *buffaloes*, and healed the sick, and had all power, I asked him if other beasts, the bear, for instance, which some of his nation worshipped, was not equally inhabited by a *Manitou* which was under the earth." "Without doubt," said the *Indian*. "If this is so," said the missionary, "men ought to have a *Manitou* which inhabits them." "Nothing more certain," said the *Indian*. "Ought not that convince you," said Father *Mermet*, "that you are not very reasonable? For, if man, upon the earth, is the master of all animals—if he kills them—if he eats them—does it not follow that the *Manitou* which inhabits him must, necessarily, have a mastery over all other *Manitous*? Why, then, do you not invoke him, instead of the *Manitou* of the *buffalo* and the bear, when you

are sick? This reasoning," continues the missionary, "disconcerted the charlatan; but this was all the effect that it produced."

"A pestilential malady soon broke out among the Indians who were settled around this new post; and notwithstanding the kind offices of the missionary, they died in great numbers. With a hope of arresting the progress of the fatal epidemic, the Indians determined to make a great sacrifice of dogs." Forty of these poor animals, innocent as they were of the cause of the epidemic, to satisfy their suspicious Manitous, were immolated and carried on poles, in solemn procession round the fort. While the procession was moving, the jugglers were uttering exclamations, which, as recorded by Father Mermet, were as follows: 'Manitou of the French! do not kill us all! Softly—softly there! Do not strike too hard. Spare us, else we all die!' Then turning to Father Mermet they would say: 'Oh, Manitou! truly thou hast life and death in thy sack. Keep in death, and give out life.'"<sup>14</sup>

In the autumn of 1702 M. Juchereau sickened and died. M. de Saint-Lambert, who was at the fort, wrote to M. de Bienville, announcing the death of their leader; he asked what should be done with the merchandise which M. Juchereau had amassed. In answer M. Bienville sent a canoe and six workmen who were to construct canoes for him, and bring down all the goods and the thirty-five persons: After having finished the canoes they freighted them with more than twelve thousand buffalo hides, which they brought to the establishment of M. de Saint-Denis. M. de Saint-Lambert then descended to Mobile with thirty men, having left the others at the fort with M. de Saint-Denis.

<sup>14</sup> Dillon, Indiana.

SOME OBSCURE POINTS IN THE MISSION PERIOD  
OF TEXAS HISTORY.

WALTER FLAVIUS M'CALEB.

The history of Texas for more than a hundred years after the coming of the French is fragmentary and unsatisfactory. The casual reader can not have failed to be impressed by this fact, while the student discovers long lapses and obscurities in the story. The object of this article, then, shall be to point out a few of the gaps which exist in our knowledge of the century. The period which properly falls within our scope is marked, in a way, by the subject of this article; but, a little more definitely, it may be said to begin with the landing of La Salle in 1685 and to close with the secularization of the principal missions in the province in 1793.

The first narrative we know which tells of Texas reads like the wildest fiction. There is something pathetically romantic in the fateful coming of the Chevalier de La Salle and the little French colony to our coast; there is something strangely fascinating in the struggles of the Franciscan fathers to bring the red men to Christ. The halo of romance which surrounds this period is due in a measure to the meagerness of our knowledge concerning it. Little has been done to bring out of the archives of Bexar, Monclova, Chihuahua, Querétaro, City of Mexico, and Madrid the facts which would give us an accurate historical picture of the time. Until this is done, we must content ourselves with what we have of its history.

When La Salle anchored in the Espiritu Santo in 1685, he found himself in a land, which had been explored to be sure, but which had no civilized inhabitant; and with the erection of Fort St. Louis arose the dispute over the possession of Texas, to which the United States became a party by the purchase of Louisiana, which came so near precipitating a war with Spain, and which made possible the designs of Aaron Burr. The question was altogether unsettled till 1819, and indeed it finally did involve us in an unjust war with Mexico, which ended only with the treaty of Guadalupe Hidalgo. The matter now, so far as we are concerned, is settled,



and Mexico, though displeased, has come to look upon it in the same light.

There were, moreover, other consequences attendant upon this entry of the French; not directly, it may be; but all indirectly traceable to this one event. The entire life of the State has felt its influence. In the first place, the occupation of the country by Spain was thereby brought about. Indeed, it is possible that except for the French occupation of a day, as it were, Texas would have remained destitute of Europeans for scores of years. The lasting effect of it all is seen to-day in the laws, the institutions, the language left for our eternal heritage.

It is scarcely necessary to state how the French colony came to an end; the story is too well known to bear repetition. Perhaps I should say stories; for the truth is, more than one have appeared in print. But the generally accepted version is that through disease and conspiracy the colonists melted away, and that finally the tomahawk silenced the last soul in the miserable Fort of St. Louis. The other side is inclined to aver that the Spanish knew something of how the last Frenchman died. Doubtless the latter view has for its basis the several expeditions known to have been dispatched by Mexico in search of the French. How many there were and what they accomplished, the world is left yet to conjecture. Some were by sea and some were by land; but it was not till April 22, 1689, that a Spanish force<sup>1</sup> under Gov. Alonzo de Leon of Coahuila reached the blackened and deserted spot which had witnessed the rising and the setting of the French dominion in Texas.

It may seem a little strange that only with the coming of La Salle were the Spaniards brought to realize the fact that Texas, a country first sighted and explored by sons of Spain, might be lost to them. From this event, however, is reckoned the inception of the plan for the occupation of this territory, so fair with its meadows and hills and so peaceful with its kindly red men. De Leon's glowing report of the country, together with that of Padre Manzanet—who must be remembered as the father of Texas missions—concerning the friendly Indians, caused the viceroy, Galve, to consider the question of sending out a company to settle the land. Just at this time of indecision the report came that the French

<sup>1</sup> Bancroft, *North Mexican States and Texas*, Vol. I., pp. 399, 400.

from Louisiana had entered the territory of the Tejas Indians, and quickly was the viceroy brought to a conclusion.<sup>2</sup>

In the spring of 1690, a party consisting of about one hundred persons, with Gov. de Leon in command, set out for the region of the Tejas for the express purpose of erecting a mission. To this end three Franciscan friars under Father Manzanet accompanied the expedition. From Mexico they marched to the east till the Trinity (*Trinidad*) was crossed into the land of the Tejas. June 1, 1690, *Te Deum Laudamus* was chanted in the first mission. It was named San Francisco de los Tejas, in honor of St. Francis d'Assisi, the founder of the order of Franciscan friars.<sup>3</sup> A little later another mission was established. It was known as Santa Maria. Two years later San Francisco was abandoned, never to be re-occupied. This is an exceptional case. Often, indeed, missions were abandoned, but in most cases sooner or later the friars returned to their labors.

It is through this short occupation, however, that we are to account for the origin of the name Texas as a territorial designation. It has worried some of our historians to explain this name, and in the explanation of it several ingenious stories, more or less romantic, have been invented. It is hardly worth while to mention these. The true explanation seems to lie in the fact that the Spaniards having applied the term *Tejas* to the original settlement made among the Tejas Indians, which was for many years the central point in the province, it came eventually to mean the whole region.

Before we proceed further, a few words on the general scheme of the Spanish occupation may not be out of place. What was its nature? There seems to be prevalent a sort of half defined assumption which makes the presidio or fort the initial step in the occupation, the missions following naturally thereafter. Nevertheless,

<sup>2</sup> Bancroft, *North Mexican States and Texas*, Vol. I., p. 401; Manzanet's Letter to Don Carlos de Sigüenza y Congora, MS., Agricultural and Mechanical College, College Station, Texas.

<sup>3</sup> Manzanet's Letter; Villa Señor, *Theatro Americano*, II., 324; Bancroft, *North Mexican States and Texas*, Vol. I., p. 611, quoting Ramon, a note. Yoakum (*History of Texas*, Vol. I., p. 45) has missed the truth in stating that the mission was erected on or near the old French Fort St. Louis. Thrall (*Pictorial History*, Ch. III.) says no building was erected. He also missed the location. See Kennedy's *Confusion* (Vol. I., p. 218).

this opinion, sanctioned as it is by some writers, can not be maintained in the face of facts. The truth lies undoubtedly on the other side; that is, the mission was located first, then the presidio was established for its protection. The manuscripts which deal with these matters, so far as the writer has been able to observe, in every instance speak of the founding of the church or mission, and then naturally of the fort.<sup>4</sup> Indeed, so true is this, when a mission was moved to a more favorable locality, which often happened, the fort was also moved. This was the case with Espiritu Santo; this was true when the Xavier missions were merged into the ill-starred San Saba;<sup>5</sup> and, finally—to emphasize the subordinate place of the presidio—when the missions in the eastern part of Texas were removed to the San Antonio river, the presidio in the original Tejas was suppressed.<sup>6</sup> But, after all, the church and the fort went together—a double purpose was to be subserved, and this must not be lost sight of. The *infieles* were to be converted and the country held for Spain. However, it was to the mission in the first place with its nucleus of converted Indians (*Indios reducidos*) that the grasping Spaniard looked for his abiding hold on the soil.

The year after the founding of San Francisco de los Tejas, Teran with a considerable force was sent out from Mexico with orders to establish eight missions. He penetrated the province of Texas as far as the first settlement, but whether or not he fulfilled his directions we do not know.<sup>7</sup> It is probable, however, that no settle-

<sup>4</sup> Manzanet's Letter; Altamira, Testimonio de un Parecer, MS., 1744, State archives. On Refugio, the last mission, see Letters of José Mariano Garza, Gov. Muñoz, Mariano Rodriguez, MSS., Bexar archives.

<sup>5</sup> After the destruction of San Saba by the Indians, it was urged officially that the presidio of Amarillos, which protected, or rather which was to have protected the mission, should be abandoned, since it served no further purpose. (See Viceroy Amarillo's Letters, MSS., 1758, Bexar archives.) As a matter of fact it was not abandoned till some years later, serving first as a base of operations against the hostile Indians, and doubtless later as protector to some missions of which we shall have more to say.

<sup>6</sup> Bonilla, Brevo Compendio. See also, Spanish Missions in Texas, p. 44, Library State University, Austin, Texas.

<sup>7</sup> Altamira (cited above), one of the most trustworthy of our sources; John Gilmory Shea, Catholic Missions in America, Ch. V.; and Yoakum,

ments were made; for, indeed, no ruins have been discovered, nor yet have the names been preserved, and finally the records of the time breathe no word as to their existence.

In 1693 the missions which had existed in the province were deserted. The causes which led up to this may, in the main, be attributed to the outrages committed by the vicious soldiery. Father Manzanet tells us as much, and it was the same curse which hounded the missionary movement to its death. After this desertion of the province, there followed a period of twenty years in which no light burns. What took place of interest to us during that time, we know not. We can only believe that the wild tribes drove as madly in the chase as when the century was young and fought as fiercely. But in strange contrast to this we must think that over next the setting sun, when the dusk was in the wounded eyes of some red man, a wandering Franciscan would kneel to invoke a blessing of the one Father. Besides these restless, devoted friars, no civilized foot broke into the confusion which reigned as unbridles as in the primal age.

The Franciscans clamored for a re-occupation of the country with all the eager earnestness manifested by the Crusader in his cry for the redemption of the Holy Land.<sup>8</sup> Indeed, the same spirit which moved the Crusader to pawn his life in battle for the Holy Sepulchre, urged the Franciscan, barefoot and with the knotted scourge fastened to his waist, into unknown wilds where dwelt the savage men whose souls were to be saved. But the government was deaf, and the time ran on. We are unable to say how long this chaotic state of affairs would have existed in the province had the French not begun operations in Louisiana in 1713. The fact remains that nothing was done by the Spanish government toward the re-occupation till the news reached the viceroy that a French expedition under St. Denis had marched from Louisiana to the Rio Grande, across the whole of Texas. St. Denis was arrested, but to this day the object of his journey has not been determined beyond dispute.

History of Texas, Vol. I., pp. 45, 46, say that settlements were made. On the other hand, Bancroft, North Mexican States and Texas, Vol. I., p. 404, would indicate a contrary opinion.

<sup>8</sup> Altamira, Testimonio de un Parecer; Bancroft, North Mexican States and Texas, Vol. I, p. 405.

The Spanish viewed it in the light of French aggression and acted accordingly. But the fact seems to be that it was undertaken largely for the purpose of establishing commercial relations with the north of Mexico.

The lethargic Spaniard was aroused and now set about the founding of missions and presidios on a large scale. Indeed, this was the culminating period of the movement. During the seven years succeeding 1715 there were founded no less than nine missions. Of these, six were located in the territory adjacent to the Neches and Sabine rivers. They were, to be sure, in the basins of these streams, —but *where* in the basins?

Here, truly, we are brought face to face with one of the vexatious aspects of our history. The geography of the period is almost as darkly uncertain as is the story. It is only by patching together this bit of information and that, that we are able, with any degree of accuracy, to construct a map of this time.<sup>9</sup> The mission buildings in the eastern part of Texas were largely of wood, and therefore, when abandoned, fell speedily into decay, leaving no trace behind to aid in the identification. Quite in contrast to these were the missions on the San Antonio river, some of which still, after a century and a half of bitter conflict and disaster, rear their deserted spires into an atmosphere warm with the sunshine, but coldly neglectful. Though little is known of most of the eastern missions, still less is known of some others. Indeed, as to the three missions which were located on the San Xavier river, no historian, so far as the writer's information goes, save Bancroft, has even mentioned their names. Even Bancroft speaks vaguely of their location.<sup>10</sup> However, the Xavier river, as such, is unknown. The name

<sup>9</sup> As to the method employed, a single illustration will suffice. Take San Francisco de los Tejas. It was something more than a day's journey to the east of the Trinity, not far from the Neches, and about nine leagues to the northwest of Mission Guadalupe at Nacogdoches. (Villa Señor, Teatro Americano, II., 324: also Bancroft, North Mexican States and Texas, Vol. I., p. 611, quoting Ramon, a note.) Now knowing as an absolute fact that modern Nacogdoches is on or near the original site of Guadalupe, we are able to locate pretty satisfactorily the first mission.

<sup>10</sup> North Mexican States and Texas, Vol. I, p. 623. For location, see map in library Historical Society, Galveston; Thoribio Urrutia, Letter, MS. Bexar archives; also Appendix to Spanish Missions in Texas, cited above.

it bore when the Indians thronged its banks has been transformed in this later time. And there are other such instances. Mission Nuestra Señora de la Luz,<sup>11</sup> situated on the Trinity near the coast, was long unknown. It entirely escaped Bancroft. But of it, we hardly know more than that it existed in the middle of last century. As a matter of curious interest, it was from de la Luz that Padre Anastasio Romero wrote,<sup>12</sup> May 3, 1758, that it was desirable to leave the place on account of the malaria, *Indios bravos*, and an insufferable plague of flies.

But to turn now to the western part of the province, we shall see that still greater confusion exists. Even the Alamo is not free from a haze which surrounds its beginning.<sup>13</sup> This obscurity is largely due to the fact that it was not located originally where it stands to-day. This was true of many missions.<sup>14</sup> Indeed, there was hardly a one which enjoyed a continuous existence on the same spot. It was either being shifted about the country in name;—which, aside from the paraphernalia and some squads of Indians, was all that was transferred—or else, it was suffering from internal dissensions, Indian raids, scarcity or entire absence of neophytes, or what not.

But with regard to the mission establishments themselves in the west, it is plainly evident that there are some important revelations yet to be made. There are ruins in various parts which attest undeniably Franciscan occupation. But of these in particular we shall have little to say. It is sufficient to mention two sites. The first is in Edwards county on the Nueces river, and the ruins, which the writer has had occasion to survey, are unquestionably those of a mission. The outlines of the building and the trace of the *acequia* are still evident. Higher up in the mountains in Menard county,

<sup>11</sup> See Spanish Missions in Texas, pp. 40, 41, with notes.

<sup>12</sup> See Yoakum, History of Texas, I., Appendix by Giraud; also Bancroft, North Mexican States and Texas, Vol. I., 614.

<sup>13</sup> Letter, State archives, Austin, Texas.

<sup>14</sup> Take for instance Concepcion, San Juan, and Espada. These were located at first in the Neches country, but in order to be of more service they were transferred to the San Antonio river in 1731. (Bancroft, North Mexican States and Texas, Vol. I., p. 615; also Bonilla, Brevo Compendio.)

and not many leagues from San Saba, now crumbled into dust, is another ruin. The acequias are being used to-day by farmers, just as are those of the old missions along the San Antonio river.

There is no question as to the fact of the existence of these ecclesiastical establishments; but there is a question when it comes to the identification. Bancroft (*North American States and Texas*, I, 629) makes, it seems, the only endeavor in this direction. He gives San Lorenzo and Candelaria as the names of two missions founded among the Apaches.<sup>15</sup> Since the Apaches ranged along both the Nueces and the San Saba, in all probability these old sites were the Missions San Lorenzo and Candelaria. But which was San Lorenzo and which Candelaria?

After all, we are able to say that there were *nineteen distinct* missions<sup>16</sup> founded within the boundaries of Texas during the century known as the Mission Period. It will be observed that this enumeration counts each establishment only once. The fact that it bore different names at different times and enjoyed existence in more than one locality, has not entered into the record.

It will have been observed, as before indicated, that the first hundred years of Texas history is nothing more nor less than the story of the Franciscan occupation. Indeed, were this fuller history written, we should know more of the several Spanish expeditions;

<sup>15</sup> But he errs decidedly in saying that these were probably located on the upper San Antonio river. It is to be presumed that this mistake came from a wrong conception as to the length of the river in question. His map (*North Mexican States and Texas*, Vol. I., p. 612) makes the river extend some leagues above the city of San Antonio, which is incorrect. (Kennedy, *Texas*, I., 48; Corner, *San Antonio de Bexar*.)

<sup>16</sup> There were four pretty clearly defined periods or waves of mission founding. They are, with the missions which properly fall under them, as follows:

1. (1690-93) San Francisco de los Tejas; Santa Maria.
2. (1715-32) San Antonio de Valero (Alamo); Nuestra Señora de la Concepcion de Acuña; San Jose de Aguayo; San Juan Capistrano; Espiritu Santo de Zuñiga; Guadalupe; Nuestra Señora de los Dolores; San Miguel de Cuellar; San Xavier de Nagera(?).
3. (1747-1762) San Xavier; Candelaria; San Ildefonso—the three Xavier missions; Rosario; Nuestra Señora de la Luz; San Saba; Candelaria; San Lorenzo.
4. (1792) Refugio.

more of the life of the missions; more of the Indian tribes, their wars, and their truces with the missionaries; and finally, more of the last scene in the life of the missions in which was read the Secularization Act. We should see that the zealous friars did not all desert their flocks when the curtain was rung down; but that some of them remained and ministered like true disciples till the Anglo-Saxon came sweeping the red men before him.

From the nature of the limitations of this article, many things which interest, and in fact fascinate, the investigator have to be passed over in silence. For instance, no mention has been made of the massacre of San Saba which occasioned the dispatching of the troops under Parilla to *Islas Blancas* in 1759. Yet we know so little that the very tale of the march of the army of five hundred to *Apacheria*,—the conflict, the panic and flight, exist as hardly more than weird and stirring romance. Again, in 1719, when the French drove the Franciscans from East Texas, their after actions with regard to the Spanish settlements are unexplained. Furthermore, we have some information which shows that other French expeditions were sent later into the eastern region. Then, also, the mission life is a topic which might engage one through a considerable space. To follow up the daily routine of a mission through its existence would require a detailed description to which the modern practical mind might accord no hearing; but to him that can sympathize with the spirit of the past, these things are all full of inexpressible charm.

In the year 1793 the more important missions were secularized. That is to say, the missions with their property were transferred from the Franciscan order to the regularly organized Catholic church. This meant an entire reversion of the old order of things. The lands were parcelled out, each neophyte receiving a portion which he thereafter cultivated on his own account. He now lived, too, in his own house, and no longer stored his produce in a common granary. The mission movement, in all but its influence, was dead.

But the act of 1793 did not extend to all the missions, and it is not known definitely when some of them were secularized. Indeed, a few of them lived into the present century, which fact has doubtless given warrant for the statement made by some ardent Catholics, notably John Gilmary Shea, that the missions were prosperous



till the Anglo-Saxon came to desecrate and to destroy. But this assertion is not in accord with the facts.

Long before the American threatened the province of Texas the core of the system was decayed. The whole scheme was grounded on misconception and pillared by religious fanaticism, and doomed from the nature of things to fall. The main fallacy lay, beyond question, in the fact that the forces predominant in the life of the savage were wrongly estimated! He was not European. He was unable to grasp the significance of the Trinity or even the Parable of the Sower. Generations and centuries were destined to pass before this wayward child of the forest could ascend to such sublime heights. Little wonder that he chafed when for hours he bowed before the Virgin, uttering, like any machine, words which bore no meaning to him. All this mystery he could not fathom. But he heard and understood the voice of nature, the songs of the woods and the camp, and he fled from the presence of the friars. Other causes there were, to be sure, which conspired to overthrow the mission system, but for these no time remains.

If the reader's interest in this romantic period of Texas history has been, in any degree, intensified, it is, for the present, enough.

## NOTES AND FRAGMENTS.

In an article on Tribal Society, in the Quarterly for July, 1897, I fell into the error of stating that Maria de Agreda was a Spanish missionary lady who had been in Texas about 1630. I am gratified to see this error corrected by Edmond J. P. Schmitt in the Quarterly for October, 1897. The same error has been made by others. Indeed, Manzanet's manuscript is misleading in that particular. I have never seen the original, but quote from the translation in the Texas State Library. He says: "At that time I was living in the Mission of Caldera, in the province of Coahuila, where I had gone with the intention of seeing whether I could find out and obtain any information about the interior of the country toward the north and northeast. As for the information which I had so far, it was a letter which I had in my possession dated from Madrid to our brother Antonio Linaz, this letter makes mention of the statement which the blessed Mother Maria de Jesus de Agreda imparted in her convent to the guardian father of New Mexico, who was Brother Alonzo de Benavides. The blessed mother says *that she was many times in New Mexico*, and in the great Quivira; and coming out from the great Quivira towards the east, there are the kingdoms of the Tielas, the Theas, and the Cabuzcal; but she says also that these names are not the proper ones of those kingdoms, but they resemble them. On account of that intelligence which I had from Spain, and because it came expressly to the department for the conversion of the infidels, I set out and visited the missions of Coahuila," etc.

The closing paragraph of Manzanet's manuscript, as appears in the above mentioned translation, is as follows:

"Since I have no more time, I shall only relate the most peculiar event of all. It happened after distributing in the village of the Tejas the clothing, both to the Indians and to the chief, that one evening the chief of the Tejas told me that a piece of flannel had been given to him for a shroud to bury his mother in when she should die. When I spoke to him of a kind of cloth which was better, he said to me that he did not want any other color but blue; and when I

asked him about the mystery which was in the blue color, he told me that all their people liked the blue color very much, and that by preference they wished to be buried in cloth of that color. In former time a most beautiful woman had come to see them, who descended from heaven and was dressed in blue; they all wished to be like that woman. When I asked him whether it was long ago, the chief said that it had not been in his time, but that his mother, who was very old, had seen her, and so had the other old people. Therefrom can clearly be seen that it was the Mother Maria de Jesus de Agreda *who was in those countries* very often, as she herself confessed to the guardian father of New Mexico; the last time that she was there, it was in the year 1631, as is evident from the same declaration which she made to the custodian father of New Mexico. Very respectfully, your obedient servant,

“FRAY DAMIAN MANZANET.”

This, in the absence of any explanation, would lead any one to think that he asserts that Maria de Agreda had herself been in Texas. Now it appears that what he means to assert is that although she had never crossed the ocean in the flesh, yet in a trance, or ecstacy, her spirit had come over and *materialized* among the Indians. My first impression upon reading it was that it was an Indian legend. It sounds like one, and similar legends appear in various places, notably in Peru, long before the discovery of America, and now I am convinced of the correctness of my first impression. However that may be, Maria de Agreda seems to have been in some measure the *moving spirit* in the discovery of Texas.

M. M. KENNEY.

Austin, Texas, Jan. 13, 1898.

QUESTIONS AND ANSWERS.

What is the exact location of the place referred to by the Texas histories, as Mound Prairie?

Z. T. FULMORE.

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In the Quarterly of October there is a query as to where General Houston was from April, 1833, to October, 1835. My father moved to Texas with his family in November, 1833. I often heard my mother relate the following incident: As we were traveling between San Augustine and Nacogdoches one morning a gentleman came by riding a fine horse and wearing a broad brimmed hat, which he touched politely as he passed the ladies. Late in the evening the same man was met returning, and the same gentlemanly deference shown by him. Very soon after, our party stopped in front of a wayside store where several men were collected, and mother asked one of them if he knew who that gentleman was whom they had just met. "That," said he, "is Governor Houston, and he says that there is going to be a war in Texas before long, and he means to figure in it." This was about the end of November, 1833.

M. M. KENNEY.

THE AFFAIRS OF THE ASSOCIATION.

The mid-winter meeting of the Association was held at Turner Hall in San Antonio, December 29. The attendance from without the city was not as large as had been expected; but the Association is yet young, and the habit of attending its meetings must have a little time to grow. Much interest was aroused by the papers, and considerable discussion was elicited by some of them. The program originally provided for only a single session, but this did not allow time to dispose of the papers, and it became necessary to hold two sessions. Some disappointment was caused by the absence of Judge Denman, who was to read a paper on Judge T. J. Devine. Other demands upon the time of Judge Denman rendered it impossible to get the paper ready, but it is expected to appear in the April Quarterly.

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The thanks of the Association are due the San Antonio members, and especially Vice President Corner, for the excellent arrangements for the meeting. A comfortable and convenient hall was provided, and on the evening of the 29th a reception was given to the visiting members. This was a most elegant and enjoyable affair, and the occasion will not soon be forgotten by those who were present.

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On the whole, the results of the meeting were most encouraging. It can hardly fail to stimulate historical research in the State and raise the standard by which work in history will be measured. A large number of new members were elected and the evidence of vitality in the Association and of its great possibilities was most gratifying.

The press of the State also deserves the gratitude of the Association. The leading dailies, especially, by announcements of the meetings and programs, by reviews of the Quarterly, and by editorial notices, have done much to encourage the organization and promote its success, and their public spirited policy in dealing with it is gratefully noted.

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On the 2nd day of March next comes the first anniversary of the birth of the Association. The beginnings have been most auspicious, and the outlook is bright. It must not be forgotten, however, that success in this movement can come only as the result of united effort on the part of those interested in it. Everything done in the way of increasing the effective membership, of calling attention to and describing collections of historical material, or of gathering and sending to the recording secretary and librarian bits of history worth preserving but liable to be lost, counts for so much. The assistance of the members in carrying out the purposes of the Association is urgently requested.

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There are now but few of the Texas veterans left alive; and, as the memorial page of the Quarterly reminds us, the number is rapidly growing less. Every one of them should be induced, if possible, to put his reminiscences in writing. The time is not far distant when every light so cast upon the beginnings and early history of the Republic will be precious; and the children of the men who have helped to make Texas will, when it is too late, become conscious of deplorable neglect in doing so little to preserve information existing perhaps only in the memory of their fathers.

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It is, however, not only those enrolled as members of the Veteran's Association that are carrying valuable knowledge to their graves to be buried even as themselves. Into the past half century of our history has been crowded a series of events pregnant with

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**John S. Ford:**

Born May 26, 1815.

Died November 3, 1897.

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effect, and none that have been leaders in any sphere during this time are without some store of knowledge and experience having public value, and therefore worth preserving in some permanent form. Two names of such men have just been added to the roll of the honored dead of Texas. It need hardly be said that these are ex-Governor L. S. Ross and Dr. R. L. Dabney. One of them had the writing habit, and has left behind many books. The other had not. What he himself has put to record out of his eventful life can not here be stated. Something, it is hoped; but, whether little or much, it can hardly fail to prove a treasure to him that is privileged to use it.



# THE QUARTERLY

OF THE

## TEXAS STATE HISTORICAL ASSOCIATION.

Vol. I.

APRIL, 1898.

No. 4.

*The Publication Committee disclaims responsibility for views expressed by contributors to the Quarterly.*

### A HISTORY OF THE ESTABLISHMENT OF THE UNIVERSITY OF THE STATE OF TEXAS.

[In this history I have sought to show that, from 1839 to 1883, a great many citizens of Texas have, according to the opportunities afforded them, and acting in the public positions in the government of Texas which were occupied by them, or otherwise, participated in the establishment of the University. I have referred to their acts, as exhibited in the histories of the State, and in the public records, so far as found practicable and pertinent, for my information, which has been supplemented by facts within my own recollection, or reliably communicated to me by others. These facts I have written in the same manner as if I was narrating them in person to the reader. In doing this I have tried to give every one of the participants full credit for his acts, so far as my information would enable me to state.—O. M. ROBERTS.]

The main branch of the University of Texas stands upon a beautiful eminence in the city of Austin, the capital of the State. It will remain a lasting monument to the wisdom of the people of the State. The merit of its establishment, with its endowment, is not due to any one man, nor even to any one hundred men. It is due to a great number of citizens, who, during a period of more than forty years, contributed their efforts for it—each one of them at the time acting according to the opportunity afforded him, and

according to his duty in the position occupied by him in the administration of the government of Texas.

The first efforts on behalf of the University were made to provide the means for its endowment, in anticipation of its subsequent establishment. The Congress of the Republic of Texas in 1839 donated fifty leagues of land to establish two colleges—one in Eastern and the other in Western Texas—and at the same session donated four leagues of land to each county for an academy. At that time, it was only thought necessary to provide an endowment for schools of a high grade of education. That was in the administration of President Lamar. What part he and the members of Congress took in this meritorious proceeding we may not now be able to know, further than that the credit of it is due to him as the Executive, and to a majority in the Congress.

During Gov. Pease's administration in 1854, the Legislature granted lands for the construction of railroads, reserving alternate sections of land surveyed for that purpose, and one-tenth of those alternate sections, which were to be selected by the Governor, were devoted to the University. The merit of this, in intention, was not defeated by the failure to select the tenth sections, and the subsequent substituting for them of one million of acres of land by the convention of 1875.

During the administration of Gov. Runnels in 1858 an act was passed by the Legislature appropriating to the University one hundred thousand dollars worth of bonds received from the United States for part of New Mexico in the compromise of 1850 in Congress. The same session passed a law for the establishment of a University, appropriated the lands and other property that had been provided for the two colleges, and made provision for executing the law. Soon thereafter the public excitement that led to the war between the States caused the failure of that measure. That, however, does not detract from the merit due to the Governor and a majority of the members of the Legislature for their patriotic action on behalf of the University.

In the convention of 1866 it was provided that "the Legislature shall at an early day make such provisions by law as will organize and put in operation the University."

In the administration of Gov. Throckmorton in the same year (1866) a law was passed making provision for two universities, one

of which was to be styled "the East Texas University." Under the direction of the Constitution of 1866, and a law of the session of that year, bonds were issued to the amount of \$134,768.62 to restore to the University fund that amount that had been taken from it to be used as revenue by acts of the Legislatures of 1860 and 1861, which bonds were afterwards reported as of doubtful validity until their validity was recognized by an act of the Legislature of 1883. This effort to establish the Universities failed of accomplishment on account of the congressional reconstruction of the Southern States early in the next year (1867). Still there was merit in the actions of the members of the convention and of the Legislature, not only on account of the laudable purpose expressed by them, but also as exhibiting evidence of the public sentiment in favor of a high order of education in Texas.

In the convention of 1875 it was provided that "the Legislature shall, as soon as practicable, establish, organize, and provide for the maintenance, support, and direction of a University of the first class, to be located by a vote of the people of this State and styled 'The University of Texas,' for the promotion of literature and the arts and sciences, including an agricultural and mechanical department." There was also set apart the enumerated property to be the permanent fund, excluding therefrom the tenth sections of land previously set apart to the University, and substituting in lieu thereof one million acres of land. The Constitution also designated the available fund to be appropriated for the creation and support of the University, and the A. and M. College was made a branch of it. There was a further provision for the maintenance of a branch University, when practicable, for the colored youths of the State, to be located by a vote of the people, "provided, no tax shall be levied and no money appropriated out of the general revenue either for this purpose or for the establishment and erection of the buildings of the University of Texas." Thus there was a permanent foundation laid in the organic law for a University, with directions for its accomplishment when practicable, and the discretion left to the Legislature was as to when and under what circumstances it would be practicable.

Under the general power for surveying the lands of the University in the "Revised Statutes of Texas," adopted in 1879, the Commissioner of the General Land Office, Wm. C. Walsh, had the

one million acres of land given by the Constitution of 1875 selected and surveyed for the University in the counties of Tom Green, Pecos, and Crockett.

After my nomination for the office of Governor of Texas in 1878, I devoted my especial attention to the operations of the government, including the subject of education, and became impressed with the importance of the further improvement of the common free schools, which had commenced during Gov. Coke's administration after the adoption of the Constitution of 1875, and also of the propriety of making an effort to establish a University in this State, to furnish Texas youths of both sexes the opportunity of a higher education within the State instead of their being drummed up, as had long been the case, by agents for high schools in other States. Learning that there was a convention of teachers in session at Waco, I addressed a letter to Dr. Rufus C. Burleson, requesting that a committee of eminent teachers should be appointed to visit Austin during the session of the legislature in 1879, to aid the government by their advice and influence in educational affairs. I was afterwards informed that such a committee had been appointed.

In my inaugural address on the 21st of January, 1879, to show the necessity of a more liberal and expeditious mode of disposing of the public lands than that which then prevailed, I said: "For under the present mode of disposing of these lands the scholastic population will increase faster than the fund. \* \* \* And the same policy will postpone indefinitely the building of a University, which should be erected at the capital of the State, for the education of Texas youths, instead of sending them out of the State to be educated, and to return home strangers to Texas."

On the 5th of February, 1879, I delivered a message upon the University, in which was exhibited the amounts of the bonds, cash, and land sale notes belonging to its fund (\$445,470.18), and said: "If steps should be taken now to have the one million acres of public land set apart, and all of the lands sold, as I have recommended, we may expect in a few years to have a university in Texas. This is equally as important as to have common schools; for while the one elevates the masses to a certain degree in the scale of civilization, the other is a necessity in this age to properly direct it in the progress to power and prosperity."

The committee of learned educators, composed of W. C. Crane, W. C. Rote, Milton Cooper, R. C. Burleson, T. L. Norwood, and Oscar H. Cooper, joined by Dr. B. Sears, general agent of the Peabody fund, met in Austin and presented a memorial relating to the free public schools and a normal school, which, with a message, was presented by me to the Legislature on the 10th of February, 1879.

Their recommendations were adopted in the amendment to the school law in several particulars, and in the establishment of the Sam Houston Normal School; but they failed to make any recommendation about a university, because, as I learned, then, there was a difference of opinion about the plan of its organization.

Notwithstanding the failure at that time to induce any legislation on the University, what was done gave promise that the effort in its favor would be continued, which induced public discussion as to its propriety and practicability. It was meritorious, as it tended to keep before the public the necessity of a higher education than that obtained in the common schools. These schools had especially engaged the attention of the State government ever since the convention of 1845, in which ten per cent of the annual revenue had been set apart for their support; and there had been an increased devotion to their interests subsequent to the war between the States, leaving the higher education to the private academies and denominational schools in the State.

In the month of June, 1880, one of the first, if not the very first, generally attended Texas State Teachers' Associations, was assembled at Mexia. I visited that place for a single purpose, which was to solicit the aid of the members of that association in the establishment of the University. In my address to that body, I pointed out the necessity of it, and suggested that if the educators and learned men, there assembled from all parts of the State, would agitate the subject, and use their influence, this would greatly aid in its accomplishment; and that, though the funds devoted to it were not sufficient to at once establish it on a large scale, still it was important that it should be brought into existence, for the reason that until this was done it would not be known what such an institution required for its successful operation. I requested them to appoint a committee of the members of their body to meet in Austin during the session of the Legislature in January, 1881, to

give their help to the movement that would then be made for it. The subject was discussed most favorably by the members of the Association, and the committee was appointed, and met at Austin as I had requested.

The question may be asked, why should this attempt to establish a university have been made at that time, when the means for doing it were very limited in amount, and the Constitution of the State required that it should be "of the first class"? It is important, even now as well as then, for it to be properly understood what the members of the Convention meant by the expression, "The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class." What sort of a school did they have in mind when they designated it as "university," at the time that word was used by them? It can not be reasonably supposed that they meant that when it was established it should be such a school as that which is known to the highest order of professional educators in this country, and to them alone, as a university proper, as distinguished from a college—such as Johns Hopkins, and some others in the North, and those in Europe, which may be termed finishing schools, in which a man, already possessed of a collegiate education, can be admitted to increase or perfect his education upon some one or more special subjects. Persons using language even in forming constitutions and laws are supposed to use terms in the sense usually conveyed by them in the country wherein they are used. In the time of the Republic, a school established at San Augustine, Texas, was usually spoken of as the university. The same may be said of other schools in early times in Texas. The denominational schools at Waco, Georgetown, and Tehuacana, erected long before the Convention of 1875, are each styled "university." The large granite school house, lately erected and used at Marble Falls, Texas, is called the university. None of those schools are devoted to mere specialties. The so-called universities of Alabama, Georgia and other Southern States, including even that of Virginia, are not merely finishing schools for education on special subjects, but for the higher courses of education generally. It is certain, therefore, that, by the use of the term university was meant a high school of learning, and not technically a university, as understood in Europe and elsewhere.

Such institutions have usually large endowments, and numerous teachers, and are located where there are numerous schools of an academic and collegiate order to fit students to enter them. When would it have been practicable for Texas to put up and maintain such a school? *Perhaps* in fifty years. Nor could it have been expected to be first-class in that sense when first put up by the State, but to be made first-class as means could be furnished it in its growth through years to come. Nor was it designed ever to become only a specialty school of the first-class, or of any such class whatever, and if it should ever assume that shape, it will be a perversion of its fund, never contemplated by the people of Texas who donated it.

Under these views, I concluded that the time had arrived to start the institution, and hoped that what had been done at Mexia would give notice generally of the movement, and incite the friends of education throughout the State to action in its favor. That it had such effect was afterwards evidenced by the prompt action upon it by both houses of the Legislature in the session of 1881.

At that session, having succeeded myself as Governor, in my inaugural address I suggested that as a safe financial condition had been attained, attention might be directed to the improvement of our laws for the protection of persons and property, and added that "while giving especial attention to that, we may maintain our free public schools, enlarge our means for their future improvement by the more rapid sale of the land set apart for the purpose, lay the foundation of a university, encourage our Agricultural and Mechanical College, establish additional normal schools, and thereby give an impetus to our educational interests generally."

Lieutenant-Governor-elect L. J. Storey, in his inaugural address on the same day (January 18th, 1881), said: "And again, what Texan's heart does not throb with delight as he contemplates the prospects before us, and, as I believe, in the near future, for the erection of a first-class university? Already the princely fund, provided by our patriot fathers for this purpose, is believed to have reached the value of two and a half millions of dollars, and the demand is coming up from every quarter that this Legislature shall declare that it is now 'practicable,' and that it shall proceed to 'establish, organize and provide for the maintenance, support and direction of a university of the first class, to be styled the University

of Texas.'” This shows that the members of the State Teachers' Association had agitated the subject of education to advantage before the meeting of the Legislature in January, 1881. In my message upon different subjects on the 27th of January, I presented my views as to the manner in which a general system should be organized for the State, by which all the grades, from the highest to the lowest, should be adapted to the wants of the people. I said that naturally it assumed three degrees of education, requiring common schools for the millions, academies for the thousands, and colleges and universities for the hundreds, and that each one should be instituted with distinct reference to its position in the system, without trenching upon the province of the others, which should be secured by the modes of government respectively prescribed for them. I further said: “Fortunately, Texas is now in condition to initiate measures that will eventuate in this grand result. We have the means, as you will see exhibited and explained in the report of the Board of Education, to commence THE INSTITUTION OF A UNIVERSITY. That, under the Constitution, will require the Legislature to submit the question of its locality to the voters of the State, which I respectfully recommend should be done during the present session. It is much to be desired that it shall be located at the seat of government at Austin, where forty acres of land were set apart for it, in a most beautiful situation, in laying off the city, indicating thereby the voice of the founders of our institutions as to where it should be located. It would be here, where the members of the Legislature at every session could conveniently give it their attention and encouragement, and here would be congregated the youths of the country to imbibe common ideas, acquire a love of our State, its history, and institutions, and in whatever positions in life they might afterwards be placed they would be thereby predisposed to think and act on a common design for the prosperity and glory of their own State. It should be open for females, as well as males, qualified to enter it, and such should be the rule in all of our schools, of whatever grade.”

The committee of educators, appointed by my request at Mexia, met at Austin, and prepared a memorial and presented it to me, which I promptly communicated to both houses of the Legislature on the 28th of January, 1881, together with a message, as follows: “I respectfully submit to your honorable bodies the an-



nexed memorial of the committee appointed by the Teachers' Association of Texas on the subject of the State University, and ask for it a respectful consideration, as coming from gentlemen eminent in their profession, and who have given much attention to the subject. From having had frequent communications from, and conversations with, some of those gentlemen during the last two years, I can give full assurance that they not only feel a deep interest in the subject, but also believe the time is opportune now to initiate the establishment of the university, in which I heartily concur with them. My own views as to its organization have already been given in my message, recently submitted, for which, however, I have no such strenuous predilection as that I could not most willingly see any practical mode adopted and carried out."

*To His Excellency O. M. Roberts, Governor:*

At the last annual session of the Teachers' Association of Texas, held at Mexia, in June, 1880, the undersigned were appointed as a committee to present to your Excellency the views held by the teachers of Texas concerning the establishment of a State University, and to submit to your Excellency a plan for the organization of the same.

In pursuance of this commission, the following memorial is respectfully submitted:

The increasing demand for higher education, and the inadequacy of existing institutions in the State to meet this demand, taken in connection with the fact that the resources of the university fund are now amply sufficient to found and sustain an institution of the highest order, induced the Teachers' Association of Texas to adopt, by a unanimous vote, a resolution urging the immediate inauguration of a State University.

For the accomplishment of this end, which commends itself to the mind of every Texan, and every friend of higher education, the following plan of organization is respectfully submitted:

I. One university, and only one, should be organized.

II. The control, management and supervision of the University should be vested in a board, to be styled the Regents of the University of Texas, which board shall consist of one member from each congressional district, to be nominated by the Governor and confirmed by the Senate, to hold office not less than two nor more than ten years; no person, holding any office of honor or emolument, should be eligible to the position of regent.

III. The Board of Regents should be empowered and instructed to elect the president of the University, who should be ex officio

chairman of said board. The regents should determine the departments of the University, elect the professors, and, by and with the advice of the professors, arrange courses of instruction, appoint tutors and other officers of the University.

IV. The Board of Regents should fix the salaries of the president, the professors, tutors, and other officers of the University, on such a scale as to command the services of persons eminently qualified for the respective positions, and make all regulations necessary for the government of the University.

V. No religious qualification should be prescribed for admission to any office or privilege in the University, nor should any course of religious instruction of a sectarian character be taught in the University.

VI. The regents should report annually to the Governor the condition and progress of the University.

VII. A committee should be appointed by the Legislature at each session to attend the annual examinations of the University, and report to the Legislature thereon.

VIII. The reasonable expense incurred by the regents and visiting committee in the discharge of their duties should be paid out of the available University fund.

IX. The treasurer of the State should be the treasurer of the University.

X. All the expenditures of the University should be made by order of the Board of Regents, and all moneys needed to meet the same should be drawn on warrants of the Comptroller, based upon the vouchers approved by the chairman of the Board of Regents, and countersigned by the secretary of said board.

XI. The election for the location of the University should be ordered at the earliest date possible.

XII. No part of the University fund should ever be applied to the erection of dormitories, professors' houses, or mess halls.

Trusting that a measure involving such far-reaching results for the progress and glory of the State, and the advancement of education, will receive the wise and thoughtful attention, and prompt action which it deserves, we are, very respectfully, your obedient servants,

OSCAR H. COOPER, Chairman;  
W. C. CRANE,  
S. G. SNEED,  
R. W. PITMAN,  
SMITH RAGSDALE,  
JOHN G. JAMES,  
O. N. HOLLINGSWORTH.

Attest:

A. J. ROBERTS, Vice-President Teachers' Association of Texas.

Here we have exhibited the interest of these citizens in the cause of the University, that induced them, at their own expense, and without compensation, to come to Austin and present the outline of a plan for its organization, for which they deserve great credit as active participants in its establishment. If the act establishing the University, approved 30th March, 1881 (General Laws, chapter 75, page 79), should be examined in connection with this memorial of the committee, it will be found that the general tenor of the memorial, and a number of its propositions, were incorporated substantially in that law. The act is as follows:

*An Act to Establish the University of Texas.*

SECTION 1. Be it enacted by the Legislature of the State of Texas: That there be established in the State, at such a locality as may be determined by a vote of the people, an institution of learning, which shall be called and known as The University of Texas. The medical department of the University shall be located, if so determined by a vote of the people, at a different point from the University proper, and as a branch thereof; and a question of the location of the said department shall be submitted to the people and voted on separately from the proposition for the location of the main University. The nominations and elections for the location of the medical department shall be subject to the other provisions of this act with respect to the time and manner of determining the location of the University.

SEC. 2. An election shall be held on the first Tuesday of September, 1881, for the purpose of locating the University of Texas, and the Governor is hereby authorized and instructed to issue his proclamation ordering an election on said day for said purpose, and returns of said election shall be made in the manner prescribed in the general election law.

SEC. 3. All localities put in nomination for the location of the University shall be forwarded to the Governor at least forty days anterior to the holding of said election, and the Governor shall embrace in his proclamation ordering said election the names of said localities: *Provided*, that any citizen may vote for any locality not named in said proclamation.

SEC. 4. The locality receiving the largest number of votes shall be declared elected, and the University shall be established at such locality: *Provided*, that the vote cast for said locality shall amount to one-third of the votes cast; but if no place shall receive one-third of the entire vote cast, another election shall be ordered within ninety days of the first election, between the two places receiving

the highest number of votes, and the one receiving the highest number at said election shall be declared to be selected by the people as the location of the University of Texas.

SEC. 5. The government of the University shall be vested in a Board of Regents, to consist of eight members, selected from different portions of the State, who shall be nominated by the Governor and appointed by and with the advice and consent of the Senate.

SEC. 6. The Board of Regents shall be divided into classes, numbered one, two, three, and four, as determined by the Board at their first meeting; shall hold their office two, four, six, and eight years, respectively, from the time of their appointment. From and after the first of January, 1883, two members shall be appointed at each session of the Legislature to supply the vacancies made by the provisions of this section, and in the manner provided for in the preceding section, who shall hold their offices for eight years respectively.

SEC. 7. The Regents appointed pursuant to the fifth section of this act, and their successors in office, shall have the right of making and using a common seal, and altering the same at pleasure.

SEC. 8. The Regents shall organize by the election of a president of the Board of Regents, from their own number, who shall hold his office during the pleasure of the Board. They shall establish the departments of a first-class University, determine the officers and the professorships, appoint the professors (who shall constitute the faculty, with authority to elect their own chairman) and other officers, fix their respective salaries, and enact such by-laws, rules and regulations as may be necessary for the successful management and government of the University: *Provided*, that the salaries and expenses of the University shall never exceed the interest on the University fund and land sales fund, or ever become a charge on the general revenue of the State.

SEC. 9. The immediate government of the several departments shall be entrusted to their respective faculties, subject to the joint supervision of the whole faculty, but the Regents shall have power to regulate the course of instruction, and prescribe, by and with the advice of the professors, the books and authorities used in the several departments, and to confer such degrees and to grant such diplomas as are usually conferred and granted by universities.

SEC. 10. The Regents shall have power to remove any professor, tutor, or other officer connected with the institution, when in their judgment the interest of the University shall require it.

SEC. 11. The fee of admission to the University shall never exceed thirty dollars, and it shall be open to all persons in the State who may wish to avail themselves of its advantages, and to male and female on equal terms, without charge for tuition, under such regulations as the Board of Regents may prescribe.

SEC. 12. The Treasurer of the State shall be the treasurer of the University.

SEC. 13. It shall be the duty of the Governor, within thirty days after the location of the University shall have been determined, to convene the Board of Regents at the city of Austin, for the following purposes:

First.—To effect the permanent organization of said Board.

Second.—To adopt such regulations as they may deem proper for their government.

SEC. 14. Meetings of the Board shall be called in such manner and at such place as the Regents may prescribe, and a majority of them so assembled shall constitute a quorum for the transaction of business, and a less number may adjourn from time to time.

SEC. 15. It shall be the duty of the Board of Regents, after the organization of the Board of Regents, to meet at the place chosen for the University for the following purposes:

First.—To establish the departments of the University.

Second.—To define the general plan of the University buildings.

Third.—To advertise for plans and specifications of the same.

Fourth.—To take such action as may be deemed advisable for the creation of professorships and the election of professors.

Fifth.—To take such other action as may be deemed necessary for perfecting the organization of the University.

SEC. 16. After the plans and specifications of the building shall have been adopted, it shall be the duty of the Board of Regents to advertise for bids for the construction of the same, and to proceed as soon as practicable to the erection of the same. The buildings to be substantial and handsome, but not loaded with useless and expensive ornamentations: *Provided*, that the cost of the buildings shall not exceed one hundred and fifty thousand (\$150,000) dollars. *And provided further*, that said buildings shall be so constructed as to admit of additions thereto without marring the harmony of the architecture.

SEC. 17. The Regents are empowered, and it shall be their duty, to purchase the necessary furniture, library, apparatus, museum and other appliances: *Provided*, that the amount expended for said purpose shall not exceed forty thousand dollars.

SEC. 18. The Regents shall have authority to expend the interest which has heretofore accrued, and may hereafter accrue, on the permanent University fund, for the purposes herein specified, and for the maintenance of the branches of the University; and the said interest is hereby appropriated for this purpose.

SEC. 19. All expenditures shall be made by the order of the Board of Regents, and the same shall be paid on warrants of the Comptroller, based on vouchers approved by the president and countersigned by the secretary.

SEC. 20. No religious qualification shall be required for admission to any office or privilege in the University, nor shall any course of instruction of a sectarian character be taught therein.

SEC. 21. The Board of Regents shall report to the Board of Education annually, and to each regular session of the Legislature, the condition of the University, setting forth the receipts and disbursements, the number and salary of the faculty, the number of students, classified in grades and departments, the expenses of each year, itemized, and the proceedings of the Board and faculty fully stated.

SEC. 22. There shall be appointed by the Legislature at each regular session a board of visitors, who shall attend the annual examinations of the University and its branches, and report to the Legislature thereon.

SEC. 23. The reasonable expenses incurred by the Board of Regency and visitation in the discharge of their duties, shall be paid from the available University fund.

SEC. 24. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved March 30, A. D. 1881.

*Amendment.*

SECTION 1. Be it enacted by the Legislature of the State of Texas: That section 5 of an act entitled "An act to establish the University of Texas," passed at the present session of the Legislature, be so amended as to hereafter read as follows:

SEC. 5. The government of the University shall be vested in a Board of Regents, to consist of eight members, selected from different portions of the State, who shall be nominated by the Governor, and appointed by and with the consent of the Senate; and should a vacancy occur by reason of death, resignation or removal of any of the Regents, or from any other cause, at a time when the Legislature is not in session, the Governor shall have power to fill such vacancy until the meeting of the next succeeding Legislature.

Approved April 1, A. D. 1881.

There are three distinguished gentlemen still living, each of whom claims the honor of having drawn up the bill for the establishment of the University. They are the chairman of the teachers' committee, Oscar H. Cooper, Senator A. W. Terrell, and Representative Hutcheson of Houston. Both of the latter were members of the Legislature in 1881. I have no doubt that all of them acted their part well in their zeal for the University. Unfortunately, the

books and papers in the office of the Secretary of State furnish but imperfect information about the passage of that bill through the Legislature. Amongst the papers there are two bills—a Senate bill and a House bill—both in the same handwriting, apparently engrossed bills. They are duplicates, with a slight variation in the seventh and twenty-third sections. The eighth section of both provides for a president of the University, as recommended in the memorial. The twelfth section in both provides for the admission of students, without designating the sex, and a slip of paper contains an amendment by Senator Gooch providing for female as well as male students. The Senate bill appears to have been introduced on the first of February, and the House committee bill on the seventh of February.

There is no House Journal in the office of the Secretary of State, but that of the Senate is there. In the Senate Journal, it appears that the Governor's message and teachers' memorial reached the Senate on the 28th of January, 1881. On the 29th of January, on motion of Senator Homan, the reading of the message was postponed and referred to the Committee on Education.

On January 31st, Senator Wynne offered a resolution "that the Committee on Educational Affairs be requested to consider the propriety of establishing a State University, and report their action by bill or otherwise," which was adopted. The members of that committee were Buchanan of Wood, chairman; Patton, Martin of Navarro, Terrell, Tilson, Martin of Cooke, Houston, Stewart, Stubbs, Burgess, Ross, and Gooch. On February 1, Senator Buchanan, by leave, introduced Senate bill No. 98, entitled "An act to establish the University of Texas," which was referred to the Committee on Educational Affairs, and the same day he presented a favorable report upon it as chairman. On February 8th (Tuesday), "On motion of Senator Terrell, Senate bill No. 98 was taken up and made special order for Thursday following, after morning call." Senator Gooch offered to amend by adding "from day to day until disposed of," which was accepted by Senator Terrell, and the motion was adopted. On February 10th (Thursday), Senator Stubbs offered an amendment to the effect that the medical department might be located at a different place from that of the main branch of the University, which was lost by a vote of 9 for and 12 against it, 5 not voting. On the 11th of February, Senator

Buchanan of Grimes reported: "Your Committee on Engrossed Bills have examined and compared Senate bill No. 98, entitled 'An act to establish the University of Texas.'" On February 12th, on motion of Senator Buchanan of Wood, bill 98 was taken up and read third time, when several amendments were offered and lost, and Senator Stubbs of Galveston renewed his amendment for the medical department to be voted for to be at a different place from that of the main branch, which was adopted by a vote of 17 for and 6 against it, 3 not voting. The bill was then passed.

On March 28, "Senator Buchanan of Wood moved to take up Senate bill No. 98, entitled 'An act to establish the University of Texas,' and that the Senate concur in the House amendment, which was adopted." The character of this House amendment is in no place in the records stated, but it is presumed to be the striking out of the bill the provision for a president of the University. On March 29, Senator Buchanan of Wood introduced a bill, No. 299, to amend section 5 of the law just passed to establish the University, and on the same day made a favorable report on it.

The amendment made by bill 299 related to the powers of the regents and their appointment by the Governor, and had an emergency clause. The bill was engrossed the same day. On March 30, Senate bill No. 98, entitled "An act to establish the University of Texas," was signed by the President of the Senate.

I have failed to find any record of the passage of bill 299 in the Senate, but on March 31st notice was received of its passage in the House. The object of the enactment of this law amending the 5th section, and providing for the appointment of regents of the University, was for them to commence action as soon as the University should be located.

April 1st, under the act (Senate bill No. 299) relating to the appointment of regents by the Governor, I nominated Hon. T. J. Devine, Dr. Ashbel Smith, Governor James W. Throckmorton, Governor Richard B. Hubbard, Judge James H. Bell, Dr. James H. Starr, Mr. N. A. Edwards, and Professor Smith Ragsdale, which nominations were approved by the Senate.

I have thus collected all of the proceedings of the Legislature to be found in the office of the Secretary of State in regard to the passage of the bill in 1881. Though they may be somewhat tedious in the perusal, they will show that nothing to be found there will



indicate with any certainty who drew up the bill, and what persons exerted most influence in its passage. As I never attended the sessions of the Legislature, I can only give what I knew and was informed of at the time. The chairman of the teachers' committee, Oscar H. Cooper, after the memorial had been sent to both houses of the Legislature, came to me with one of the committee (O. N. Hollingsworth), and presented to me a bill drawn up by him, which I looked at, and then supposed to be substantially in accordance with the provisions of the memorial; and I understood that he was to give it to Senator Buchanan, chairman of the Committee on Educational Affairs in the Senate, to be introduced by him. He staid in Austin about a week, and before leaving told me that he had talked about it to a number of the members of both houses, that it had been favorably started, and that he was satisfied that it would pass successfully through the Legislature.

The prompt action taken in the Senate, as soon as the teachers' memorial was received, the course followed by the chairman of the Committee on Educational Affairs in introducing the bill on the fourth day afterwards, the favorable report thereon, and the frequent appearance of the chairman of the committee afterwards in the management of the bill, exhibit the fact that his committee, composed as it was of a number of educated gentlemen of public prominence, were in cordial co-operation in their efforts to have the University established.

As to Judge A. W. Terrell's part in it, I well recollect that I and other friends of the bill depended much upon his advocacy and influence in carrying it through the Senate, and I know that he continued for years afterwards to exhibit, by speech and action, a lively interest in the University, and was regarded as one of its leading promoters and friends.

I very much regret that the House Journal could not be found, so as to exhibit the meritorious action of the representatives in 1881 upon the bill. Some account is given of the House proceedings in J. J. Lane's "History of the University," pages 197-199, which may be referred to.

As to the part taken in it by Representative Hutcheson of Houston, I can say that I regarded him as one of the most active and

efficient adherents of my administration generally in the House of Representatives, which I gratefully appreciated. I recollect distinctly that it was reported at the time that he objected to that part of the bill which provided for a president, and that it was upon his motion that it was stricken out of the bill. It was said that the reason he did it, was that he had been a student of the Virginia University, that has a chairman of the faculty, but not a president. It is reported in J. J. Lane's "History of the University," page 203, that Mr. Carlton, the member of the House from Austin, made an earnest appeal for the University.

The fact is that, according to my recollection, there was no active or stubborn opposition to the establishment of the University from any quarter in the Legislature of 1881, that the only difference manifested was as to a few of the provisions of the bill as it was at first introduced, which caused amendments to be offered, and a few of them to be passed, in perfecting the bill, and that when thus perfected it passed without any material opposition.

The act was approved the 30th of March, 1881, and went into effect ninety days after April 1st, the date of adjournment, which had expired by the 1st of August, 1881.

The law, in accordance with the Constitution, having required the University to be located by a vote of the people of the State, and having permitted a different place to be voted for as the location of the medical department from that of the main University, and having required the election to be held on the first Tuesday in September, 1881, and the localities put in nomination having been reported to the Governor, as required by the law, forty days before the election, the proclamation for the election was issued with the places nominated included. Not having the proclamation to refer to, I have taken the names of the places voted for, as here shown, from information obtained from the office of the Secretary of State. They are Austin, Waco, Tyler, Thorp Springs, Lampasas, Williams' Ranch, Albany, Grapevine, Matagorda, Caddo Grove and Peak, Houston and Galveston. Some of these places were nominated for the main University, but which of them I do not recollect, and it is now not material. But I do recollect that Austin was nominated for the entire University, and Galveston only for the medical department. During the canvass for the location I was personally

placed under what might be considered a serious embarrassment by the nomination of Tyler, which was the place of my home, that I had prepared as a residence for the balance of my life, surrounded by many much valued friends, and situated in a section of the State where I had lived for forty years. I believed that the capital of the State was the proper place for the University entire, except the Agricultural and Mechanical College, already established, and the branch for colored youths not then located, and had repeatedly so declared officially and otherwise. It would have been unworthy of me, and of the public position occupied by me, to have changed my course, either on account of my own pecuniary interest, or of my feeling of friendship personally for my fellow-citizens in Tyler and throughout Eastern Texas, to whom I had long been under obligations for their generous public support. Therefore, I continued to support the capital, as announced in my first inaugural, and yet believe that it would have been to the interest of the State for the whole University, with the exceptions above stated, to have been located at Austin, the seat of government of Texas. Still, I as one cheerfully abide the result of the vote of the people in that election.

The votes at the election having been returned to the office of the Secretary of State, were counted there in my presence on the 17th of October, 1881, and the result of the election determined by the Secretary, assisted by his clerks, which showed that Austin was elected for the main University, and Galveston was elected for the medical department, of which public notice was given. A tabular statement of the vote was made, which is now in the office.

Pursuant to the 13th section of the law organizing the University, on the 19th of October, 1881, the following proclamation was issued to convert the regents of the University at Austin on Tuesday, the 15th of November, 1881:

*Proclamation of the Governor of the State of Texas convening the Board of Regents of the University of Texas.*

Whereas, the official returns of the election held September 6th, 1881, which said returns are now on file in the office of the Secretary of State, show that Austin has been selected by the people as the location of the University of Texas, with the medical branch at Galveston:

Now, therefore, I, O. M. Roberts, Governor of Texas, by virtue of the authority vested in me by the laws of this State, do hereby call the Board of Regents of the University of Texas to convene at the city of Austin on Tuesday, the fifteenth day of November, 1881, to effect the permanent organization of the board, and to take such action as the law requires for the establishment and organization of the University.

In testimony whereof, I hereby sign my name and cause the seal of the State to be affixed, at the city of Austin, this the [L. s.] nineteenth day of October, A. D. 1881.

O. M. ROBERTS, Governor.

By the Governor:

T. H. BOWMAN, Secretary of State.

Before the meeting of the Board of Regents, an incident occurred showing an interest in the University by persons beyond the limits of Texas. Colonel George Flournoy, having moved from Texas to California, informed me by letter that Judge Hastings, of that State, an elderly gentleman, who had been a judge of the Supreme Court in one of the Northwestern States, and afterwards Chief Justice of the Supreme Court of California, and who had donated one hundred thousand dollars to the law department of the University of that State, desired to visit Texas on some private business, and had expressed a wish to come to Austin at the time that the regents should meet, to give his assistance and encouragement in the organization of the University of Texas. I notified him of the time, and gave him a cordial invitation to be present according to his desire. He came, and was welcomed by the regents, who had been previously informed of the object of his visit. The regents met at the day appointed in the proclamation, as I now recollect, in a room of the Supreme Court house, that stood in the rear of the old capitol, that was accidentally burned in the fall of 1881, and there held their first session. I addressed them a letter, from which it may be seen that some of the regents originally appointed had declined to accept, and others had been appointed by me to fill their places. The letter had reference to the fund of the University.

*The Governor's Letter to the University Board of Regents upon its assembling.*

EXECUTIVE OFFICE, STATE OF TEXAS,  
Austin, November 16, 1881.

To the Board of Regents of the University of Texas: T. J. Devine, Ashbel Smith, Richard B. Hubbard, A. N. Edwards, Thomas M. Harwood, Smith Ragsdale, and J. L. Camp:

Gentlemen: Having assembled to perform a most important duty for this State, in the inauguration of its first high school, aspiring to the title and grade of a State University, I deem it proper to present to you statements from the General Land Office and Comptroller's and Treasurer's offices, of the amount and character of property and funds belonging to said institution.

First, as to the lands: The amount of 32,335½ acres, shown in the statement of the Hon. Wm. C. Walsh, herewith submitted, constitutes the remaining portion of the fifty leagues of land set apart by the Congress of Texas in 1839. It is now subject to sale upon valuation. A large portion of that which is in McLennan county is now in litigation, by which the sale of it has been retarded. Able attorneys have been employed to maintain the title of the State. The one million of acres shown in said statement were set apart by the Sixteenth Legislature, and surveyed during the summer of 1880. They are understood to be, for the most part, good pastoral lands. They were surveyed in sections of 640 acres. There is no law for their sale, or disposition otherwise. Should your honorable board arrive at any conclusion as to best means of disposing of them for the benefit of the institution under your charge, and to make a recommendation to the Legislature at its next session, it would doubtless have its due weight.

Second, as to the funds in the treasury of the State belonging to the University: I respectfully refer you to the statements and accompanying explanation of the Hon. W. M. Brown, Comptroller.

From these statements, it will be seen that the amount of the available funds now in the treasury is much less than the amount appropriated for your immediate use by the Seventeenth Legislature, to-wit, \$150,000 for buildings, and \$40,000 for furniture, library, etc., making \$190,000. In explanation of this, I respectfully refer you to the report of Hon. S. H. Darden, former Comptroller, for the year ending August 31st, 1880 (pages 4 and 7), which was submitted to the Seventeenth Legislature, in which it is shown that the interest, which was then the available fund, amounted to \$185,385.27. That, however, was predicated, as there stated, upon the contingency that the Legislature would pass a law establishing or

recognizing the validity of the bonds, amounting to \$134,472.26, that had been uniformly reported previously as bonds of doubtful validity, and also to allow interest on said bonds to date (August 31, 1880), which would have amounted to \$91,889.36. No such law was passed. But, had such a law been enacted, I respectfully present the question whether that part of said interest accruing previous to the 17th of April, 1876, would not have belonged to the permanent and not to the available fund, under the terms of section 11, of article 7, of the existing Constitution of the State. Attention is also called to this for consideration, in view of any recommendation that your honorable board may make to the Legislature in regard to the recognition of the validity of these bonds.

Third, the Hon. F. R. Lubbock, the State Treasurer, has submitted a statement, showing the amount of notes for which University lands have been sold, and the probable amount annually paid on said notes, as an increase of the permanent fund, which, when invested in bonds, will, by their interest, annually increase the available fund.

I have requested the Hon. T. H. Bowman, Secretary of State, to prepare and furnish to you copies of the proclamation ordering the election for the location of the University, the tabulated statement showing the counting of the votes, and the declaration of the result of the vote, in which it was determined that the main University was located at Austin and the medical department thereof at Galveston. On account of the burning of the capitol and the confusion in the business of his office consequent thereon, he has been unable to do so. The originals are subject to your inspection, and copies of them will be furnished to you as soon as practicable.

Respectfully, your obedient servant,

O. M. ROBERTS, Governor.

The reports referred to in my letter will be seen quoted in the letter of the regents to me at the conclusion of their work during that session.

As I had appointed these regents, I felt a delicacy in being present with them in their sessions, except upon their invitation, and, therefore, I can speak of their proceedings, with one or two exceptions, only from information conveyed to me by conversations with some of the regents. In that way I learned that after examining my letter and the reports submitted to them, the smallness of the funds at their command caused them, or some of them, to rather doubt the propriety of an immediate effort to then commence the work for which they had assembled as regents. They met at night

in a room in the hotel to consult freely upon it, and Judge Hastings was present in their meeting. He was a large old gentleman, whose personal appearance indicated great force of character, and after quietly hearing the views of the regents, which tended towards immediate action, upon their invitation he addressed them upon the subject, and, after recounting his large experience in such matters, he urged them to commence the work at once to the extent of their present ability, and rely confidently upon being supported in their further progress by the people of the State. Doubtless these views but reflected the sentiments of the regents, or at least a large majority of them, and encouraged them in their determination in favor of immediate action.

In the appointment of the regents I had, in compliance with the law, selected them from different parts of the State, and had sought gentlemen of ability and learning, who had held public positions, and whose reputation would inspire confidence in their performance of the duties of the position which they had been appointed to occupy.

Ashbel Smith, of Harris county, had been surgeon general of the army and minister to England and France in the time of the Republic of Texas, a colonel in the Confederate army, and, on several occasions, a prominent member of the State Legislature of Texas.

Thomas J. Devine, of San Antonio, had been a district judge in Texas, a member of the Secession Convention, a Confederate district judge during the war, and afterwards one of the justices of the Supreme Court.

Thomas D. Wooten, of Austin, had been a surgeon of high rank in the Confederate army, and was extensively known over the State as an eminent physician and surgeon.

A. N. Edwards, of Sulphur Springs, in Hopkins county, was president of the Grange, a large association of farmers throughout the State.

Richard B. Hubbard, of Tyler, Smith county, had been United States district attorney, a member of the State Legislature, a colonel in the Confederate army, had been twice elected Lieutenant Governor of Texas, and had become Governor upon the resignation of Governor Coke.

Smith Ragsdale, of Weatherford, Parker county, was well known as a superintendent of high schools, who had for fifteen years taught Latin and other branches of learning in the McKinsey private high school at Clarksville, in Red River county, which was one of the most celebrated schools that were established in the early days in Texas.

J. L. Camp, of Gilmer, Upshur county, had been a colonel in the Confederate army, a member of the State Senate, and a criminal district judge, and for many years a leading and popular lawyer in his part of the State.

T. M. Harwood, of Gonzales, had been educated in the University of Virginia and had been a major in the Confederate army, and was a distinguished lawyer, practicing in the district and supreme courts for more than thirty years.

Thus was brought together a combination of different qualifications to initiate this grand undertaking of the State.

The regents organized by the election of Col. Ashbel Smith as president, and Mr. A. N. Edwards as secretary. After they had prepared the report of their proceedings, I was present by their invitation, and heard it read, and the only addition that I suggested was that of "government" to the law department, which was made. In the informal consultation had upon that occasion I suggested to them the propriety, in view of the limited means at their disposal, of instituting but few chairs, to be filled with eminent teachers, compensated by good salaries, so as to have superior teaching in comparison with that of all other schools in the State, and stated my conviction that in that way only could they then inaugurate a first-class university, to be perfected by an increase of professors as the increase of the funds would furnish the ability to make it.

At the close of their session they made the following report:

*Report of the Proceedings of the University Board of Regents to the Governor.*

CITY OF AUSTIN, November 17, 1881.

To His Excellency O. M. Roberts, Governor of Texas:

Sir: The undersigned members of the Board of Regents of the University of Texas have the honor to present to your Excellency



the following statement of their proceedings and of matters relating to the University:

In obedience to the proclamation of your Excellency, the Board of Regents assembled in Austin on the 15th instant.

In conformity with the requirements of the act of the honorable the Legislature of Texas, approved March 30, 1881, the board organized by electing a president and secretary of the board.

Next in order, as required in the above recited act, the regents proceeded to establish the several departments of the University, a copy of which is herewith submitted.

The board then adopted a general plan of the building which will be first required in carrying the organization of the University into effect. They also took steps to advertise for plans and specifications of such building.

The board also appointed a committee to ascertain what buildings will be needed for the medical department of the University, which has, by public vote, been located in the city of Galveston, and to provide such buildings for said medical department.

The Board of Regents then, in order to ascertain the available means for erecting the necessary buildings adverted to in the preceding paragraphs, and for meeting the expenses of carrying on the University when put into operation, addressed the honorable the Comptroller for information on the amount of University funds in the treasury, and on other means set apart for the use of the University. The Comptroller laid before the board a succinct statement of the University funds on hand. The following is the summary:

There will be in the treasury on the first of January, 1883, belonging to the University, cash funds amounting to \$37,025.11; bonds in the treasury, covering funds formerly set apart for the University, and borrowed by the Legislature for other purposes, which borrowing was perhaps proper in the peculiar circumstances of the times, amounting as principal to \$134,472.26.

These funds belong of right to the University. No interest has ever been set apart on this principal sum. The board submit that the Legislature be respectfully requested to provide by appropriate legislation for the transfer to the University available funds of this sum, together with the interest which should of right have accrued thereon.

It further appears from the Comptroller's report that there has been an important misconception as to the amount of available University funds actually on hand. The late Comptroller, in his report for the year ending August 31, 1880, on the "University Fund," arrives at the conclusion, and so states, that in justice there should be subject to appropriation "by the Legislature as available fund \$185,385.27." For the more full understanding of this sub-

ject, the report of the late Comptroller is hereto appended in full, so far as relates to the "University Fund." Hence, referring to the report of the present Comptroller adverted to above, it appears that instead of there being in the treasury, at this time, available funds of the University, \$185,385.27, there are only \$37,025.11 available and subject to the order of the Board of Regents, and this includes interest on the same up to January 1, 1883. The Legislature, in the act of March 30, establishing the University, appropriated, subject to the order of the Board of Regents, \$150,000 for building, \$40,000 for the purchase of library, necessary apparatus, furniture, etc., for said University.

The foregoing statement exhibits the financial condition of the University at the present time. It is clear that further legislative action is necessary to carry into effect the objects of the Legislature in passing the University act of March 30, 1881.

The Board of Regents, therefore, respectfully request your Excellency, if in your opinion advisable, to present this subject of the financial condition and prospective requirements of the University before the Legislature, in the event that it shall be convened in extra session. It appears from the information derived from the General Land Office that there remains on hand of the University lands unsold and at the present time subject to sale 32,000 acres. The million acres appropriated to the University of Texas have been located, but they are not subject to sale at this time. In view of the extraordinary increase and spread of population in Texas, and of the consequent increase in the demand for land for settlement, and also in view of the rapid appreciation in value of lands on our frontier, this million acres must ere long be saleable at high prices, as compared with the present prices. The Board of Regents are informed that this million acres of University lands in question can now be leased for a term of years for pastoral purposes, at rates producing a large annual income, available for the University, and at the same time reserving to the University the great prospective certain increase in their selling value. To protect these lands—this million acres of University land—from being used for pastoral purposes as at present, without any compensation being made for this use of the same, will require appropriate legislation by the Legislature. If so protected by appropriate legislation, and leased, as they may be, on such terms as are paid for rent of lands similarly conditioned, these lands in question will afford a revenue largely contributing to the support of the University at no distant day.

The Board of Regents beg, in conclusion, to recapitulate a brief summary of their proceedings. As required by the act providing for the creation of the board, they have.

1. Organized their board.

2. Established the several departments of the University.
3. Defined the general plan of the University buildings.
4. Provided for advertising for plans and specifications of same.

The board have done everything practicable and advisable, in their opinion, to be done at this time. They have not deemed it advisable to take any steps at their present meeting to select persons to fill the chairs of professors or other officers.

The grounds set apart many years ago for an University, and known as College Hill, consisting of forty acres, are a magnificent site for a great institution for the increase and diffusion of knowledge, such as the people of Texas require that this University shall be. The executive committee of the board have been authorized to have this University ground surveyed and surrounded by a substantial fence for its protection.

In conclusion, the board would state, after careful review of the entire subject, that substantial grounds exist for the belief that the design of a University, entertained and cherished by the fathers of the Republic and State of Texas, will be carried out to a successful termination, and that the State of Texas, at no distant day, will possess a University resting on foundations broad and deep, growing with the growth, and keeping step with the population, the wealth and intelligence of the State of Texas.

All of which is respectfully submitted.

ASHBEL SMITH, President;  
THOS. J. DEVINE,  
T. M. HARWOOD,  
THOS. D. WOOTEN,  
A. N. EDWARDS, Secretary;  
R. B. HUBBARD,  
SMITH RAGSDALE,

Regents of the University of Texas.

*Extract from the Comptroller's Report for the year ending August 31, 1881.*

UNIVERSITY FUND.

Attention is also called to the item, \$10,300.41, in Comptroller's "Certificate of Debt," appearing to the credit of the University land sales account. This certificate of indebtedness was issued to that fund by the Comptroller, W. L. Robards, June 8, 1865, in lieu of like amount of State warrants which had been paid into the credit of that fund for the purchase of University lands, under act of December 13, 1863. These warrants were destroyed, and the indebtedness of the State to the University fund recognized by the Comptroller by the issuance of the certificate of debt. This subject

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was mentioned in the annual report from this office for the fiscal year ending August 31, 1874, and in subsequent reports, suggesting that some action be taken by the Legislature to determine the validity of the credit, which appears to be a just claim upon the State in favor of the University fund. Recognizing this debt, and the further debt of \$134,472.26, reported as debt of doubtful validity, the Texas University fund will have to its credit August 31, 1880, as follows, to-wit:

Five per cent State bonds .....	\$75,400 00
Six per cent State bonds .....	175,500 00
Seven per cent State bonds .....	63,000 00
Five per cent State bonds, quoted as of doubtful validity .	134,472 26
Comptroller's certificate of debt .....	10,300 41
Cash .	2,563 23
	<hr/>
Total .	\$461,235 90

The above \$134,472.26 were twelve-year bonds, and matured January 1, 1879. Interest on these bonds to date of maturity, twelve years, amounts to \$80,683.35. If, however, interest is allowed from the date of maturity up to time of payment, which would seem to be just, there would be, to August 31, 1880, \$11,206.01 additional interest, making total interest on said bonds to August 31, 1880, \$91,889.36, which, added to the above \$461,235.90, would show to the credit of the University fund \$553,125.26. Of this amount \$93,495.91 is interest on permanent fund already on hand, invested in bonds, and \$91,889.36 interest due on bonds quoted as of doubtful validity, making a total derived from interest, and, therefore, subject to appropriation, \$185,385.27. Recognizing this class of indebtedness heretofore quoted as of doubtful validity, with interest on same, the University fund stands, August 31, 1880, as follows:

Principal .	\$367,739 99
Interest .	185,385 27

Should the above named amounts of \$134,472.26 and \$10,300.41 due the University fund, together with the \$82,168.82 due the school fund, mentioned elsewhere, be recognized as valid debts, the bonds and certificates of debt representing the above amounts could be substituted by manuscript bonds for like amounts, and the interest due appropriated from the general revenue.

No mention is made here of the notes held by this fund for the

sale of lands. The money derived from this source is invested as fast as paid into the treasury, thereby increasing from time to time both the permanent and available funds.

UNIVERSITY OF TEXAS.

BOARD OF REGENTS.

OFFICERS.

Ashbel Smith, president; A. N. Edwards, secretary.

CLASSES.

*Class One.*—Smith Ragsdale, Weatherford; T. D. Wooten, Austin.

*Class Two.*—Ashbel Smith, Houston; J. L. Camp, Gilmer.

*Class Three.*—T. M. Harwood, Gonzales; A. N. Edwards, Sulphur Springs.

*Class Four.*—R. B. Hubbard, Tyler; Thos. J. Devine, San Antonio.

DEPARTMENTS.

*Academic Department.*—1. English Language, English Literature and History, one professor. 2. Chemistry, one professor. 3. Natural Philosophy, Astronomy, Mechanics and Meteorology, one professor. 4. Natural History and Botany, one professor. 5. Mathematics and Practical Engineering, one professor. 6. School of Mines, Geology and Mineralogy, one professor. 7. Moral Philosophy and Ethics, and Political Economy, one professor. 8. Ancient Languages, Greek and Latin, one professor. 9. Modern Languages, Spanish, French, and German, one professor.

*Department of Law.*—Science of Government, Civil, Common, Constitutional Law, and Statutes of Texas, two professors.

*Medical Department.*—1. Anatomy, Clinical Diseases of the Eye and Ear, one professor. 2. Clin. Med. and Diseases of Children, one professor. 3. Physiology and Physical Diagnosis, one professor. 4. Science and practice of Medicine and Public Hygiene, one professor. 5. Obstetrics and Med. and Sur. Diseases of Women, one professor. 6. Materia Medica, Therapeutics, Med., Chem. and Dis. Nervous System, one professor. 7. Surgery and Chem. Surgery, one professor.

## COMMITTEES.

*Executive Committee.*—Ashbel Smith, R. B. Hubbard, T. M. Harwood.

*Finance Committee.*—Thos. J. Devine, T. D. Wooten, Smith Ragsdale.

A special session of the Legislature was convened on the 6th of April, 1882, and, in pursuance of the recommendation of the Board of Regents in their report, one of the subjects of legislation submitted to that body was the University and the increase of its funds. In my general message on the 6th of April, 1882, I reported what had already been done about the University, and brought to view the inadequacy of its means, and used the best arguments that I could produce to encourage the fostering of that institution. In order to fortify my request for an additional appropriation of land to its fund, I had procured a report from the Commissioner of the General Land Office, Capt. W. C. Walsh, showing the loss of land to the University by the action of the convention of 1875, in taking from it the tenth sections of land that had been surveyed by the railroad companies. This enabled me to state to the Legislature that the land of those tenth sections would have amounted, at the time of the convention of 1875, to about one million seven hundred thousand acres of land, and if it had not been taken from the University, by the increase up to the 6th of April, 1881, it would have amounted to over three millions of acres. I thereupon recommended the appropriation of two millions of acres of land to the University fund for the support of the main University and its branches.

I also recommended the recognition of the validity of the \$134,472.26 of bonds that had been reported to be of doubtful validity.

Senator Stubbs introduced a bill (No. 20) to appropriate two millions of acres of land to the University, and to provide for survey and sale of same. Senator Swain introduced a bill (No. 22) to appropriate three millions of acres of land for the University. There was an effort also by several Senators to have a bill perfected recognizing the validity of the bonds that had been reported of doubtful validity. Upon the bill for appropriating two millions of acres of land, Senator Terrell made a forcible speech rebutting the

idea that the University would be only a rich man's school, and urged the real necessity of the appropriation to make the school what it should be. Extracts from it may be seen in J. J. Lane's History of the University, on pages 21-3. The bill passed in the Senate, but failed to pass in the House of Representatives. Still the effort was not in vain, for at the next session in 1883 one million acres of land were appropriated, and the bonds of doubtful validity were recognized as valid.

During the month of June, 1882, the State Teachers' Association, held at Galveston, was attended by Col. Ashbel Smith and myself. We both made addresses to that body, explaining the status of the University, the necessity for an increase of its funds, and asking their good offices for its encouragement throughout. Many expressions of good will for its successful establishment were made in response to our efforts.

Col. Ashbel Smith, actuated by his zeal in the cause, during that year, at his own expense, made a vist through the Southern States to the North, to obtain information in regard to first class educators, who could probably be secured as professors in our University when prepared to receive them. The result of his investigation gave essential aid in the selection afterwards made of professors.

The elevated locality whereon the main University stands, embracing forty acres of land, selected when the city of Austin was surveyed for the State capital, was for many years called "College Hill." Its top was originally covered by a beautiful grove of live-oak and other kinds of trees, that were cut down, as it was reported, by order of General Magruder during the war, in order to place cannon there to defend the city of Austin.

Preparatory to the building of the west wing of the University, I was present there with Dr. Wooten and others and assisted in selecting and laying off the ground for its location, leaving room on top of the hill for the central and eastern wing of the building.

In the fall of 1882, the corner-stone of the main University was laid on College Hill, when a great concourse of people of all classes was assembled to witness the imposing ceremony. According to arrangements by the regents superintending it, speeches were made by Colonel Ashbel Smith, President of the Board of Regents, myself as Governor, and the Hon. J. H. McLeary, Attorney-Gen-

eral of the State, who, as ex-Grand Master of the Grand Lodge of Masons in Texas, gave his attention and direction to laying in place the corner-stone, and whose speech was both interesting and appropriate to the occasion.

I here insert short extracts from my speech as being my last public act relating to the University's establishment while I was Governor. After recounting what had previously been done in the different efforts to provide for and establish a University in Texas, I said: "Thus will it be seen during the long period of forty-three years the establishment of this institution of learning has been almost constantly in the minds of the highest order of men in Texas, and has from time to time up to the present enlisted their patriotic efforts.

"Therefore, I repeat, that it can not be that the people of this State will allow the University of Texas to be anything below first class, as required by the Constitution. Let our common school system, for which an ample provision in expectancy has already been made, become fully developed; let the intermediate high schools be fostered; and let the University and its branches be more amply endowed, organized and put in full operation as a first class University—the guiding head of our educational system; then will this State have put on her armor to vie with other States and nations for superiority. And then, after a time, future generations will proudly point to the University of Texas as the brightest jewel in the crown of our greatness as a people and a State."

Col. Cook, of Austin, an experienced building contractor, proceeded with the erection of the west wing of the University building, in a substantial manner, having placed its superstructure upon a deeply-laid foundation of solid stone, so as to insure the solidity of the whole structure when completed, and furnish a basement story.

It was near enough completion to enable the University to be inaugurated on the 15th of September, A. D. 1883, in one of its rooms.

The following gentlemen were then the regents of the University: Col. Ashbel Smith, president; T. M. Harwood, T. D. Wooten, E. I. Simkins, James B. Clark, B. Hadra, Seth Shepard, and Geo. T. Todd, with A. P. Wooldridge, secretary of the Board. The professors present, having been previously selected, were, in



the academic department: J. W. Mallett, chairman of the faculty; Wm. Leroy Broun, Milton W. Humphreys, Leslie Waggener, R. L. Dabney, and H. Tallichet; and, in the law department: O. M. Roberts and Robert S. Gould. The school was opened and taught in the Temporary Capitol until the first of January, 1884, when it was removed to the University building in the west wing, which had then been completed. And thus was established the main branch of the University of Texas.

In conclusion, it should be recollected that this is not an attempted history of the University of Texas, but only some account of its establishment, by stating what had been previously done towards it, and by stating, to the extent of a limited information, what I and others said and did. In a Democratic Republic, no one man can accomplish any great measure of government. He may start or revive the movement for it, or strongly advocate it, or lead in the steps taken for it; still, there must be a public opinion actively demanding it, and those who are in authoritative control of the government must co-operate in its final consummation. If all that each person did, in his appropriate sphere of action, could be ascertained and stated, it would doubtless fill an ordinary-sized volume.

I happened to be placed in a position in which it became my duty to direct the course of public affairs in the administration of the State government as best I could, and being strongly impressed with the public necessity for a University, I simply endeavored to have created throughout the State a public opinion, pressing for it, by enlisting the efforts and influence of the teachers, and through them, the people generally interested in education, and presented the subject before the Legislature.

## THE REAL SAINT-DENIS.

LESTER G. BUGBEE.

In a paper read before the midwinter meeting of the Association and published in the January Quarterly, Rev. Edmond J. P. Schmitt questions Yoakum's accuracy in using the name Juchereau\* as applied to that Saint-Denis who figured in the early history of Louisiana and Texas. He also points out the error of John Henry Brown's statement that Saint-Denis was killed by the Natchez Indians in 1728.†

Some of our Texas historians have perhaps committed a much graver fault in embellishing their pages with the interesting adventures of this hero-trader than has been indicated by Father Schmitt. It is highly probable that the story of Saint-Denis as recorded in many of our histories is, in most particulars, nothing more than one of those pretty myths that find their way into history so easily and hold their places in the popular mind so tenaciously. It is the purpose of the following article to point out some of the errors that have crept into this story, to indicate the chief sources from which we must reconstruct the true narrative, and to call attention to the real importance of Saint-Denis in the history of Texas. What is here written, however, is in no sense to be considered final; some of the most important sources of information have been beyond my reach, and from them, no doubt, much is yet to be learned; indeed, it is not improbable that a study of other sources will develop errors in what I have said in this paper.

\* Most of the authorities are agreed that Saint-Denis' first name was Louis; Le Page du Pratz calls him Luchereau; Margry writes it Louis Juchereau. Father Schmitt is undoubtedly correct in saying that the Saint-Denis of Louisiana and Texas must not be confused with the Juchereau de Saint-Denis who played a part in the history of Canada; they are both mentioned in the same sentence in Margry's *Découvertes et établissements des Français dans l'ouest et dans le sud de l'Amérique septentrionale*, vol. V, p. 426.

† Edmond J. P. Schmitt, *Who was Juchereau de Saint-Denis?* the Quarterly, January, 1898, pp. 204-206.

The first mention which I have been able to find of Saint-Denis occurs in the *Historical Journal of the Establishment of the French in Louisiana*,\* which is one of our chief sources of information relative to the early history of that province. The entry in the *Journal*, referring to March, 1700, reads as follows: "On the 23d M. de Bienville set out with M. de Saint-Denys and twenty Canadians and Indians to visit the Yatase nation, on the Red river, and watch the Spaniards." † This journey of reconnoissance seems to have been a short one, as Bienville was again at Biloxi within a month. Two months later, May 29, 1700, Saint-Denis was once more sent out "to explore the country in the Red river, and to watch the Spaniards." ‡ From 1700 to 1705, he is mentioned three times by the *Journal* as acting in various capacities. ||

From Pénicaut's *Relation* § we learn further that Saint-Denis

\* The authorship of the *Journal historique de l'établissement des Français à la Louisiane* is not known; Winsor's *Narrative and Critical History of America*, vol. V, p. 63, says that it "is founded largely upon the journals of Le Sueur and La Harpe, though it is evident that the author had other sources of information. Within its pages may be found a record of all the expeditions dispatched by the colony to the Red River region and to the coast of Texas. The work of compilation was done by a clear-headed methodical man." A translation into English of a part of the work may be found in B. F. French's *Historical Collections of Louisiana*, vol. III. My references are all to this translation. The *Journal* is also published in full in vol. IV of Pierre Margry's *Découvertes et établissements*.

† *Historical Journal*, in B. F. French's *Historical Collections of Louisiana*, vol. III, p. 18.

‡ *Ibid.*, p. 19.

|| *Ibid.*, pp. 28; 30, 31; 32, 33.

§ Pénicaut was at the fort on the Mississippi where Saint-Denis commanded when orders came to abandon it; he was also one of the party who accompanied Saint-Denis on his first trip to Mexico. His *Relation* must be used with caution, as he was fond of embellishing it with a good story; dates, and such facts as he acquired at second-hand can not be trusted. The work has been published in volume V of Pierre Margry's *Découvertes et établissements*. Part of it has also been translated into English by B. F. French in his *Historical Collections of Louisiana*, second series; my references are to the original in Margry.

was in command of a fort on the Mississippi from 1702 to 1705,<sup>1</sup> that the fort was abandoned by order of the governor in the latter year,<sup>2</sup> that Saint-Denis then returned to Mobile and soon after retired from service and took up his residence at Biloxi,<sup>3</sup> where he remained till Lamothe Cadillac arrived in Louisiana in 1713.<sup>4</sup>

In the year following occurred the journey to which so much of romance has since become attached. According to the common account, this journey was undertaken for the purpose of establishing commercial relations with Mexico. John Henry Brown states that Saint-Denis reached San Juan Bautista in August, 1714, fell in love with the commandant's daughter, and soon became her accepted suitor. Gaspardo de Anaya, the governor of Coahuila, also a suitor for the hand of the fair Maria, had Saint-Denis seized and threw him into prison. An offer of release on condition of renouncing the lady's hand was rejected by the Canadian "with scorn." In the meantime Anaya pressed his suit with Maria, demanding her promise to marry him and threatening to put her lover to death in case of her refusal. In reply to this threat she bade the messenger tell the governor that, if he had Saint-Denis executed, "by my own hand or that of a trusted friend, a dagger shall be planted in his cowardly heart." At the end of some six months the viceroy interfered, Saint-Denis was released, received with favor at court, and even offered high rank in the Spanish army; but proffered favors could not make Saint-Denis "forget his mission or his fidelity to the woman who had saved him." While waiting for a reply from the king of Spain upon the business which had brought him to Mexico, he returned to San Juan where he found the Indians "abroad in arms." He "pursued them alone," and such was the persuasive power of his eloquence that he had little difficulty in putting down the insurrection. "The young Castilian beauty was his reward." After two years' delay, an unfavorable reply of the king to his propositions finally reached him

<sup>1</sup> Pénicaut's *Relation* in Margry's *Découvertes et établissements*, vol. V, pp. 425, 431, 439, 459.

<sup>2</sup> *Ibid.*, pp. 459, 460.

<sup>3</sup> *Ibid.*, p. 460.

<sup>4</sup> *Ibid.*, pp. 476, 495. Pénicaut says Lamothe Cadillac arrived in 1712, an error of a year.

and he returned to Mobile. On a second trip to Mexico, he had all his goods seized and was again imprisoned. Once more the heroine came to the rescue, her influence aroused her relatives, secured the forcible release of her husband, and compelled the viceroy to pay for the misappropriated goods.\*

\* John Henry Brown, *History of Texas*, vol. I, pp. 13-18. It is interesting to speculate on the origin of this story. It is told by Charles Gayarré in his *The Poetry, or the Romance of the History of Louisiana*, and it is probably from this source that it has made its way into Texas history. Yoakum refers to both Gayarré and Le Page du Pratz, but he is indebted to the former for the greater and least trustworthy part of the narrative. Gayarré's *The Poetry, or the Romance of the History of Louisiana* must be carefully distinguished from his second and third series of lectures on the history of Louisiana. These works appeared originally as three distinct series of lectures, but, bound together, they make up that author's four-volume *History of Louisiana*. The first series of these lectures, *The Poetry, or the Romance of the History of Louisiana*, which contains the story of Saint-Denis substantially as related above, is avowedly unhistorical; Gayarré confesses (*History of Louisiana*, vol. II, Preface), that he was gamboling with his imagination in these lectures, and that he looked upon the series "at the time as *nugae seriae*, to which I attached no more importance than a child does to the soap bubbles which he puffs through the tube of the tiny reed, picked up by him for the amusement of the passing hour." (*History of Louisiana*, vol. II, Preface.) He claims that the second series of lectures, *Louisiana; Its History as a French Colony*, is at least founded on facts; the third series, the last three volumes of the *History of Louisiana*, is reliable, and is the work on which the author's reputation rests.

I quote below two passages from Gayarré's version of this story in order to furnish an example of the heroic style of this part of his work, and at the same time afford, in a small way, a basis for comparison with Brown's account. Referring to Anaya's offer of release to Saint-Denis, Brown is content to say that the proposition was rejected "with scorn." This is too tame for Gayarré, who puts it thus: *How swelled the loyal heart of the captive at this base proposal! He vouchsafed no answer, but he gave his oppressor such a look as made him stagger back and retreat with as much precipitation as if the hand of immediate punishment had been lifted up against him.* (Vol. I, p. 170.) Again, compare the reply of Maria to the proposal of Anaya as given above with the following as recorded by Gayarré: "*Tell Anaya that I can not marry him as long as St. Denis lives, because St. Denis I love; and tell him that if St. Denis dies this little Moorish dagger, which was my mother's gift, shall be planted, either by myself or my agent's hand, in*

It is not my purpose to say caustic things about the writers of Texas history. Mr. Brown's book, from which the above account is taken, is, in very many respects, a most excellent and creditable production. Nor is he the only author that has accepted this pleasing story of love and adventure. It is to be found, with more or less variation in the works of Yoakum,<sup>1</sup> Kennedy,<sup>2</sup> Mrs. Pennybacker,<sup>3</sup> and perhaps others. Suffice it to say that the story has little or no foundation in fact, and even what little truth there is in it has been distorted almost beyond recognition by these accounts. A more serious criticism is that the real importance of Saint-Denis' mission to Mexico has been obscured, indeed totally neglected, in an attempt to capture the imagination with the details of an heroic incident. It is difficult to find moderate terms in which to express one's condemnation of the methods of investi-

*the middle of his dastardly heart, wherever he may be."* This was said with a gentle voice, with a calm mien, as if it had been an ordinary message, but with such a gleam in the eye as is nowhere to be seen except in Spain's or Arabia's daughters. The words, the look, and the tone, were minutely reported to Anaya, and he paused. (Vol. I, p. 171.) I hope that some one may be able to prove that our historians did not accept as serious such an account as this.

But where did Gayarré get the story? Very probably it is an elaboration of the account given by Pénicaut in his *Relation*, which I have already mentioned. Pénicaut, so far as I know, is the only contemporary authority that introduces the Governor of Coahuila into the narrative, or calls the commandant at San Juan by the name of Vilesca (not Villescás, as Gayarré has it, nor Villesecas as it occurs in Brown). Many of the particulars of the long story of Saint-Denis' adventures in Mexico told by Pénicaut are repeated by Gayarré in almost the same language and, I believe, are to be found nowhere else. Suffice it to say that Pénicaut is our least reliable authority for this portion of the story, and even he does not say a word about the rivalry between Saint-Denis and the Governor of Coahuila. That portion of the story, and consequently most of the romance, is probably an invention, pure and simple, of Charles Gayarré. That Brown drew his account from Gayarré and not from Pénicaut is evident from the fact that he copied the romantic details added by Gayarré, which do not appear in the *Relation*.

<sup>1</sup> Yoakum, *History of Texas*, vol. I, pp. 47-50.

<sup>2</sup> Kennedy, *Texas*, vol. I, pp. 218, 219.

<sup>3</sup> Mrs. Pennybacker, *A New History of Texas*, revised edition, pp. 22-24 and note.

gation that have allowed such a tale to become a part of our serious history.

In the reconstruction of this chapter in our early history we must, of course, depend upon the accounts left us by the contemporaries of Saint-Denis. Besides the *Historical Journal* and Pénicaut's *Relation* which I have already mentioned, the most important of these from the French point of view are the memoirs of Dumont,<sup>1</sup> Charlevoix' *Nouvelle France*,<sup>2</sup> and the *Histoire de la Louisiane* of Le Page du Pratz. The last mentioned, who lived in Louisiana from 1718 to 1734 and who used the memoirs of Saint-Denis in compiling his work,<sup>3</sup> is probably our best authority on this incident. A very important Spanish authority which I have used in the preparation of this paper is the *Testimonio de un Parecer*, a summary of events in Texas from the time of La Salle to 1744, at which date the document was written. The author evidently had access to reliable reports concerning Saint-Denis and it will be seen that the Spanish account substantially confirms the French.<sup>4</sup>

According to Le Page du Pratz, the immediate occasion of the journey of Saint-Denis to Mexico was a letter which reached the French governor from a Spanish ecclesiastic, Ydalgo (commonly written Hidalgo) by name, in which the father asked the aid of the French in establishing a mission among the Assinais (or Cenis) Indians.<sup>5</sup> This seems to have been precisely the opportunity which the governor was seeking. It will be remembered that in 1712 Louisiana had passed under the control of Anthony Crozat, who looked upon it merely as a commercial establishment and cared little for the claim which France held to the great territory of Texas.

<sup>1</sup> Dumont, a French officer, was stationed in Louisiana during at least the last years covered by this paper. The full title of his work is *Mémoires historiques sur la Louisiane*; I have had access only to the translation of a part of the work in vol. V of B. F. French's *Historical Collections of Louisiana*.

<sup>2</sup> I have not had access to this work.

<sup>3</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, p. 178.

<sup>4</sup> It has been printed in Spanish in Yoakum's *History of Texas*, vol. I, Appendix, pp. 381-402.

<sup>5</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, p. 10.

If the trade of Louisiana could be increased by winking at the Spanish occupation of Texas, Crozat's governor was ready to be seized with impenetrable blindness in that direction. He believed a Spanish mission in what is now eastern Texas would be of great commercial advantage to the French, particularly in the matter of furnishing Louisiana with horses, cattle, and silver;\* hence Saint-Denis was despatched to Mexico to assist the Spaniards in making the establishment in Texas on the condition that the trade of the country should be opened to the French.† Accompanied by ten men, he finally reached the presidio San Juan, near the Rio Grande.‡ The commandant of this post, Don Diegue (Domingo

\* *Ibid.*, p. 11.

† *Ibid.*, p. 11.

‡ The *Historical Journal* (French's *Historical Collections of Louisiana*, vol. III, pp. 43, 46) says that Saint-Denis was sent to Texas to learn all he could concerning the Spanish missions in that country. Nothing is said about trade. After satisfying himself that there were no Spaniards among any of the tribes that lay between the French settlements and the Assinaï's, he returned to the Natchez on the Mississippi. Five Canadians joined him, and he again entered Texas. At the village of the Assinaï's his party was increased by the addition of twenty Indians of that tribe, who accompanied him to San Juan.

According to the *Testimonio de un Parecer* (Yoakum, vol. I, Appendix, p. 390), Saint-Denis was sent to Texas to purchase live stock from the missions which he expected to find somewhere in that country. Disappointed in this, he sent back most of his men and continued the journey to San Juan with three companions.

Pénicaut (in Margry's *Découvertes et établissements*, vol. V, pp. 494-500), who was one of the party, states that Saint-Denis was engaged by Lamothe Cadillac to go to Mexico and attempt to open commercial relations with the Spanish; he set out with a quantity of goods and twenty-two men; a halt was made among the Natchitoches and ten men were left to hold a post established there; the Assinaï's furnished guides and after nearly two months of travel from Natchitoches, the party reached San Juan.

According to the statement made by Saint-Denis on his arrival at San Juan, the substance of which is given by Margry (*Découvertes et établissements*, vol. VI, p. 218), twenty-one of his men returned to Mobile from the Assinaï's, and he was attended on the rest of his journey by only three Frenchmen and twenty-five Indians.

We learn from an extract from a letter written by Lamothe Cadillac (Margry, *Découvertes et établissements*, vol. VI, p. 197) that Saint-Denis told the viceroy "conformably with his instructions that his gov-



or Diego) Raimond<sup>1</sup> (or Ramon), evidently regarded his mission with favor; but as the Spanish law forbade the intrusion of foreigners, he detained Saint-Denis while a messenger set out for Mexico to ask permission for the Canadian to present himself at the viceroy's court.<sup>2</sup>

In the meantime Saint-Denis succeeded in winning his way into the affections of the family at the presidio. A widowed daughter of the commandant is said to have called into exercise her match-making skill, and before Saint-Denis left San Juan he was engaged to the granddaughter<sup>3</sup> of Don Diego, the niece of the match-maker.

The desired permission to proceed to Mexico was at last received, and he found himself in that city on the 5th of June, 1715. The viceroy Linares is represented as very favorably inclined towards the French, though there was a strong party in Mexico that cherished bitter feelings against their old enemy. It may be that Linares was really disposed to favor the scheme of the Canadian, or it may be that his professions were only pretended in order to secure the inactivity and even gain the help of the French,—at any rate, according to Le Page du Pratz, an agreement was soon reached that Saint-Denis should assist the Spaniards in establishing missions in Texas, and the promise was held out that commercial privileges would then be granted to the French.<sup>4</sup>

ernor had sent him with twenty-five men to Father Hidalgo'' to buy cattle, and, not finding the padre, he had continued his journey to Mexico.

Le Page du Pratz is, I think, the only authority who mentions the letter from Hidalgo to the governor of Louisiana. Le Page du Pratz probably reflects Saint-Denis' own version of the story, so we should be cautious about accepting the motives attributed to Lamothe Cadillac, with whom Saint-Denis was not always in harmony.

<sup>1</sup> Not Villescas or Villesecas, according to the common story.

<sup>2</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, pp. 12, 13.

<sup>3</sup> *Ibid.*, p. 14. The *Historical Journal* (French's *Historical Collections of Louisiana*, vol. III, p. 46) and the *Testimonio de un Parecer* (Yoakum, vol. I, p. 391) say that this lady was the niece of the commandant. Brown (*History of Texas*, vol. I, p. 13) calls her the commandant's daughter.

<sup>4</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, pp. 14, 15. The *Testimonio de un Parecer* (Yoakum, vol. I, p. 391) says nothing of the promises made to Saint-Denis.

On his return to San Juan the marriage with the granddaughter of Don Ramon was celebrated, and soon after Saint-Denis joined the Spanish expedition which had for its object the occupation of Texas. On reaching the country of the Assinaïis, the Indians were called together, and Saint-Denis, who had great influence among them, exhorted them to receive the Spaniards and to treat them well.<sup>1</sup> On August 25, 1716, he was again at Mobile.<sup>2</sup>

In this way the group of missions between the Trinity river and Natchitoches came into existence with the acquiescence of the French. There is no trace in this story as told by the contemporary French chroniclers, except Pénicaud, of anything but the best of treatment. Certainly there is not a word about imprisonment, and the governor of Coahuila<sup>3</sup> is not even mentioned.

The governor of Louisiana was "charmed" with the success of Saint-Denis' mission, in spite of the fact that it involved the tacit abandonment of French claims to the country west of the Red river. He proposed to Saint-Denis to return to Mexico at once, this time with goods. But goods were not easily obtained. The warehouses of Crozat were well filled and he was growing every day more discouraged because of the difficulty of disposing of them. Yet on this occasion Saint-Denis' application was declined by Crozat's agents, and even the interference of the governor could not open the stores to him. Probably such a venture was regarded as too hazardous. Finally, in October, 1716, some two months after Saint-Denis' return from Mexico, a company was formed of the most substantial men in the colony, and the agents of Crozat agreed to advance merchandise to the amount of 60,000 livres.<sup>4</sup>

The commercial privileges which perhaps had been half promised by the viceroy had not yet been extended to the French, and

<sup>1</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, pp. 16, 17.

<sup>2</sup> *Historical Journal* (French's *Historical Collections of Louisiana*, vol. III, p. 47.)

<sup>3</sup> Martin de Alarcon, not Gaspardo de Anaya, was governor of Coahuila during the years covered by this story. (Bancroft, *North Mexican States and Texas*, vol. I, p. 604.)

<sup>4</sup> Le Page du Pratz, *Histoire de la Louisiane*, vol. I, pp. 17, 18. The amount of goods and the dates are taken from the *Historical Journal* (French's *Historical Collections of Louisiana*, vol. III, p. 47).

Spanish law forbade even the entrance of a foreigner into Mexico. Any goods introduced in the manner here proposed were, of course, contraband and subject to seizure. The harsher term which we apply to such an act as the French traders contemplated is smuggling. The character of this second trip is, to some extent, cleared up by the significant fact that the goods were made to appear as belonging wholly to Saint-Denis.\* He probably depended upon his connection with the family of a Spanish officer and the favor with which he was regarded by the viceroy to protect him in the violation of the law. It is very probable, too, that he sought to quiet suspicion by spreading the report that he had returned to enter the service of Spain, and that the goods which he brought with him were his personal effects.† This supposition at least clears up many of the difficulties, and it is not at all inconsistent with the character of the man; we learn from Lamothe Cadillac that Saint-Denis "was not very zealous in the service of the king" of France,‡ and Bancroft declares that he was paid by the Spanish government for lending his aid in establishing the missions in Texas.¶

The winter of 1716 was passed by the traders among the Assinaiis Indians and the following March found them again on the road for San Juan, Saint-Denis probably going on in advance.§ It seems that a disagreement occurred among the members of the company while at San Juan, perhaps as to the price which should be paid the Spanish officials as hush money, and the secret as to the ownership of the goods leaked out. As a result, confiscation

\*Le Page du Pratz, *Histoire de la Louisiane*, vol. I, p. 19.

Saint-Denis opposed the organization of this company, particularly when he learned that some of its members proposed to make the trip with him. He insisted that these members be instructed to make it appear that they were his employees and that the goods belonged to him alone. The *Historical Journal* does not mention this.

† *Testimonio de un Parecer*, Yoakum, vol. I, p. 391.

‡ Letter from Lamothe Cadillac in Margry's *Découvertes et établissements*, vol. VI, p. 197.

¶ *North Mexican States and Texas*, vol. I, p. 611.

§ The *Historical Journal*, (French's *Historical Collections of Louisiana*, vol. III, p. 49) states that Saint-Denis reached the presidio in advance of the company, lost his goods by seizure, and had already set out for Mexico when the rest of the party arrived. The dates in the various accounts do not agree.

was imminent, and it is not unlikely that some of the goods were actually seized. To prevent total loss, Saint-Denis hurried on to Mexico to secure the intervention of his friend the viceroy.\*

But affairs went ill for the trader. The friendly viceroy had been superseded by one whose attitude, says Le Page du Pratz, was as hostile as that of Linares was favorable. Priestly jealousy had also raised up an enemy in the person of Padre Olivarez, who is represented as jealous of the ecclesiasties who had successfully made the establishments in Texas under the protection of Saint-Denis.† Don Martin de Alarcon, the governor of Coahuila and Texas, was also unfriendly, and reported that Saint-Denis had entered the province without the proper passport and had brought goods with him which were not wholly his own.‡ Circumstances thus combined to wreck the hopes of the Canadian. He was arrested and imprisoned as a suspicious character. Most of his goods, which had been sent on to Mexico by Don Ramon, were seized as contraband, and it seems that he lost all but a bare sufficiency to satisfy certain expenses of justice.|| He was kept in prison some two months, and when released was ordered to remain within the limits of the city; nine months more elapsed, and he finally succeeded, after forcibly dispossessing a Spaniard of his horse, in effecting his escape. He passed by San Juan, but stopped only to clandestinely visit his wife in the garden of the fort, and arrived safe in Louisiana on April 2, 1719.§

\*Le Page du Pratz, *Histoire de la Louisiane*, vol. I, p. 19.

The *Historical Journal* and the *Testimonio de un Parecer* do not mention these details.

†Le Page du Pratz, *Histoire de la Louisiane*, vol. I, p. 20.

‡*Historical Journal*, in French's *Historical Collections of Louisiana*, vol. III, p. 63. Of course, even if the goods belonged wholly to Saint-Denis, their introduction would still be illegal, unless he was really removing, with permission, to enter Spanish service.

||According to the *Historical Journal*, he obtained the release of his goods, but lost the proceeds through the faithlessness of a friend, who squandered the money entrusted to him.

§Le Page du Pratz, *Histoire de la Louisiane*, vol. I, pp. 20, 21. The *Historical Journal* says he was aided in making his escape by the relatives of his wife. There is no foundation for the story that his wife accompanied him from San Juan to Louisiana. She was sent to him later.

There are few incidents in the early history of Texas which have a greater importance than the one that I have sketched above. An impartial observer living in the first years of the eighteenth century would have found the greatest difficulty in forecasting the future of the extensive, but then unoccupied, domain which we now call Texas. Its situation made it the logical battle ground of the French and Spanish in America. Both claimed it and both had made ineffectual attempts to occupy it. The important feature, then, of this journey of Saint-Denis, even more interesting and certainly more essential in determining the destiny of Texas than the stage-like declamation of Doña Maria, is the good understanding that was seemingly established between the French and the Spanish, and the acquiescence of the former in the founding of the Spanish missions almost at their very door.

We have seen from the above sketch that commercial ideas were then dominant in the government of Louisiana; both Spanish and French sources agree that Saint-Denis warmly advocated the planting of the Spanish missions near the French settlements—indeed, it is not improbable that he was sent to Mexico for the express purpose of re-introducing the friars into Texas; we have seen that the Governor of Louisiana was “charmed” with the result of the first trip, and we further learn from Le Page du Pratz that a little later Saint-Denis was made a Knight of St. Louis in recognition of and as a reward for his services. The meaning of all this seems to be that the business-like Crozat cared little for the French claim to Texas, and willingly relinquished it in return for the prospect of a friendly trade with Mexico through the Spanish missions. On the other hand the Spaniards were made to realize the danger which might arise from the proximity of the settlements in Louisiana, and so took immediate steps to secure the country to Red river. The year 1715, says Yoakum, “may be considered the year of missions in Texas.” The occupation was permanent; San Antonio and other posts which were founded on this occasion were never afterwards abandoned.

However charitably we may be inclined to view the matter, we must severely criticise certain of our Texas historians for beclouding this really important episode with a mass of romantic details, and for failing to point out the true bearing of Saint-Denis’ jour-

ney to Mexico upon the final destiny of Texas. Yoakum especially should not have gone astray in this matter, as he seems to have had access to reliable sources of information in both Spanish and French; indeed, he is often on the point of assigning to Saint-Denis his true place in our history, but the brilliant fiction of Gayarré, in the end, proved too fascinating to be omitted; after reading many pages of interesting matter, truth mingled with fiction, we close Yoakum with an uncomfortable feeling that Saint-Denis' importance consists in his having laid out the San Antonio Road.\*

In censuring the historians of Texas for accepting this story on insufficient evidence and for failing to interpret correctly the larger movement of events during these years, an honorable exception should be made of the work of H. H. Bancroft. The materials used by this author so far as concerns the story of Saint-Denis were mostly Spanish, including a number of documents which have never been printed. The facts derived by Bancroft from the Spanish sources are substantially in accord with the statements of the French writers whom I have followed in this article. There is no imprisonment of Saint-Denis on his first visit; his love affair is indeed mentioned, but it is not given more importance than is accorded to the occupation of Texas by the Spanish; we learn from Bancroft, too, that the Spanish authorities were aroused to a better realization of the value of Texas and to a clearer understanding of the danger that threatened from Louisiana, and, in consequence, at once bestirred themselves to take possession of the country. Bancroft also agrees with the French account that Saint-Denis' arrest occurred on his second trip and for the reason that the Spanish officials had grown suspicious of his intentions.†

It must be a matter of keen regret to all who feel an interest in such questions as this that the State of Texas has as yet shown little interest in collecting the sources of our early history. Documents in Mexico, in Spain, and in France must be copied and made

\* Yoakum, *History of Texas*, vol. I, pp. 47-52; 65-66. Mrs. Pennybacker (*A New History of Texas*, Revised Edition, p. 24) seems to arrive at the same conclusion.

† H. H. Bancroft, *North Mexican States and Texas*, vol. I, pp. 609-614.

accessible to Texas writers before this period can be satisfactorily understood and explained. Other states have spent large sums in procuring historical data from the archives of the European countries. The State of Texas, the University of Texas, and the Historical Association of Texas can not with impunity long shirk this duty, which the world demands and expects of them. If one questions the importance of such matters he has but to look into our histories and read the story of Saint-Denis. Even the children in our schools are taught the pretty tale of love and adventure and leave the subject without knowing that they have been studying an event which materially influenced the ultimate destiny of the State in which they live,—which, in a great measure, decided that Texas should be Spanish and not French, that the boundary between the United States and Mexico should be the Sabine and not the Rio Grande. Fictions of adventure and of heroic and manly deeds are good things for children, and even for mature men, to read and enjoy; but they should not be read in text-books of history. The story of Saint-Denis is but one of a large number of such fictions that have embedded themselves in our serious histories where one expects to find scholarly investigation and accurate statement. They can be weeded out only by bringing together and making accessible the books and documents from which we must derive our information of the Spanish period of our history.

The documentary sources relative to the subject of Saint-Denis seem to be especially abundant. I have already mentioned at some length Dumont's memoirs, Pénicaut's *Relation*, Le Page du Pratz's *Histoire de la Louisiane*, the *Historical Journal of the Establishment of the French in Louisiana*, and some others; these are contemporary French accounts; they are by no means all the French sources on this subject, but, so far as I know, they are the most important. The Spanish accounts relative to this period are also particularly abundant. The *Testimonio de un Parecer* has been mentioned. The sworn statement which Saint-Denis made on his arrival at San Juan as to the object of his journey now probably reposes in the archives of the Mexican Republic. The minutes of the *junta de guerra* of Dec. 2, 1716, held to discuss questions as to the defence of Texas which Saint-Denis' appearance had aroused, rests in the repository; this document covers several manuscript

pages and is styled by Bancroft "the best narrative extant of Texan annals from 1789."\* The account of the return of Saint-Denis to Texas accompanied by the Spanish friars and soldiers, and of the actual occupation of the country by the Spanish, is contained in the voluminous official report of Don Ramon who commanded the troops on that occasion. The same story is told from the ecclesiastical point of view in the works of the padre Espinosa who was one of the friars in charge of founding the missions among the Texas Indians. The works of this friar have been published, but I doubt if there exists to-day in the entire State of Texas a astical point of view in the works of the padre Espinosa who was search among the church archives at Querétaro and Zacatecas may unearth reports that will throw much new light on this subject. Saint-Denis' *Declaracion*, the minutes of the *junta de guerra*, and Don Ramon's report have, I believe, never been published.

It is not my purpose here to follow the history of Saint-Denis beyond his return to Louisiana in 1719. This can be done successfully and in detail only when more of the sources are available than I have at hand. I may be pardoned, however, for calling attention to another conspicuous error which has become a part of at least two of our histories of Texas. At the time of the great Natchez uprising against the French in 1728, it seems that Saint-Denis was in command of a small garrison at Natchitoches. During the progress of the war the Indians sent a force to destroy this post and dispose of one of their most dreaded enemies. They attempted to gain entrance into the fort under pretence of restoring a captive woman, but their intentions were suspected and admission to the fort denied them. They then burned the captive before the eyes of the French, constructed some kind of fortification, and began a siege. I compare below in parallel columns the account of the fight that followed as given by Brown's History of Texas and the story of the same incident as told in Dumont's memoirs.

\* Bancroft, *North Mexican States and Texas*, vol. I, p. 613. 1789 is evidently a misprint for 1689.



## BROWN.

St. Denis hastily sent messengers to his friendly Indians, and with twenty men from the fort at once made a furious attack upon the Natchez. At the first onslaught all his men but eight were killed. For two hours he fought against desperate odds, hoping that reinforcements would arrive. "He was seen," says an historian of the time, "springing like a lion among the crowd of warriors, forcing them back. He looked like an angel of vengeance accomplishing his work of destruction, invincible himself in the terrible fray. He fell at last hit by three bullets in his head and two arrows in his breast." There were but two survivors. The Natchez ceased firing and retired.†

## DUMONT.

They [the friendly Natchitoches who came to aid St. Denis] reached the fort, and were brought in by night, and the commandant [Saint-Denis] having armed them, sallied out at the head of his troops the next morning at daybreak, entered the Natchez intrenchment and fell upon them sword in hand. Many were killed; the rest awakened by the noise, fled, but were pursued with muskets, and after killing about sixty of the savages, the commandant returned to his fort in triumph, without having had a single man wounded, giving the survivors liberty to return to their village and tell what reception they got at Natchitoches.\*

\* *History of Louisiana, translated from the Historical Memoirs of M. Dumont*, in B. F. French's *Historical Collections of Louisiana*, vol. V, pp. 97, 98.

† John Henry Brown, *History of Texas*, vol. I, pp. 18, 19. Who was the "historian of the time" referred to by Brown? Certainly it was not one of the contemporary writers whose journals have been published in *French's Historical Collections of Louisiana*, or in Margry's *Découvertes et établissements*. Le Page du Pratz gives substantially the same version as Dumont. Bancroft, who was familiar with the Spanish sources, evidently knew nothing of the version given by Brown, or else regarded it as untrue. It is not found in Gayarré or Yoakum. Rev. Edmond J. P. Schmitt (*Who was Juchereau de Saint Denis?* the *Quarterly*, January, 1898, p. 206) calls attention to this error of Brown's, and mentions a letter that was written by Saint-Denis in 1735, some six years after the above described attack on Natchitoches.

## THE OLD MEXICAN FORT AT VELASCO.

ADÈLE B. LOOSCAN.

In pursuance of a policy inimical to the interests of American colonists in Texas, and expressed in the decree of April 6, 1830, Mexican forts were built at Anahuac and Velasco. In 1832 the Velasco fort was invested with a garrison of one hundred and twenty-five men, under Colonel Dominic Ugartachea. Its location on the east bank of the Brazos river, just where the river emptied into the Gulf of Mexico, gave full command of all commerce entering the river. History contains no charge of arbitrary conduct on the part of Ugartachea, as was the case with Bradburn at Anahuac, and it was only when the fighting qualities of the commander and garrison bore the test of a severe battle that the fort became permanent. The hotly contested and bloody engagement of June 26, 1832, confers upon Velasco an honorable place in the annals of heroic warfare. The fort long remained a monument to the bravery of the men, who participated in the battle, but history is silent as to its subsequent uses. The question arises, was the fort repaired and manned by the government of the Republic of Texas, and when was it finally abandoned? A partial answer is contained in the experience of an old and highly respected resident of Brazoria county. Col. M. S. Munson, who, as a boy spent the summers with his family at Velasco, recalls an incident connected with a fort at that place occupied by a garrison of the Republic of Texas. While the date of the occurrence is not accurately fixed, it was some time prior to 1841. The facts are as follows: Among the officers of the fort at that time were Lieut. Redfield and Dr. Lynch, the latter held in high esteem as surgeon and citizen. One morning, about sunrise, as young Munson looked from his bed-room window, he saw a number of men not far from the house, and noticed that pistols were given to two of them, who were placed at a short distance from each other. A duel was on hand, which resulted in the death of Dr. Lynch, who fell at the first fire of Lieut. Redfield. Dr. Lynch was a general favorite in the community, and his sudden death made a deep impression upon the witness.

The fort built by the Mexicans is described by some writers as a log cabin fortress, but according to the recollection of many who remember its construction, it was not built in the log cabin style; logs were used, but in the manner of a stockade. The description by Col. Guy M. Bryan, who saw it when entire, and again when in ruins, is about as follows: The fort was circular in shape and composed of sound drift logs set perpendicularly in two circular rows, the space of several feet between them being filled in with sand. A mound of sand in the center, raised above the pickets, was surrounded with wood to prevent the sand being blown off. On this mound was mounted a nine pound cannon, which was on a swivel so as to make a complete circuit guarding the mouth of the river; it could not, however, be depressed so as to protect the immediate vicinity, hence on the night of the attack by John Austin, it could not play upon the Texians close to the fort, but was used against the schooner *Brazoria*, commanded by Capt. Wm. J. Russell.

The exact location of the old fort is attended with difficulty, on account of the changes wrought by winds and waves. In the course of sixty-six years accretions of land on the eastern shore of the river have been so marked, that a certain locality known to old residents as the site of the old fort, and which was quite near the river bank and gulf shore, is now several hundred feet from the former, while the gulf shore line extends a full quarter of a mile or more beyond its early boundary. These changes were effected chiefly by the destructive storms of 1875 and 1886, which submerged nearly all this low lying coast region.

Mrs. Ellen A. Shannon, who was born at Velasco in 1841, her parents, Henry C. and Pamela Wilcox, having moved there in 1837, gives a reliable account of the site of the old fort, which, she says, is now marked by her own residence. She lived at Velasco continuously until August, 1863, when she and her husband, James T. Shannon, moved away, not returning until June, 1867. Before their departure, her husband had often called her attention to one of the posts or upright logs of the old fort, with muskets stuck in it. During the civil war the Confederate soldiers used all the fences, posts, etc., of every kind for firewood, and probably every piece of iron that pertained to the accoutrements of an army.

Still, in 1875 the severe storm revealed evidences of the location of the old fort, for, according to Mr. A. G. Follett, Sr., it washed up a number of small Mexican coins of the value of twenty-five cents and small copper cannon balls on its site. The same authority, who settled at Velasco in 1838, agrees that Mrs. Shannon's house now marks the spot where once stood the old fort. Her house was built in 1887, in consequence of the one previously occupied by her having been seriously damaged by the storm of 1886. It is a plain wooden structure, one story high, containing about four or five rooms, with a neat flower garden in front.

There are remains of forts built by the Confederate State's government, in the neighborhood of Quintana and Velasco, whose earthworks rise to a considerable height above the surrounding level. The one on the west bank of the Brazos river, about a mile above Quintana, commands a long stretch of water; near the new town of Velasco are the remains of another, and still another lies on the east side of the river, at the drawbridge across the canal, which connects the Brazos river with West Galveston Bay. The existence of these remains of a former government in the same locality with the old Mexican fort is liable to cause confusion in the minds of future searchers after true historic localities.

The consensus of opinion of those who have known the country since its earliest settlement agrees in the location of the fort on the site indicated.

## RECOLLECTIONS OF EARLY SCHOOLS.

**M. M. KENNEY.**

The first school which I remember, though I did not attend it, was in Austin's colony in 1835, and was taught by an Irishman named Cahill. My older brother, aged about eight years, was one of the pupils of that primitive academy, which was distant about two miles from our house, and the way was through the woods without any road or path. When he started to school, our father was absent and mother went with him, carrying a hatchet to blaze the way.

Of the discipline of the school and its studies, I only know that my brother, in relating the experience of several of the boys, made the impression on me that the rod was not spared; and my recollection of the books is reduced to the arithmetic, which I afterwards studied, in which the primitive rules were illustrated by engravings; that for subtraction being a bunch of grapes, showing in successive pictures how, after eating two, three, etc., so many remained. Thinking that this must have been the work of a little boy like myself, I put the lesson into practice by purloining from a basket of "forbidden fruit" and then producing the arithmetic as authority for the appropriation—a sally which mother allowed to condone the little sin.

The next school which I remember, though I did not attend that either, was taught in 1836, at a place called Mt. Vernon, now in Washington county, by Miss Lydia Ann McHenry, a maiden aunt who lived with us. The school was at the house of Mr. Ayers, a public spirited man, who was one of the principal settlers there. I think that Mrs. Ayers and Miss McHenry joined in teaching, and they intended to make it a permanent school, but the war of the revolution interrupted and it was never renewed. I was then four years old. My sister, two years older, attended, and, as it was twenty miles away, was of course absent from home, which left me very lonesome. How long it was I do not know, but it seemed an age, and I had about given her up and ceased to grieve, when one

day as I was playing under a tree before the door I heard my name called and looking up saw aunt and sister alighting from a carriage at the gate. I was so surprised and overjoyed that I cried instead of laughing—the only time I remember shedding “tears of joy;” but had I known the cause of their coming, tears would not have been out of place; it was the news of the fall of the Alamo.

After a perilous delay, father returned from the army to remove his family, and when we crossed the Brazos we heard the drums in Santa Anna’s army at San Felipe.

The next school which I remember was at our own house in 1837. Miss McHenry taught a boarding school for girls and mother at the same time a class of boys. There were in all twenty or more lodged and boarded as best we could in our unfinished cabins in the wilderness. A brave and cheery little company,

“Whom, borne on fancy’s eager wing  
Back to the season of life’s joyous spring  
I pleased remember.”

If I were a poet I would echo their laughter and portray their plays in a volume which should perpetuate their little history and the fragrance of the primeval wilds would be wafted through its pages.

The studies were of every grade. The pupils were carefully instructed in the art of reading well, and as a help to that end were encouraged to memorize verses, some of which I can still repeat from hearing them recited so long ago. I remember also hearing them recite their grammar and spelling lessons, but of course I could not tell how well. Had the school been sustained so that adequate accommodations could have been provided, it would probably have had a notable influence in the country. But it did not prove financially successful, and after two or three sessions it was discontinued.

I have a vivid recollection of learning the alphabet when I was about four years old, and mother, who was my teacher, also remembered the difficulties of the task. The letter t, of the minor type, was the greatest stumbling block. I called it p, and remember that I thought it was meant for a picture of a pig. The letter s I learned at once, because I thought it was a picture of a snake, and I knew that creature hissed. Men of science gathering data

from ancient monuments of the East, where the childhood of the world is in some measure recorded, and from barbarous tribes where that state continues, have now at last caught up with the former discoveries of the four year olds and announce that the alphabet was originally pictures, which the exigencies of convenience and rapid use had even in very ancient times shortened into conventional signs; the foreign names of the things represented having probably prevented us from observing the same as a familiar fact. If the cultivators of science would study the mental images formed by those original explorers of the world, the three and four year old children, they might find hieroglyphics more significant than any that were ever sculptured on Egyptian obelisk or propylon.

I do not know when I learned to read. Mother attended to that in the very early morning of life, but I could already spell and read very well for a child of seven, when I first went to school. It was taught in an unfinished new school house about two miles from home, to which my brother and I walked every day. The teacher proved inefficient, and after a very brief session the school closed.

The next school was at the same place in 1838 or 1839, taught by Mr. Dyas, an old Irish gentleman, and I think a regular teacher by profession. The session was three or four months and the studies miscellaneous, but the discipline was exact. He had an assortment of switches set in grim array over the great opening where the chimney was to be when the school house should be completed. On one side was the row for little boys, small, straight and elastic, from a kind of tree which furnished Indians with arrows and the schoolmaster with switches at that time. I remember meditating upon the feasibility of destroying all that kind of timber growing near the school house. My terror was a little red switch in that rank which I caught too often, usually for the offense of laughing in school. The larger switches were graded, partly by the size of the boys and partly by the gravity of the offense, the gravest of which was an imperfect lesson. The third size of rods was of hickory; tough sticks, which he did not use on the little boys, but which he did use on the larger scholars, without the least hesitation or reserve, if they failed to get the appointed lesson or were derelict in any of their duties. The fourth size of switches was of oak and would have been better called clubs. These he applied

more in the style of the shillalah than of the ferule to the largest boys. Some of them ran from him, but none ever struck back, it being a point of honor not to strike the teacher, though I sometimes fancied that he looked disappointed that he did not have a more interesting bout with them. I do not remember that he ever whipped any of the girls.

As for the studies, we all had Webster's spelling book, and were ranked and classed according to our proficiency in that great classic. I have forgotten my relative rank at that time, and but few attained the end. The last few pages contained some stories and fables, intended for reading lessons, illustrated with engravings, and the last of these had a picture of a wolf, by some accident well executed—a fact which tended to establish the book in our estimation, because we saw wolves every day. "The picture of the wolf in the spelling book" thus became the synonym of graduation. Whether it originated with us or not I do not know, but the expression was long used in a humorous sense as equivalent to a diploma, and when it was said of a boy that he had studied to "the picture of the wolf in the spelling book" his proficiency was not afterward questioned. The best class in reading used a text-book called "the English Reader," consisting of extracts from the writings of eminent authors, chiefly dry didactics and some poetry. My brother was in that class and also in a class by himself reading Goldsmith's History of Greece. The pupils brought such books as they happened to have, and one young man had Robinson Crusoe for his reading book. His recitations interested me greatly, but I apprehend that my attention was given to the adventures of Crusoe rather than to the teacher's precepts for reading well. Several had Weem's Life of Washington, in which the story of the little hatchet and the cherry tree was most impressed upon our memory. It grieves me yet that criticism has thrown doubt on the verity of a story which so successfully impressed children with the honor of veracity. One boy had an illustrated edition of Goldsmith's Natural History, and there were a variety of other books, nearly all by famous authors.

We had a variety of arithmetics, and it was during this school that a consignment of new slates and pencils arrived, not enough to go around, but some of the boys got a new outfit. The impression it made on me was one of surprise at the seeming abundance



of the material. From the care which we had to take of our fragments of old slates and stubs of pencils I had somehow imbibed the idea that with their going the world would see the last of the slates; but here, to my relief, I found that the supply would keep up with the forest of switches which I had in mind to extirpate. There were no classes in arithmetic; each boy ciphered through his text-book as fast as he could, and the stern teacher pointed to the errors with the switch held like a pen, and a minatory wag of the head that meant correction. One boy, or young man, for he was nearly grown, persisted in carelessness as to the relative position in which he wrote the figures on his slate, not under each other, in perpendicular lines, with sufficient exactness. After several admonitions Old Dyas attacked one day with one of the shillalah class of switches, but only got in a blow or two before the spry youngster sprang out of a window (there were no shutters, much less glass). But then arose the dilemma that his hat was inside the school house. To come after it was to beard the lion in his den; to go without it was to blister in the sun. After some maneuvering, however, one of the boys threw his hat out of the window, and, pulling it over his ears, he made his escape. He came back, though, in a day or two, in a good humor, and the school went merrily on. I knew this boy as a man for many years after, and, having occasion to go over some calculations with him, I was amused to see that although he neither wrote a good hand nor ciphered well, yet he placed the figures under each other with the precision of a printed book. A few days of Old Dyas in the public schools now would probably eliminate one prolific source of errors.

We walked morning and evening to school, carrying our dinners in tin pails and milk in a variety of bottles. Some had clear glass, some green glass wine bottles, and some black or junk bottles. A contention having arisen among the boys as to the relative strength of these wares, it was submitted to the test of striking the bottles together, the boys whose bottles were broken admitting defeat—which, in some vague way, I thought involved humiliation—while the boys whose bottles survived the conflict vaunted their victories. I do not see why it never occurred to us that the finer ware would suffer in the conflict and the coarser prevail, but so it was. Bottles were of vastly more value then than now, and some of the small boys having cried about their loss, brought in the teacher with his

switches to umpire the game, and he decided to administer impartial fate. I do not remember the number of strokes, but I remember thinking it unjust that the boys who had lost in the game should suffer as much in the award as those who prided themselves on their stock of infrangible glass. For many years, however, I have coincided with the old teacher's view, and wish that his policy could be extended to parties and nations as well, they being but children of a larger growth.

Though the hours of school seemed to me of wearisome length, yet school was turned out time enough for us all to go leisurely home before sundown. Our house was about two miles, most of the way across a prairie, but crossing a small stream, whose clear water babbled over "the stones in the brook" where I loved to play. My brother would sometimes wait with me, but he sat on the bank, very much engaged in his books. I remember his puzzling over the mystery of the extremes and the means in the rule of three, and saying that if he could learn that rule and the square root he would be through the arithmetic and would "know it all." The Robinson Crusoe boy, of whom I have spoken, accompanied us to school, and one day took it into his head to teach us some arithmetic. There were five cows grazing by the side of the path, and he maintained that there were fourteen, proving it in this way: There are four in a bunch on the right and one by itself on the left; four on the right and one on the left make fourteen. We admitted the correctness of the numeration in the abstract, but could not see the cows in the concrete. "Well," said he, "apply your arithmetic; when you buy cattle count the old way, but when you sell cattle numerate them." For some reason this little jest remains in memory, and I have moralized upon it, like Dr. Franklin on his whistle, until at times it seems that the world is divided into two principal classes—those who count in the old way and those who "numerate."

To everything there comes an end, and so at last Dyas' school also ended, and one little scholar at least went running home joyfully carrying his books to stay. The patrons of the school were much pleased with our old teacher and he with his new location. They had arranged for him to open a permanent academy, and he departed for Ireland to bring his family. He sailed from New Orleans, but the vessel was never afterwards heard of.

The next school which I attended was taught in the same place in the year 1840 by Mr. Cummins, a young man from the States—that was as near as I ever learned the country of his nativity. He understood what he taught, and taught what he understood. His discipline was as severe, if not more so, than that of Dyas. I could not compare their teaching, but I learned more, perhaps only because I was older. We were ranked and arrayed in two spelling classes—the senior and the junior; and of course all in Webster's spelling book. I with a few others belonged to both, and it became a consuming ambition with me to be head of both classes, in which I succeeded once or twice, "and then I left it like a child." I have followed many greater ambitions of less importance. We reached and mastered "indivisibility" and unintelligibility, and physic and phthisic and other long and hard words. Indeed, came at last to the closing lessons, where there was a column of words pronounced alike but spelled differently, the first two of which were "air, the atmosphere; are, plural of am." Now I hear it is considered style to pronounce are arr. They don't know the spelling book; are, should be pronounced air. Further on there was a lesson in punctuation, which Mr. Cummins required us to memorize, giving it in charge on Friday evening; but the words were long and tough, and when Monday morning came, we came up unprepared. Not so the teacher; he did not go after a switch, he already had one and applied it without delay. Beginning at the head of the class, he dusted every jacket in the rank down to the foot and sent us all to our seats to learn it before playtime. We learned it. I can say it yet. There was also a lesson in the same connection, in which the letters of the alphabet occurred in a horizontal line. This lesson, a chum and I thought we could read with facility, and we had planned that when this came to us we would see which could say the a b c's the fastest. I believe he suggested this exploit, and the irony of fate awarded him the lead. He was hardly half way before the teacher was upon him with the switch. The offense was that there was a comma after each letter, indicating a pause. My old school mate is living yet. I hear that he is a preacher. I have not heard him, but will vouch for him that he knows one important lesson not always learned by clergymen, namely, to mind the stops. We got through the lessons on punctuation and read of the old

man and the apple tree, old dog Tray and the rest, and finally passed the picture of the wolf, and so were graduates, if not proficient.

It was at this school that some of Peter Parley's new school books arrived: geography, astronomy, and what not. I was permitted—or required, I forget which—to take lessons in his very primitive astronomy, and in truth was much interested and perhaps vaunted my superior course of study over the other boys. Be that as it may, I came to grief over the constellation of the great bear, which was one of the pictures in the book. In that picture the bear's hind legs bent backwards like those of a dog. There was a pet bear chained at almost every other house, and all the boys knew that a bear's hind legs bent forward like a man's knees, and so they voted my new book the work of an ignorant impostor. Will the makers of books never learn that a false picture is a falsehood?

We were taught arithmetic, whether well or ill, I do not remember; but I do remember that finding our slates growing continually dirty, we thought it a good plan to take them to the creek for a general washing, and once there, the abundance of sand suggested that it was a good scouring material and we proceeded to scour the slates, covering them with marks which we had not calculated upon.

An anecdote is related that somewhere a boy carried his slate to the teacher and asked this deep question, "Where do all the figures go to when they are rubbed out?" I can tell him where our complicated marks and scratches went. They went with the slates to puzzle future antiquaries who may exhume their fragments.

We had a variety of reading books; mine was the National Reader, a compend of extracts from notable modern authors, most of them American. One boy had Aesop's Fables for his text-book, and I was greatly interested in his recitations; so much so that I attempted compositions in the same vein, compositions in which I fear that the adventures of the animals were more in evidence than the moral.

Our games and sports were much the same as now, but we had also adventures with wild animals, some of which were exciting as well as amusing. They should be memorable, though they can not recur in this country until after the next ice age.

Our teacher joined a company of volunteers to invade Mexico, known in history as the Federal Expedition, and their departure

gave us an unexpected holiday. After their return, he stopped at our house, and I hardly recognized the prim and tidy school teacher in the bronzed and war-worn soldier with his grim accoutrements. I listened with eager interest while he told my father of their marches and battles and Xenophonian retreat. Time and experience has not lessened the high opinion I then formed of the military talent of their commander Col. Jordan. Mr. Cummins volunteered in the Texian army to repel the invasion of 1842, and fell at the battle of Salado.

In the fall and winter of 1841 and 1842 another school house materialized as far to the east as the other was to the west, nearly two miles from home. It was a neat log house in a grove in the prairie, with no spring near, but the patrons subsituted a well. I had then for the first time to experience a winter school. The house was an improvement on the other, in that it had shutters to windows and door; glass was still far in the future. We had also a chimney and wide fireplace where we kept a roaring log heap in cold weather, when the neighbors brought wood on their wagons, which they did turn about, and a flaming, crackling brush heap when we had to bring fuel by hand from the neighboring woods. The teacher was both competent and qualified mentally, and his scholars advanced well on all lines. Here an innovation broke in, for the world advanced backward and forward then as well as now. The new book was Town's spelling book, with columns of words arranged without the slightest regard to etymology or affinities of orthography, and further obscured by parallel columns of synonyms styled definitions, which we were required to memorize. This fool fad was of course hailed as a great improvement. I have since learned that it returns, like fashions, periodically. It has appeared and disappeared once or twice since.

Our teacher essayed to teach mental arithmetic orally to the school, assembled, as the legislative journals say, "in committee of the whole." The teaching, as it was somewhat violently called, was carried on by sudden questions on this dense subject, which we were expected to answer in the style of an exclamation. He was more successful with his singing geography, where, beginning at Baffin's Bay and going south around the continents of the Western Hemisphere, the names of all the bays were chanted in a **unity** of discord and loud voices, the pupils following with finger on map

and the chant continuing until the last one had found the bay as well as the name. Then followed the capes, islands, mountains, rivers, etc. There was a certain merit in this system which has not been successfully incorporated in any other. We became familiar with the outlandish proper names in geography, and formed a general idea of their import and locality. It was a sort of game, also, and we took delight in singing to a dull fellow until he found the object and escaped to the winning side, usually taking revenge by joining the screech to the next below until he also escaped. It beat a whipping to make them diligent. In reading, our teacher was fair only, but in penmanship he was excellent and successful, notwithstanding my failure to profit by his precepts and examples. He whipped the children cruelly, and I think more from petulance on his part than fault on theirs, and the girls were not spared. At this school one dark winter evening a neighbor visited us, and after we were dismissed, announced, as a piece of news to carry to our parents, that the Santa Fé expedition had arrived at that place and surrendered without firing a gun. I well remember the shade that passed over the boys' faces at the unwelcome tidings.

In February, 1842, I was taken on a journey to the States, which cut short my attendance; but soon after I left an invasion reached San Antonio; the larger boys went to the war and the school closed.

In the spring of 1843 another school opened in the same place, taught by R. B. Wells, a Methodist minister, who had been sent to our circuit that year. I think he was originally from Georgia, though I am not sure; he may have come from Virginia. Wherever he may have been born and bred, he was a scholar well qualified in every way to teach almost any branch of learning, and withal a gentleman. This school was the first I had seen or heard of that dispensed with the rod in school. He managed to keep order by keeping the children busy and by a dignified and gentle sway; he never had a switch and never needed one; he never whipped and never threatened but once, and that was to some boys or young men as large as himself. Besides the ancient routine of reading, writing, and arithmetic, he had classes in grammar, history, geometry, and surveying, and a class of one, the author of these memoirs, in Latin. He managed to give attention to all and keep the students interested, and I believe that each and every one of them was richly rewarded mentally and morally for the time

and attention given at Wells' school. As a teacher, he had one fault, a very common one then, as now—he did not always begin at the beginning, and knowing the subject so well himself, he could not well discover what the difficulties were which often puzzled primary students. If once he knew what the difficulty was, no man that ever I knew could more easily and quickly lead the pupil out of it, but he was slow in discovering rudimentary difficulties. I remember puzzling over an arithmetical problem for several days; a time which seemed to me months long. The teacher could not, or at least did not, understand my difficulty, which was so simple that a very stupid fellow in the neighborhood easily explained it to me in a few moments; perhaps because he knew how to reach the comprehension of his kind, in which our excellent teacher was at fault—over-shooting as it were. But the more advanced a student became, the more easily and thoroughly did Mr. Wells carry him forward. I remember his lamenting that there was no copy of Euclid to be found in the neighborhood, and when I searched my father's library and found a copy which had been through the wars and moves, and was torn and deficient of some of the first books, he hailed it as a treasure, nor was he in the least put out that the remnant began at the 47th proposition, either because he remembered all that went before or because he did not consider the mere beginning particularly important. And here I digress to move the Text-book Board to re-elect old Euclid for another term of two thousand years, for in all that time no other text-book has appeared that will at all compare with his.

Mr. Wells did not confine his exertions for our advancement to his little school nor to his Gospel ministry, but he also started an emulation among the young men to read well in the works of the great writers of our tongue. My brother read the English translation of Plutarch's Lives and Shakespeare's plays, in the latter of which his taste chose King Henry V., which he almost memorized. A companion of his was the best reader of the English language, except one, that ever I have heard. During that summer I read Scott's Life of Napoleon and attacked Blair's rhetoric, though with problematical success. One of the boys who was not at all literary in his taste, yet mastered the Life of Putnam, and when we found a den of wolves, proposed to emulate his hero by crawling in after them, but we dissuaded him and found a better plan by

smoking them out and shooting as they emerged. We had Parley's Universal History, then a new book, which had many merits in the eyes of a child and not a few in the eyes of this grown person. We had also then, as now, books called "readers intended for the use of schools," among which the English Reader and the National Reader still held first place. The school was in summer time, and during the long hot days the wild cattle came to the grove around the school-house to stamp in the shade. Their bellowing and fighting often monopolized our attention to the annoyance of the teacher, and often serious danger to our horses. 'Tis an ill wind that blows nobody good. It was necessary to drive these cattle away, which was by no means the simple thing it is to drive gentle cattle. We had to go in force, and when the enemy was routed we were apt to become dispersed in pursuit and it took time to rally. We had many plays which I observe are still in vogue with school-boys. But our favorite sport was to ride away at noon for a swim in some shady pool in the neighboring streams, and we all became good swimmers. After the swim, we ran our horses back to the school-house. A level piece of road leading from the school-house suggested a race track, where we tried the speed of our "nags" with merry races, in which the girls rode as well as the boys, and won many equestrian contests. We also had swings for the girls and various athletic exercises for the boys. I believe that we had more sport and genuine enjoyment and at the same time gave more attention to our studies at this school than any other I have known either before or since.

With the close of summer, our school closed, when I was eleven years old. The teacher remained in the neighborhood for some time and wherever he was it seemed as if school was in session from the numbers who came to him for instruction, especially young men. He did not resume his school, but removed to another part of the country, where, years afterward, he closed his useful life. No towering monument with marble piled around marks the tomb of Robert Barnard Wells, but the light which he let shine before men still gleams through the clouds of time.



SOME OF MY EARLY EXPERIENCES IN TEXAS.

ROSA KLEBERG.

[The following is my grandmother's account of her first experiences in Texas. She is the widow of Robert J. Kleberg, Sr., who as a member of Baker's company participated in the battle of San Jacinto. She is now eighty-five years old. She related the story to me in German, which I have taken down and translated, preserving as far as possible her exact words.—RUDOLPH KLEBERG, JR.]

After landing at New Orleans, we took sail for Texas, intending to land at Brazoria. Instead, we were wrecked off the coast of Galveston Island on December 22, 1834. We managed to save all our goods and baggage, which included everything we thought needful to begin a settlement in a new country; and having built a hut out of the logs and planks which had been washed ashore, we were able to maintain ourselves for some time. There were no houses on the island, but there was no lack of game.

After a few days a large ship passed the island; and the other people who were with us went on board and landed at Brazoria. We could not afford to leave our baggage; and so my husband, the only one in the party who could speak English, together with my brother Louis von Roeder, went with them to Brazoria. Thence they proceeded on foot to San Felipe to find my brothers and sister, who had gone to Texas two years before, and from whom we had not heard since their departure.

The task of finding them was not so difficult as might be supposed. Entirely contrary to the fashion of the day, all had allowed their beards to grow and had adopted the dress of Prussian peasants. They found our people near Cat Spring. In the timber near Bostiek's an Indian came toward them. My brother Louis was of course ready to shoot; but my husband restrained him. As it turned out the Indian was quite friendly, and told them where they would find the people they were seeking. He belonged to a troop of Indians who were camping in the neighborhood and from whom our relations had been in the habit of obtaining ven-

ison in exchange for ammunition. They found our people in a wretched condition. My sister and one brother had died, while the two remaining brothers were very ill with the fever.

My husband chartered a sloop to take us to the mainland. Captain Scott, the owner of the sloop, lived on one of the bayous, and we stopped at his house. He received us with the greatest kindness and kept us with him several days until we were thoroughly rested. I have never seen more hospitable people than those of Captain Scott's family. Three miles from Captain Scott, on the other side of the bayou, lived a Mr. Kokernot.

We went to Harrisburg where my husband had rented a house. As we were carrying our baggage into the house and I had just thrown down a big bundle, an Indian carrying two big hams upon his back approached me, saying, "Swap! Swap!" I retreated behind a table upon which lay a loaf of bread, whereupon the Indian threw down the hams, picked up the bread and walked off. As a matter of fact, the Indians were in the main quite amicable. They were constantly wishing to exchange skins for pots and other utensils. Quite a number of them was camping on Buffalo Bayou. I have often sewed clothes for them in exchange for moccasins. They were Coshattis, and big, strong men. There were also Kickapoos, who, however, were small.

We all lived together in the house during the rest of the winter. The house was very poor, and only in the kitchen was there a fireplace. My father carried on a butcher's trade, while my sister and I took lessons in sewing from a Mrs. Swearingen and made clothes for Moore's Store. We were all unused to that kind of work, but we felt that we must save our money; and, when required by necessity, one learns to do what one has never done before. We had our pleasures, too. Our piano had been much damaged; but I played on it anyway, and the young people of Harrisburg danced to the music. Toward summer, we all took the fever; and it seemed to me as if we would never get rid of it. We had no medicines, and there were of course no physicians.

In the fall my husband, who had been in Cat Spring, came to Harrisburg with a team of oxen to take us with him. The roads in the Brazos bottom being impassable on account of the mud, we camped at Weeten's. This was the first house on the road from Harrisburg to Cat Spring, and was a good day's journey from the

former place. Weeten was a backwoods American, and carried on the trade of a "teamster." He was the very personification of whole-souled generosity and hospitality. We also stopped at Hoff's. Hoff was a Pennsylvania Dutchman. At the time he did not have much; later, however, he became a rich slave-holder. We hired a little crib from him, and had to pay for all we got.

Upon arriving at our place at Cat Spring (near Millheim, Austin county), we moved into a big log house which my husband and brothers had built. There was neither floor nor ceiling to it, and in the only room was a big fire-place. As soon, however, as the most important field work was done, the men built an extra fine house for our parents. This had a floor and ceiling of logs.

We had most of our goods in common. When we decided to go to Texas, we put all our savings in a common treasury, part of which we invested in buying things we thought necessary to start a settlement. Our intention was to buy a tract of land to be held in common, and later to locate our individual claims. We had a president, secretary, treasurer, etc.; but the details of arrangement have escaped my memory. As a matter of fact, it did not work well, and after the war it broke up to our mutual benefit.

Circumstances were very different from the representations we had made to ourselves. My brothers had pictured pioneer life as one of hunting and fishing, of freedom from the restraints of Prussian society; and it was hard for them to settle down to the drudgery and toil of splitting rails and cultivating the field, work which was entirely new to them.

The settlers with whom we came in contact were very kind and hospitable; and this was true of nearly all the old American pioneers. They would receive one with genuine pleasure, and share the last piece of bread. Money was out of the question; and if you had offered it to those people, they would have been amazed. When you came to one of the old settlers, you were expected to make yourself at home. He would see that your horses were well fed, and offer you the best cheer he could; and you were expected to do the same when the next opportunity presented itself. In the main, everything was very quiet and peaceful. But there was great dissatisfaction with the Mexican government, which was in reality no government at all. The settlers were constantly saying that since the Mexicans gave them no government, they could not see

why they could not have a government of their own and be rid of the Mexicans. This seemed to be the constant burden of their conversation. Old Mr. Knykendall, who lived on a big plantation ten miles from us, had nothing else to say.

We lived about ten miles from San Felipe, where there were from two to four stores, besides a tavern and saloon and from thirty to forty private houses. In the stores you could buy almost anything you wanted in those days; but, of course, the prices were high. There were no churches, but plenty of camp-meetings, one of which I attended. There was considerable trade in cotton and cattle in San Felipe and San Antonio. Dr. Peebles owned a big gin on the Brazos, in which he employed a good many negroes. Captain York was another one of our neighbors.

Old Colonel Pettus brought us the first news of the commencement of hostilities. The unmarried men of our party then joined the march to San Antonio and participated in the capture of that city.

In the summer the people returned. Things were now quiet for a while, and every body began work once more. But when the news of the fall of the Alamo came, there was great excitement. Some of the people wanted to leave Texas altogether. There was quite a debate in our family as to what course it was most advisable to pursue, until my husband was seconded in his views by my father. Besides, we could not leave the State permanently, having no property elsewhere. And so it was finally decided that my father should stay with us, while my husband and brothers were to join the army. As the men left, their families began to move, intending to cross the Sabine river; and we set out like the rest. As we passed through San Felipe, my husband and my brother, Louis von Roeder, left us to join Houston's army. Having only one big ox-wagon, and being compelled to take in it four families and their baggage, we were compelled to leave behind much that was valuable. My father and I drove our cattle and packed horses; and I carried my daughter Clara, who was then a child of a few months, upon the saddle in front of me.

Most of the families traveled separately until they reached the Brazos, where all were compelled to come to a halt. It was necessary to drive the cattle across before the people could pass over; and this was attended with a good deal of difficulty. In this way

there were collected from forty to fifty families who were trying to cross with their cattle, and the noise and confusion were terrible. There was only one small ferryboat, which carried a wagon and a few passengers. Many of the people were on foot. Deaf Smith's Mexican wife was in a truck-wheel cart (a cart with two wooden wheels made from entire cross-sections of a large tree) with her two pair of twins, but had no team to carry her forward. My brother Albrecht carried her with his team of oxen for a distance and then returned for us. Several other people showed her the same consideration, and thus she managed to proceed on her journey. The blockade continued from early morning until the late afternoon.

The next morning after crossing the Brazos, we stopped at "Cow" Cooper's, called thus from the large number of cattle he owned. Cooper told the people to help themselves to all the meat in his smoke-house, since he did not want the Mexicans to have it. He was then a man of about 50 years, and his sons were in the army. He had a beautiful herd of horses and a lot of negroes. The people kept together for about a day, after which they again separated. We camped near the Clear Creek, where young Louis v. Roeder was born in a corn-crib.

We intended to remain here as long as possible on account of my sister. During the night, however, my brother Otto v. Roeder came to tell us that the Mexicans had gone to the crossing below San Felipe and that we must move on. And so we once more set out, being compelled to stop again after the second day. We camped in the neighborhood of a house where a number of families had collected. Here we heard the sound of cannon, and the next morning came an old man, Georgens by name, whom we knew quite well. He told us that the battle had been fought; but when my father asked him about the result he told us that he had stayed with the army until he saw that everybody was thoroughly engaged, whereupon he decided that they were able to get on without him and he left.

Georgens, however, was not the only one who decided that his presence was not indispensable. Deserters were constantly passing us on foot and on horseback. The old men who were with the families laughed at them and called to them, "Run! Run! Santa Anna is behind you!"

One German whom we knew in Paderborn, and who had come to Texas several years before us, had caused to be posted on the trees on his land notices that he was loyal to the Mexican government, and had persuaded many of his German friends to do the same. But when the Mexicans actually appeared on the scene, our friend and his followers nevertheless got frightened and got away as fast as they could. Georgens' wife and children were stolen by the Indians; but Stoehlke and his family were captured by the Mexicans, who wanted to hang him. He told them that if they did so, he would die as innocent as Jesus Christ himself, whereupon they released him and his family. There were a good many Germans on Cummins Creek. They came from Westphalia and Oldenburg.

On the afternoon of the same day, we learned the result of the battle of San Jacinto. We did not believe the good news until we heard it confirmed by the young men whom we had sent to ascertain the truth of the report.

It was our intention to return home; but we heard that the Indians were in the country, and so we followed the example of the families who were with us, and went to Galveston Island. There were also a number of Mexican prisoners who were kept on the island by the Texan government. We received some supplies from the people of the United States, but we nevertheless here passed through some of our hardest experiences. Many of us were sick, and though there was a physician, a Dr. Jaeger, among us, who generously gave his services, yet he had no medicines. My sister-in-law, Otilie v. Roeder (nee v. Donop) died here and we buried her under the Three Lone Trees.

My husband and brother Louis, who had both been in the Texan army all during this time, joined us here, and we first intended to remain permanently. But it was evident that this was impossible, and we decided to return to Cat Spring. When we came home we found everything we had left was gone. We had buried our books, but the place had been found and they were torn to pieces. We had to begin anew, and with less than we had when we started.

## NOTES AND FRAGMENTS.

Mr. W. F. McCaleb of Carrizo Springs, who has held a junior fellowship in History at the University of Chicago during the past year, has just been reappointed. This time, however, he has received a substantial promotion in that he is awarded a senior fellowship and will be allowed to travel in Mexico. He will thus be able to carry on his investigations in the Mexican archives, which must be thoroughly exploited before the real pre-Revolutionary history of Texas can ever be written.

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Mr. W. Roy Smith, who will take the degree of Master of Arts, from the University of Texas, next June, has just received notice of his nomination to a fellowship in American History in Columbia University, New York City. Competition for these places is open to graduates of the colleges and universities in the United States and Canada, and the award is usually made to the applicant who presents the best evidence of his ability to do original investigation. Two of twenty-four fellowships are, as a rule, conferred upon students of history. Mr. Smith's nomination was made on the merits of a paper entitled "The Quarrel Between Governor Smith and the Council of the Provisional Government of Texas, 1835-6."

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Judge Fulmore's History of the Geography of Texas, consisting of a series of maps, accompanied by explanatory notes and two tables of statistics, all comprised in a large chart, has appeared. It is intended especially for the public schools, and it will be found a useful aid in teaching the History of Texas. The outlines of the subject, and especially of the historical geography of the State, are presented by it in brief compass, and in a systematic way, so that they can easily be mastered. Probably the most val-

uable, as well as the most original, part of the chart is that which shows, by a graphic arrangement, how the existing counties of Texas have grown by subdivision from the few that represented the municipalities of the Republic. The table in which this growth is shown is likely to prove itself quite helpful in the investigation of the history of local government in the State.

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The Gammel Book Company has undertaken the publication of the Laws of Texas, 1822-1897. This will be, when finished, an extensive work, comprising ten large volumes. It makes accessible to the general reader a great deal of important matter that has been, up to this time, in reach of but few, and to lawyer and historian alike it is most welcome.

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Another recent publication, which deserves special commendation for the intelligent way in which it exhibits the evolution of the Texas system of organic and statutory law, is Batts' Annotated Revised Civil Statutes. Further notice of it will be made in a review, which is to appear in the next issue of the Quarterly.

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The completest repository of Texas history that has hitherto appeared in a single publication is "A Comprehensive History of Texas," edited by Dudley G. Wooten and published by William G. Scarff, Dallas. It has been received too late for an extended notice in this issue, but a suitable review may be expected in the Quarterly for July.

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Those who like to study history from the sources have reason to congratulate themselves upon the additions that have lately been made to the list in the State library. Among these are the Pacheco and Cárdenas collection, Margry's "Découvertes et établissements, etc.," the Thwaites edition of the Jesuit Relations,



as far as hitherto published, and the Goldsmid edition of the Voyages of the English Nation to America, from the Hakluyt collection. Unfortunately, the appropriations by recent Legislatures for the purchase of books have been extremely small, but the little that has been given has been judiciously spent. In time, if the money needed to buy books be provided somewhat more liberally, the library may become in some degree worthy of the State to which it belongs.

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LOUIS JUCHEREAU DE SAINT DENIS.—“One of the most striking figures on the stage of Texas history undoubtedly is Sieur Louis de Saint Denis, called Huchereau for the first time by Yoakum in his History of Texas.”

Concerning the latter clause of the above quotation from an interesting article in a late issue of the Texas Historical Quarterly, I desire to say that Henri Martin (Hist. of La.) and Charles Gayarré (Hist. of La.) both of whom preceded Yoakum, as well as several earlier writers, certainly referred to the Saint Denis sent to Mexico by Cadillac as Juchereau de Saint Denis.

Juchereau would seem indeed to have been a family name, common to all belonging to a certain branch of the Saint Denis family; as Barbe Juchereau de Saint Denis, Louis Juchereau de Saint Denis, etc., all of which names are found in the early chronicles.

The following note from Justin Winson, vol. V, p. 25, may throw some light on the subject:

“Charlevoix speaks of Saint-Denys, who made the trip to Mexico, as Juchereau de Saint-Denys. Dr. Shea, in the *note*, p. 12, vol. VI, of his *Charlevoix*, identifies Saint-Denys as Louis Juchereau de Saint-Denys. The founder of the settlement on the ‘Ouabache’ signed the same name to the Memorial in Margry, v. 350. The author of *Nos Gloires Nationales* asserts (vol. I, p. 207, of his work) that it was Barbe Juchereau who was sent to Mexico. Spanish accounts speak of the one in Mexico as Louis. Charlevoix says he was the uncle of Iberville’s wife. Iberville married Marie-Thérèse Pollet, grand-daughter of Nicholas Juchereau, Siegneur of Beuport and St. Denis (see Tanguay). This Nicolas had one

son who was born September 18, 1676. Martin says the two Juchereaus were relatives."

Documents, hitherto unknown, are being added from time to time to the Howard Library here. It is not improbable that some paper—one might even dare to hope for a letter! signed by the hand of Saint Denis himself, may yet be brought to light to settle the question of his name and to thrill the hearts of all lovers of romance!

M. E. M. DAVIS.

QUESTIONS AND ANSWERS.

In his "History of the Catholic Church Among the Indian Tribes of the United States," p. 87, John Gilmary Shea writes:

"A full history of this [the Texas] mission was composed about the year 1783, by one of the Fathers, which is still in manuscript, and will furnish, when published, a complete account of the labors of the Apostolic men of whom the present writer can only glean occasional notices."

In a note Shea adds: "I had the work in my hands, and was in treaty for its purchase; but contrary to every expectation on my part, it was sold without my knowledge to another, and I have since been unable to trace it."

Can any one give me information about this manuscript?

EDMOND J. P. SCHMITT.

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Baker, in his "Texas Scrap-Book," writes, p. 275:

"John Rice Jones came from Missouri to Texas about the year 1831. He was postmaster-general under the first provisional government. He was for years a merchant, and he died in 1845."

Was this the same John Rice Jones that lived at Vincennes, Indiana, in the beginning of the century? Can any one give me more information about him?

EDMOND J. P. SCHMITT.

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Mound Prairie, as referred to by Yoakum and Thrall, is five and a half miles west of the town of Alto, Cherokee county. There is a settlement in Anderson county, about ten miles west of Palestine, called Mound Prairie, but it is not near so old as a landmark as the first named place.

DABNEY WHITE.

THE FLOURNOY FAMILY.—For some time Mr. Flournoy Rivers, of Pulaski, Tenn., has had in preparation for the "Virginia Magazine of History and Biography," published at Richmond by the Virginia Historical Society, a series of articles relative to the Flournoy family in both Europe and America. The first of the series appeared in the issue for July, 1894. These articles are not based on the mere "they say" of verbal tradition, but upon authentic history, wills, deeds, court records and official data.

From the time that Laurent Flournoy, the Huguenot, fled from persecution in Champagne, France, first to Lyons after the Guise Massacre of the Protestants on March 1, 1562, at Vassy, and then to Geneva, Switzerland, after the Great Massacre of the Bartholomew in 1572 (see Agnew's French Protestant Exiles, vol. 2, p. 270), two branches of this family have lived—are now living—at Geneva. They are interested and are aiding. Between the European and the American Flournoys correspondence was kept up from 1700 down to about 1758, and has recently been revived.

From Geneva Jacob Flournoy, Laurent's great-grandson, came with his family in September, 1700, to the now extinct Huguenot settlement, Manikin Town, on the James river, in the present Powhatan county. See "Huguenot Emigration to Virginia," page 15, a compilation of State papers referring to this Colony, which was published a few years since by the Virginia Historical Society. Jacob's only son, Francis Flournoy, made his will April 13, 1770; probated at the March term, 1773, Chesterfield county court; and now of record at Chesterfield C. H., Va., in Will Book 2, page 262. He left a numerous family of sons and daughters, each of whom in turn became the head of a large connection.

Soon after Jacob came his nephew, John James Flournoy—see "Huguenot Emigration," page 112—who, marrying in 1720, died March 23rd, 1740. His will was probated at Richmond, Henrico county, at the April term, 1740. He likewise left sons and daughters, from one of whom—Samuel Flournoy, born 1724, died 1780, in Powhatan county (Will Book No. 1, page 66)—the compiler descends.

Though so widely scattered throughout America, it is easily susceptible of legal proof that all members of this family have a common origin. The compiler, therefore, asks you to aid him in putting all of them "in touch" with each other. He receives for it—

and expects—no compensation; he has, instead, devoted to it much time and labor and money. Readers of the Quarterly are, therefore, requested: (1) To furnish him the full name and postoffice address of every person of Flournoy descent within their knowledge; (2) To lay this matter before all such persons, requesting their co-operation; (3) To furnish Mr. Rivers an historical account, accurate and minute in detail, NOT in the form of a RUNNING LETTER, but a TABULATED statement—of the descent of themselves and of the members of their branch.

Give full names; be accurate and minute as to dates, civil, political, military or naval employment, giving official records; note all collegiate graduations and authorships, if any; born when and where; married when, to whom, lived where; occupation what; died when; buried where; religion what; politics what. Consult family Bibles, town records, county, State and national records, tombstones, church records, will and deed books, etc., giving book and page.

Mr. Rivers is also interested in and would be glad to correspond about and pay for colonial and revolutionary and historical data of the following names and families:

*Rivers.*—Antecedents of William Rivers, of Brunswick county, Va.; died in March, 1809, testate; will now of record at Lawrenceville, Va. The name existed in Lunenburg and Greensville counties, both off-shoots of Brunswick.

*Brown.*—Aaron Brown, father-in-law of the foregoing, William Rivers, executor of his will and testamentary guardian of his sons, John and William, whom he brought from Virginia to Giles county, Tennessee in 1813. He was born in 1757, died 1830.

*Camp.*—Capt. John Camp, father of Dr. John Hamlin Camp, who was Speaker of the Tennessee House of Representatives, *pro tempore*, 1821, Representative 1825, Speaker in 1827. Capt. Camp was a soldier of the Revolution; removed to Middle Tennessee from Brunswick (or Greenville?) County, Va., 1807; died at Elkton, Giles county, 1820, aged 66 years.

*Cannon.*—William Cannon, of "Mt. Ida," Buckingham county, Va.; came to Tennessee 1807-12, and removed to Caldwell coun-

ty, Ky., about 1820; died, and is buried near Princeton, Ky., on the Bennett or Catlett place. His first wife was Sarah Mosby (below).

*Rodes.*—Tyree Rodes, one of the founders of Pulaski, Tenn. (Act of Tennessee Legislature, Nov. 14, 1809); was son of John Rodes (2nd), son of John Rodes (1st), of Albemarle and Hanover counties, Va.

*Mosby.*—Benjamin Mosby, lived at what is now "Cumberland Old Court House," Powhatan county, Va.; died testate 1774; father of (among others) Littleberry Mosby, of "Font Hill," Powhatan county, who was a member of Cumberland Committee of Safety, 1775-76, and in the first Commission of the Peace, Powhatan county, June, 1777; county lieutenant, 1780-81; burgess, 1781; sheriff, 1797; died testate, 1809. His first wife (1748) was Elizabeth Netherland.

*Harris.*—The Harris family of Lonisa, Albemarle, and Hanover counties, Va. Sarah Harris married John Rodes (2nd). She had a brother, Tyree Harris, who removed from the parish 1758. Is he the Tyree Harris who was in the Commission of the Peace for Orange county, N. C., 1759, in Assembly 1760, and sheriff 1766-67?

*Avirett.*—The Avirett family, once of Onslow county, N. C. John Alfred Avirett, Sr., lived at "Richland," Onslow county. His son, J. A. A., Jr., wounded at New Hope Church, Georgia campaign, 1864; died soon after; Captain Fifty-eighth Alabama Regiment, C. S. A.

*Markham.*—John Markham, Chesterfield county, Va.; said to be the immigrant, 1717. His great-grandson, Dr. James Bernard Markham, removed from Amherst (?) county, Va., to Hale (Green?) county, South Alabama, many years ago. Lived many years in Perry county, Ala.

*Holland.*—James Holland, of Rutherford county, N. C.: was sheriff of old Tryon county, before its division in 1779, from July, 1777, to July, 1778; second lieutenant in Hardin's company, Locke's regiment, North Carolina militia, 1776; after the war was in the State Senate, 1783, 1797; in the House, 1786, 1789; member first Board of Trustees, University of North Carolina, 1789-1795; member second North Carolina Constitutional Convention (that adopted the Federal Constitution), 1789; in

Congress, March, 1795 to March, 1797, and 1801 to 1811. (His will construed, 2 Yerger Tenn. Rep., 341, in case of Tyree Rodes and wife vs. Holland.) He died 1823. His land grants reviewed in Childress vs. Holland, 3 Haywood Tenn. Rep., 274.

*Gilbert.*—William Gilbert, of "Gilbert-town," near present Rutherfordtown, N. C. In Commission of Peace of old Tyron county up to April, 1776; tax assessor, in Commission of Peace of new county of Rutherford; in House, 1779, 1780, 1782, 1783. His daughter, Sarah Gilbert, married James Holland, in January, 1780. His wife was Sarah McCandless of Philadelphia. She died at the Holland place in Maury county, Tenn., 1822. Gilbert is called "a loyalist" in Draper's "King's Mountain," which absurd error, Mr. Rivers ascertained, is due solely to the fact that Major Ferguson camped several weeks at Gilbert-town in September, 1780.

*Flournoy.*—The American ramifications from Laurent Flournoy, the Huguenot of 1562-72. See Agnew's "French Protestant Exiles" and "La France Protestante," including the progeny of both his descendants, Jacob, the immigrant of 1700, and Jacob's nephew, John James, the immigrant of 1717-1720; "Huguenot Emigration to Virginia."

AFFAIRS OF THE ASSOCIATION.

Mr. D. M. O'Connor, of Anauqua, has added to the gift of fifty dollars received from him last year, one hundred more. If the Association could find a few other such generous patrons it would be able by and by to gather a collection of materials for Southwestern history that would be known throughout the world and would attract investigators from every quarter. Then the History of Texas and the Southwest could be written by Texans themselves. Mr. O'Connor has won the hearty gratitude of the Association.

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The July Quarterly will contain the reports of the Treasurer and the Librarian. These may be so far anticipated as to state that, while the collection of the annual dues for the second year of the Association's existence has not yet begun, there is nearly enough on hand to discharge all debts, including those for the current issue of the Quarterly; and, as to the library, the collection now runs to nearly two hundred volumes and pamphlets, besides a considerable list of serial publications belonging to incomplete volumes, and not yet numbered.

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The second annual meeting of the Association will be held in Austin, June 16th and 17th, the two days immediately following the commencement exercises of the University. The railroads of the State have agreed to give a rate of one fare and one-third for the round trip, and the tickets will be sold under such conditions that those who wish can attend both the commencement and the meeting of the Association. It is hoped that the members will take advantage of this opportunity and gather in sufficient numbers to rouse enthusiasm for the work and spread it, when they disperse, throughout the State.



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**Peter Hansbrough Bell:**

Governor of Texas, 1849-53.

Born March —, 1810.

Died March 8, 1898.

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The time is favorable, for there is abundant evidence in many quarters of a growing interest in Texas history, and of more serious attention to the subject. There has never been a period in which so many earnest students have been at work in this field, and the number is constantly on the increase. The students of the public schools manifest an increased desire to know something of the history of their State, and many of them are developing an inclination towards the study that can hardly fail to bear fruit in the course of time.

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Much of the credit for this new impulse is due the Daughters of the Republic. The patriotic efforts of this organization to awaken the public gratitude toward the makers of Texas by reviving the memory of their sacrifices and achievements, have contributed not a little to the stimulation of historic interest throughout the State. The work of the Association, and especially the publication of the *Quarterly*, also had its share in the result, as is shown by the correspondence on file in the office. But, whatever may have led to this movement, one can not question its existence.

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#### LIST OF NEW MEMBERS.

The following names have been added to the list of members since the publication of the October *Quarterly*. The total membership is now 416:

Mrs. Leila Barkley Alford . . . . . 2317 Main Ave., San Antonio.  
 Col. Phil T. Allin . . . . . Cleburne.  
 Hon. J. W. Baines . . . . . Blanco.  
 Eugene C. Barker, Esq. . . . . Palestine.  
 Mrs. W. G. Belding . . . . . Austin.  
 William G. Bell, Esq. . . . . Austin.  
 Miss Cordelia Cora Bostick . . . . . Gainesville.  
 Mrs. A. Belle Bradford . . . . . Box 212, San Luis Potosi, Mexico.  
 Mrs. John Bradley . . . . . San Antonio.

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Mrs. Nettie Houston Bringhurst .....	Henderson.
Miss Daisy Bryan .....	Quintana.
Dr. A. L. Bursleson .....	San Antonio.
Dr. J. W. Carhart .....	La Grange.
Maj. E. B. Carrnth .....	Austin.
Dr. David Cerna .....	San Lucas, via Nadadores, Coahuila, Mexico.
Edwin Chamberlain, Esq. ....	San Antonio.
Mrs. Fannie McAlpine Clarke .....	Breckinridge.
Supt. W. J. Clay .....	Dublin.
Dr. Thomas C. Cook .....	Weimar.
Bethel Coopwood, Esq. ....	Laredo.
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Marion De Caussey, Esq. ....	Sealy.
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Prof. A. Caswell Ellis .....	Austin.
Miss Rosa Freeman .....	906 W. Weatherford St., Fort Worth.
Mrs. J. Arch Gamel .....	Chickasha, I. T.
Mrs. Maggie Watters Goldsmith .....	Cleburne.
Robert E. Goree, Esq. ....	Waco.
Miss Effie Graves .....	Austin.
Mrs. Lee C. Harby .....	313 W. 70th St., New York City.
Dr. J. O. Harris .....	129 Main St., Ottawa, Ill.
Prof. J. E. Harrison .....	San Antonio.
Miss Mary Heard .....	Cleburne.
T. W. Hedrick, Esq. ....	Wheelock.
J. C. Hickey, Esq. ....	Henderson.
Samuel H. Hickman, Esq. ....	Bryan.
H. E. Hildebrand, Esq. ....	San Antonio.
Prof. Robert T. Hill ...	U. S. Geological Survey, Washington, D. C.
Mrs. Robert T. Hill .....	Washington, D. C.
Miss Mary Lee Horton .....	Austin.
Mrs. A. W. Houston. ....	San Antonio.

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Charles H. Huberich, Esq. ....	San Antonio.
Miss Edith R. Hull. ....	Houston.
Prof. Peyton Irving. ....	Cleburne.
Mrs. H. D. Kampmann. ....	San Antonio.
C. A. Keller, Esq. ....	San Antonio.
C. C. Kingsley, Esq. ....	Nadadores, Coahuila, Mexico.
Bishop George H. Kinsolving. ....	Austin.
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M. E. Kleberg, Esq. ....	Galveston.
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Mrs. M. A. McGown. ....	Box 214, Huntsville.
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William Maverick, Esq. ....	119 Taylor St., San Antonio.
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Mrs. Julia A. Miller. ....	Gonzales.
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J. B. Polley, Esq. ....	Floresville.
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Robert Lee Ragsdale, Esq. ....	San Marcos.
Alec Rhea, Esq. ....	Dallas.
Prof. J. E. Rodgers. ....	Oak Cliff.
Eugene C. Routh, Esq. ....	Winchester.
Rev. Edmond J. P. Schmitt. ....	Brackenridge Villa, San Antonio.
Col. Frank B. Sexton. ....	El Paso.

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Mrs. Eleanor A. Stribling .....	San Antonio.
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Dr. Scurry L. Terrell .....	Dallas.
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Judge O. W. Williams .....	Fort Stockton.
Benjamin Wyche, Esq. ....	Austin.



# THE QUARTERLY

OF THE

TEXAS STATE HISTORICAL ASSOCIATION.

Vol. II.

JULY, 1898.

No. 1.

*The Publication Committee disclaims responsibility for views expressed by contributors to the Quarterly.*

THE PRESIDENT'S ANNUAL ADDRESS: THE LIFE AND SERVICES OF ORAN MILO ROBERTS.<sup>1</sup>

DUDLEY G. WOOTEN.

Notwithstanding the multitude of those who, in a country like this, rise to comparative eminence among their fellow-men, and enjoy a measure of popular renown during their lives, there are very few who really achieve enduring distinction, or leave behind them such evidences of practical usefulness in having lived and labored, as to make them

“On Fame’s eternal bead-roll worthy to be filed.”

Among the number of those in Texas who have attained this exceptional station was the venerable jurist, statesman, and patriot

<sup>1</sup> The late Oran M. Roberts, the first President of the Association, died at his home at Austin, May 19, 1898. His death devolved the Presidency upon the First Vice-President, Mr. Wooten, who appropriately chose to deliver the Annual Address upon the life and services of the distinguished statesman, jurist, and historian, whose labors contributed so largely to the foundation and successful inauguration of the work of the Texas State Historical Association. The Address was delivered on June 16, 1898.

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whose recent death has irreparably bereaved this Association, and in commemoration of whose virtues and services it has been deemed appropriate that I, his unworthy successor, should to-day briefly speak.

No more delicate and difficult office can devolve upon a speaker than to truthfully, yet fitly, pronounce proper words of memorial and eulogy upon one lately dead—especially if that one was both a public character and a personal friend. There is danger that such an address may rise to the pitch of extravagant laudation, or sink to the level of private panegyric. When it does either, it fails to serve the purpose of a true encomium and loses the value of a practical lesson. Every life whose services are worthy of public recital and remark has been a contribution to the history of the land and people in which its labors were wrought, and every attempt to describe and discuss such a life should in some degree answer the purposes of historical truth and subserve the interests of that philosophy of living which History is said to teach by example. These desirable attributes of a memorial address are thus outlined rather by way of introduction, than as prophetic of what I shall endeavor to say in the inadequate sketch of our late President and his life-work in the up-building of the State that reveres his memory and mourns his loss.

Oran Milo Roberts was a native of South Carolina, and although no appreciable portion of his life was spent there, the distinctive social and political influences of that State's historical attitude on all the current questions of his era were plainly visible in his private and public career. He was reared to manhood and began his active labors in the State of Alabama, where his early training as a lawyer and in the fundamental principles of constitutional government was very thorough and essentially practical. It was the period of incipient division between the North and South upon the great questions that later arrayed them in actual hostility. The leaders of Southern thought were marshaling their forces of logic and protest on the side of the strict construction, states-rights theory of the Federal Constitution, and the first sounds of that memorable conflict that afterwards thrilled the country with eloquence and argument and shook the continent with the roar of battle, were just beginning to challenge the attention and excite the alarm of conservative and observant men. Young Roberts



was taught in that school of stoic statesmanship that never sacrificed a theory of political science to an advantage of commercial enterprise, and preferred the principles of the Constitution above the temporary seductions of industrial prosperity. How loyal he remained to the ideals of his youth was attested in the Secession Convention of 1861, on the field of battle, in his masterly discussions of Federal questions, and in the writings and lectures of his later years.

Having fairly entered upon the practice of the law and served a term in the legislature, at the age of twenty-six he came to the Republic of Texas. It was the darkest and most discouraging moment in the history of the new government. President Lamar's disastrous administration was just closing, bankruptcy and ruin stared the Republic in the face, Indian wars and domestic poverty had almost disheartened the people, and the menace of Mexican invasion filled the future with gloom and foreboding. And yet the men who had redeemed this land from tyranny and established its freedom on the foundations of constitutional order, were equal to the task of preserving and perpetuating what they had won. Whatever may be said of their successors in field and forum and in the paths of peaceful industry, the leaders and workers in Texas in that period from 1836 to 1846 have had no superiors in all the proud and potent prosperity of later years. Their practical good sense, their unfading faith in the ultimate success of the government, their broad and generous estimate of the things necessary to a nation's happiness and growth, their loyalty to the traditional virtues and institutions of their race, their wonderful acuteness and discernment in establishing the laws and policies of the Republic and State upon the highest and safest plane of patriotic wisdom, were something marvelous, considering the circumstances and conditions of the time. A recent reading of the debates and journals of the Constitutional Convention of 1845 leads me to affirm without hesitation that the proceedings of that body displayed a depth of devotion to fundamental truth in political philosophy, a practical appreciation of the essential features of a free government, and a liberality of policy in dealing with the problems of popular institutions, that are not surpassed in the reported deliberations of any similar body ever assembled on this hemisphere.

It was into this "goodly fellowship" of brave and thoughtful pioneers, lawyers, and statesmen that the young Alabama attorney and legislator came in 1841. His immediate success and sustained prominence among such men are the most conclusive proof of his ability, attainments, and personal worth. Accident will not account for such events, nor does adventitious circumstance supply a life-long support in the paths of public service and distinction. He settled at San Augustine, then the seat of civilization in Eastern Texas, and the center of that circle of skillful lawyers and strong men of whom Rusk and Henderson and Jennings and Ochiltree and K. L. Anderson were chiefs. The third year after his arrival in Texas, President Houston appointed him district attorney of that district, it being the Fifth Judicial District of the Republic. It is to be noticed that his first appearance in the reported decisions of the Supreme Court was as attorney for Sam Houston, in a case reported in the first volume of the "Reports." It was an early tradition of the East Texas bar that Roberts was an exceptionally good prosecutor, not by the arts of oratory, but by his skill in the management of his cases and his shrewd judgment in the selection of his juries. That his service was satisfactory is demonstrated by the fact that when the State government was organized in 1846, Governor Henderson, who lived and practiced law with him in the same district, appointed him one of the district judges, assigning him to the old Fifth District, where he had won his fame as prosecutor.

As constituted under the Republic, the judicial department consisted of the Supreme Court, district courts, and inferior courts, such as county and justices' courts. There could not be less than three nor more than eight judicial districts, with a judge in each, and these sitting *in banc*. with the Chief Justice composed the Supreme Court. This arrangement, together with the law that required the district judges to alternate or exchange in holding their courts, gave to these tribunals a wide, varied, and controlling influence in the formation and development of our early jurisprudence, required a high order of ability in the judges themselves, and promoted a readiness and versatility of judicial talent and attainment, that made the bench of those days illustrious for its learning and character. Under the State government, inaugurated in 1846, the Supreme Court was created as a separate tribunal

composed of three judges, appointed by the Governor and holding office for six years; and there were at first eight district courts, the presiding judges of which were also appointed by the Governor for six years. An amendment to the Constitution in 1850 made all judicial and most of the State officers elective. The first judges appointed for the several districts, in 1846, were James Love, William Jones, R. E. B. Baylor, M. P. Norton, O. M. Roberts, William B. Ochiltree, John B. Jones, and John T. Mills. All of these had been district judges under the Republic except Love and Roberts. Although they no longer constituted part of the Supreme Court, the habits and influence of the system formerly existing continued to lend great efficiency and skill to the administration of justice by these courts; and by reason of the large territory covered by each district, the variety and novelty of the questions constantly arising for settlement, and the self-reliance, original thought, and profound discretion demanded and inspired by the situation, the district bench was highly respected and was a powerful factor in laying the foundations of our judicial fabric.

The Supreme Court was then composed of that triumvirate of legal worthies—the *dii majores* of Texan jurisprudence—Hemphill, Wheeler, and Lipscomb; but it is not too much to say that their labors in moulding the marvelous composite of the Civil and the Common Law, with its new features of marital and homestead rights, and its incomparable system of pleading and practice without technical forms of action or distinctions between law and equity, were vastly aided and enlightened by the intelligence, zeal and industry of the early district judges. The decisions of the Supreme Court under the Republic had been few and desultory, their reported cases were imperfectly presented, precedents for the anomalous questions that arose were scarce and inadequate, and the work of both bench and bar was arduous and trying in the extreme.

Judge Roberts was located in the oldest and most populous section of the State, the bar of his district was the largest and admittedly the ablest in Texas, and the character of litigation tried before him was correspondingly complicated and difficult; so that his experience was laborious and varied, his capacity for administration and decision was taxed to the utmost, and his successful discharge of his duties was so well attested that it led to his pro-

motion at the first opportunity that presented itself to the people and the profession.

Had he served out his full term as judge he would have occupied that position until 1852, but he resigned in 1851, after five years' service, and returned to the practice of the law, settling in Shelby county. Although then and always pre-eminently a lawyer and a judge, his practical bent of mind and his intense interest in the great questions of constitutional controversy in the domain of politics enlisted his active participation in public discussions and political movements.

Speedily after her annexation to the Union, Texas began to feel the compelling force of her new relations and the responsibilities they entailed. The Democratic party had brought her into the sisterhood of States, and to that historic organization she gave her earliest, as she has maintained her lasting allegiance. Annexation, in fact, precipitated the issues that afterwards rent the country in twain and convulsed it in civil strife. The "boundary dispute," adjusted by the compromise measures of 1850, re-opened the vexed controversy of free and slave territory by practically abrogating the Missouri Compromise of 1820. It is strange what remote influences sway the destinies of nations, and how far it is to reach the genesis of revolution. When Napoleon sold Louisiana to the United States in 1803, his attention was called by his minister, the Count de Marbois, to the fact that its southern and western limits were not definitely described in the cession; to which the First Consul, with characteristic prevision, replied that "if an obscurity did not already exist, *it would be good policy to put one in the treaty.*" That obscurity remained to vex France, Spain and the United States through years of filibustering along the Sabine; it ran red with blood in the expeditions of Magee and Long; it was partially removed by the treaty of 1819 with Spain; it arose in another form in the Mexican War of 1846; its prolific progeny of contention roused the Union to fever heat in the campaign for Annexation and in the debates of Congress over the Compromise of 1850; its voice reverberated in the strife of 1861; and at last its expiring echoes were heard in the Greer County Case in 1896.

During the years from 1847 to 1857 Texas politics were rapidly developing along the lines of the pro-slavery, states-rights doc-

trines, and all the leading men of the State arrayed themselves upon the paramount issues that were beginning to alarm the South for her liberties and her life. Judge Roberts, true to his South Carolina parentage and his Alabama training, was a staunch and formidable advocate of the strict construction of the Federal Constitution, the reserved rights of the States, and the inviolable sanctity of their domestic institutions. In 1853 he was a candidate for the Democratic nomination for Congress in the Eastern district, his opponent being William C. Young, of Red River County. For two days of balloting he came within a few votes of two-thirds of the convention, when George W. Smith was nominated as a compromise candidate. In the exciting State campaign of 1855, when the "American" or "Know-nothing" party made its struggle for supremacy in Texas, in alliance with so-called "Union Democrats," he took an active part in opposition to that movement, in company with such men as Pinckney Henderson, Frank Bowden, Malcolm D. Graham, Louis T. Wigfall, John H. Reagan, George W. Chilton, and M. D. Ector.

In the fall of 1856, Abner S. Lipscomb, associate justice of the Supreme Court, died, and an election to fill the vacancy thus created was held in the following February. The leading candidates were Peter W. Gray, Thomas J. Jennings, Benjamin C. Franklin, John Taylor and Oran M. Roberts. These gentlemen were not urged or nominated by any political organization, but were put forward by the bar and the people in the localities where they lived. It was a very close race between Judges Gray and Roberts, the latter being elected by only one hundred votes over his leading opponent. Judge Roberts at once assumed his place on the Supreme bench, and there he first exhibited that marvelous capacity for analysis, discussion of facts, and the complete evisceration of a case—body, bones, and tissue—that have made his decisions such lasting monuments of judicial learning and practical utility.

On November 9, 1857, Judge John Hemphill, the Chief Justice of the court, was elected to the United States Senate, creating another vacancy. It was the universal desire that Judge Wheeler, who was already an associate justice since the organization of the court, should succeed to the chief-justiceship, but he was averse to being a candidate before a political convention, by which method

it was now for the first time proposed to nominate the judges. The matter was at last adjusted by Judge Roberts introducing a resolution into the convention, which was unanimously adopted, declaring Judge Wheeler to be the choice of the bar and people for the first place on the bench, and Judge Constantine Buckley was nominated for associate justice. But James H. Bell ran against the nominee and was elected, thus composing the court of Wheeler, Roberts, and Bell.

It would be impossible here and now to discuss the great work done for Texas jurisprudence by Judge Roberts' service on the highest court of the State. In all he was a member of the court nearly fifteen years, being Chief Justice during seven years of that time. His marked traits as an appellate judge were his implacable hostility to judicial legislation—to judge-made law, his absolute impartiality, his practical knowledge of almost every subject of inquiry that came before him, his philosophic devotion to principles rather than precedents, his boldness in adhering to a right line of decisions or in departing from a wrong one, his tireless industry in the study of details, and finally, the simplicity, clearness, logical conclusiveness and the *completeness* of his treatment and disposition of a case. When you read one of his decisions you will have read all there is to know about the law and facts involved. He decided the case and all there was in it. There was no blind groping after authorities to support the conclusions arrived at, but the fundamental principle at issue was first sought after, apprehended, stated, applied, and then enforced with plain and practical directness. He went to the sources and springs of the law as they gush forth bold and pure from the fountains of English and American jurisprudence, instead of seeking their wasted stream in the little devious, dirty, and trickling rills of isolated and conflicting decisions by a multitude of courts and a minimum of judicial wisdom. When he had written an opinion in a case, there was no doubt or difficulty in understanding just what had been done or was required to be done in order to dispose of it. If the judgment of the lower court was affirmed, the whole law of the case was discussed, the essential rulings of the trial judge were examined and approved, or, if erroneous but not material, the errors were pointed out as a warning and instruction for the future. If the judgment was reversed and the cause remanded, every vital issue of the law

involved was completely and clearly defined, the difficulties and errors of the whole record were examined and dissipated, and when the case came on for a second trial below there was no room for hesitation, controversy, or confusion as to what the Supreme Court had declared to be the law of the case, and *the whole case*.

It may be said that these qualities were characteristic of all the early judges of our highest court. For the first thirty-five or forty years of its history it was the crowning virtue of that tribunal that it *decided* causes, decided them *on principle*, decided them *on lines of logical consistency*, and decided them *completely and finally*.

It was the peculiar distinction of Judge Roberts not only to have excelled in this direction, but to have largely contributed while on the bench to the bringing about of these results. When he first came into the court, in 1857, there had never been an open dissent of opinion by any of the judges. No doubt they had often differed among themselves as to the correct decision of cases and the disposition of certain questions, but no one of the court had ever filed and published his dissent, supported by a discussion of the points at issue. It was, therefore, not a welcome announcement to his colleagues when Judge Roberts gave notice that he felt constrained to inaugurate the practice. It seems that he had previously disagreed with his brethren upon some decision already made, but forebore to publicly announce his opposing views, telling them, however, that in future he would reserve the right to deliver a dissenting opinion in all cases where he deemed the questions of sufficient importance to warrant his open protest against the action of the majority of the court. The occasion for this first arose in the case of *Cain vs. the State*, reported in Volume 20 of the Texas Reports, involving the question of the construction of statutes passed at the same session of the legislature. Judge Wheeler, speaking for himself and Chief Justice Hemphill, decided according to the old English rule by which all acts of Parliament, being part of the same *roll*, should be construed together as one act and of the date of the first day of the session. Judge Roberts opposed this view, as not in consonance with the methods of American legislation, and not consistent with the later rules of construction even in England. His dissenting opinion is unquestionably the law as it is now recognized by the great weight of authority. There is one singular feature about this case, which

may have been noticed by those who have read it. The opinion delivered by the majority of the court appears to be a direct reply to the argument of the dissenting opinion of Judge Roberts, which is accounted for by the fact that Roberts wrote and filed his *dissent* before the main opinion was composed by Judge Wheeler, who had it before him when he prepared his opinion. This I learned from Governor Roberts himself.

Another influential and salutary innovation introduced by him into the methods of the Supreme Court, was that of requiring all written opinions to be submitted to the full bench before being handed down as the decision of the court. This rule he inaugurated when he became the Chief Justice in 1864, although he had contended for it when he was associate justice. It will be remembered that one of the strongest criticisms Thomas Jefferson leveled at the Supreme Court of the United States was that, in his day, the opinions of that tribunal were the individual utterances of the several judges and not the concurrent conclusions of the whole court, arrived at after full discussion and ratification by all the justices. There are often many things in a judicial opinion that are not necessary to be decided or conceded in order to support the judgment announced. As is frequently remarked, "the decision is all right but the reasoning is all wrong." These *dicta* from the bench simply confuse the course of judicial conduct, mislead the bar, and often become absolutely harmful in the administration of the law. Hence, the necessity for a thorough discussion and complete acquiescence by the whole court, not only on the decision arrived at, but on the several stages and steps of argument by which it is reached, before it is proclaimed to the world as the authoritative judgment of the bench. In establishing these two rules in the deliberations of the Supreme Court of Texas—the right and duty of dissent in proper cases, and the approval by the whole court of all opinions handed down—Judge Roberts contributed vastly to the authority, strength, and harmonious efficiency of that body.

It is useless here to attempt to recite the valuable expositions of the law which are contained in his many opinions from the highest tribunal of the State. His first reported decision is in the case of *Hart vs. Weatherford*, 19 Texas Reports, 57, and the last was in the case of *Overton vs. Terry*, 49 Texas Reports, 773, the latter being a



dissenting opinion in regard to practice on writ of error in the Supreme Court. The first of these cases was decided in 1857, and the last in 1878. Between these two dates lies a vast and vital period of judicial development and legal learning, to the annals of which his deep thought and indefatigable industry contributed nobly and permanently. We may simply notice as milestones on the way of his labor and zeal, the exposition of the "rule in Shelley's case"<sup>2</sup>—that *pons asinorum* of technical lawyers—which has been accepted and followed by very many able courts; his masterly analysis of the law of legal *malice*, and the distinction between the degrees of murder,<sup>3</sup> which has become a world-wide authority; his explanation of the scope and meaning of the law of eminent domain;<sup>4</sup> his splendid discussion of the functions and application of *mandamus* in the control of a State officer;<sup>5</sup> his last great opinion in the case of *Guilford vs. Love*,<sup>6</sup> covering the whole realm of probate law, and the process of administration under a will in Texas; and last, but not least, his system of rules for practice and pleading in the courts of Texas, which has remained the code of Texas practice in the trial of causes in this State, and is approved by the experience of both bench and bar.

After his elevation to the Supreme bench, events rapidly culminated in conditions that for the time suspended the calm and cloistered deliberations of the court and the consultation room. The new court, with Wheeler at its head, and Roberts and Bell as his associates, was hardly seated before the sounds of approaching tumult and disunion shook alike bench, bar, and populace. The campaign of 1857, between Houston and Runnels, for Governor, had been one of unprecedented vigor and acrimony, resulting in the defeat of General Houston by a large majority. Meanwhile, the continued aggressions of the abolition faction in the North, the open defiance of the Statutes of the United States, in the violation of the fugitive slave law, the violent denunciation of the Supreme Court for its decision in the *Dred Scott case*, the increasing bitter-

<sup>2</sup> *Hancock vs. Butler*, 21 Texas, 804.

<sup>3</sup> *McCoy vs. State*, 25 Texas, 33.

<sup>4</sup> 22 Texas, 504.

<sup>5</sup> 40 Texas, 647.

<sup>6</sup> 49 Texas, 715.

ness and boldness of unconstitutional methods in Congress, and throughout the whole northern section of the Union, with corresponding alarm, agitation and counter-aggressiveness in the South, brought matters to the last limit of peaceful discussion, and prepared the country for warlike measures. The fatal mistake of the Democratic leaders in Texas, aided by his own magnificent and masterful personality, enabled General Houston, in the campaign of 1859, to reverse the popular verdict of two years before, and he was elected governor, as the representative of the Union Democrats and the *quasi-Republican* element in this State. He was a Texan and loved Texas with a consuming devotion; but he had been a lover of the Union first; he had learned his lesson of fidelity from Andrew Jackson, with whom loyalty to the Union approached fanaticism; he had labored long and ably to place the Lone Star on the field of the flag of his youth, and he longed with heroic hope to behold it still blazing there as his old age tottered to the grave. Therefore, he set his face like flint against Secession and all its belongings. But there were other men, equally as patriotic and loyal to the Union, as the fathers framed it, who saw the inevitable, and prepared to meet it firmly and bravely, and back of all were the people—Southern to the core, and ready to do battle for the institutions of their domestic fabric and for the constitutional autonomy of their State.

In this period of approaching revolution, Austin was the seat of the greatest activity, and, strange to say, the sedate and conservative circle of the Supreme Court was the storm center. Chief Justice Wheeler was singularly sensitive to any suggestion of judicial impropriety, and was violently opposed to political utterances by any member of the court. But those were times when men forgot, or relegated to disuse, the ordinary restraints of custom. The disruption of the Democratic party at Baltimore and Charleston, and the election of Abraham Lincoln on a platform avowedly hostile to the South, had demonstrated the nearness of actual disunion. At a great Union meeting in Austin, in November, 1860, calls were made upon the judges of the Supreme Court for an expression of opinion on the pending crisis, and Judge Bell announced that he would speak in Representative Hall one week from that date. He was known to be an ardent Union man, an accomplished orator, and a profound lawyer. Judge Roberts at once

proclaimed that he would reply at the same time and place. The speaking took place, and it was typical of the earnestness and vigor of men's convictions at that stirring period. A few extracts from Judge Roberts' address may serve to show the directness and fervor of his method of dealing with the subject. He said, in conclusion: "What shall Texas do? As one of her citizens, I am for State action—action by the constituted authorities of the State—action singly and conjointly with other Southern States, until we are made secure in our rights, liberties, and honors. Our allegiance is due to both the State and Federal governments, because the sovereign power of Texas, at the time of our annexation to the general government, so ordained it. And until the same sovereign power shall be brought into action, and declares a different will, it is our duty, as citizens, to make ourselves subservient to the one as well as the other. \* \* \* In all these stages of State action, too great solicitude can not be felt by all parties, to preserve the social order; so that, if the Federal government should fail to recognize the right of the State to exercise its reserved power of changing its form of government, and should endeavor to subjugate it, the energies of the people may be united to repel invasion. Which one of these remedies may be adopted is for the people to say, when they shall have found the means of expressing their will. It is my purpose now to show that the present attitude of public affairs justifies them in adopting either of the remedies that they may think necessary for their safety. I have no fear that inconsiderate rashness will control them. They have pondered upon the issues of this crisis long and well. They have made up their minds. There is no agrarian spirit abroad in this country. There is no war of classes. There is no conflict between labor and capital. Our people are not seeking or asking to extort favors from the government to themselves, or to deprive others of any right. They have no desire for a social rupture at home. Their excitement arises from an entirely opposite cause—a high resolve now to throw themselves in the breach; not to destroy, but to protect rights; not to destroy property, but to protect property; not to destroy life, but to make life worth having; not to produce discord, but to end it. This excitement is not a shallow, noisy ripple, but a deep, irresistible current, springing from the firmest convictions of the mind."

That debate was the turning point in public action in Texas. It was exhaustive, eloquent, patriotic, and, by reason of the character and station of the debaters, it was decisive. The Secession advocates determined to act promptly and vigorously, and Judge Roberts assumed and held the leading part in all that followed. He drew up the call for a convention of the people, assisted in conducting the campaign for that purpose, was chosen president of the convention, and in the delicate and difficult tactics required to out-general Governor Houston, his shrewdness, firmness, and political sagacity were eminently exhibited. It is a fact not generally known, that he might have been one of the delegates to the Provisional Government of the Confederate States, at Montgomery, Ala., and no doubt a member or senator in the permanent government; but he declined, saving that it would require no small effort to counteract Governor Houston's powerful opposition at home, and that he preferred that task. How he managed the maneuver and achieved his purpose, is one of the most curious and thrilling episodes in the political history of the State.

An incident in connection with the Convention of 1861 illustrates his democratic spirit and his high sense of liberality and justice. In the Constitution of the Republic of Texas, copied into that of the State of 1845, it was provided that "no minister of the gospel or priest of any denomination whatever" should be eligible to the office of chief executive of the government or to membership in the legislative body. When the Convention of 1861 came to revise the State Constitution for the purpose of entering the Confederate States, Judge Roberts, the President of the body, suggested that the discrimination against preachers be stricken out, which was done.

When war was finally inaugurated and had proceeded to a stage demanding the utmost resources of the South, Judge Roberts, in 1862, resigned his seat on the bench, raised a regiment himself (the Eleventh Texas Infantry), and led it to the battlefields of the Confederacy. It is gratifying to know that the last regular work he ever did was to write a history of the operations and services of the Texas troops in the armies of the Civil War, which is now in press, as part of a series of such histories covering the whole field of Southern military service during that period.

In 1864, while still in the army, he was elected Chief Justice of the Supreme Court, and the war being manifestly near its close, he came home and assumed once more the judicial station. This interval of warlike experience is made the occasion for a sarcastic reference by George W. Paschal, Reporter of the Supreme Court, and a violent Union partisan, in the preface to Volume 28 of the Texas Reports, where it is said: "The Chief Justice and one of the judges upon the bench, whose constitutional views had hitherto been reliable, entered heartily into the secession movement. The position of one of them (Oran M. Roberts) and the political tendency of his mind made him a zealous leader. Indeed, he became the president of the secession convention, and the chairman of the committee of public safety. In this he but followed his early training and the school to which he had attached himself. Perhaps it was due to his acts (for inconsistency has no boundaries) to meet the full consequences of his political leadership. At any rate, he doffed the judicial robes and girded on a broad-sword. He went forth to the battlefield. Whether or not he won military laurels equal to his judicial record, it is needless to say. Suffice it, that he returned to the Chief Justiceship of the court in 1864." The same spirit of petty spite and rancor led the same reporter to omit to publish a number of very important decisions rendered by the court during the period of the war.

It may be remarked in this connection that at the time Secession was agitated and accomplished very many of the ablest public men in Texas were staunch Union men, especially among the early leaders and in the Southern section of the State. These men naturally antagonized Judge Roberts in his active and prominent part in the Secession movement; and it is a fact that whatever disparagement or want of appreciation his great abilities and public service have at any time or in any degree sustained—and it has not been appreciable—has emanated from that class of traditional critics and jaundiced opponents.

When the State government was organized under the methods of presidential reconstruction, in 1866, he was elected United States Senator, defeating B. H. Epperson, and his colleague was the venerable David G. Burnet, ex-president of the provisional government of the Republic in 1836, who defeated John Hancock. The senators and representatives from Texas went to Washington

and remained there several months, seeking admission to their seats in Congress, but in vain. Texas was the last of the Southern States to be reconstructed according to President Johnson's plans, and by the time she sought recognition at Washington the radical Republicans, led by Wade, Sumner, Stevens, Grow, and Colfax, were determined to inaugurate a system of military reconstruction under Congressional control. While the Texas delegation were waiting to be accepted, Senator Roberts drew up an "Address to the People of the United States," which was signed by the delegation and published in the *National Intelligencer*, attracting wide and favorable attention at Washington and throughout the country. It was the only paper of the kind promulgated by any Southern State, and as an impartial statement of facts, with a profound exposition of the constitutional rights and attitude of the lately seceded States, it produced a marked impression in official circles.

When the State government was overthrown by military order, in 1867, our people submitted to the horrors of congressional reconstruction for the Biblical period of probation, and ex-Judge, ex-Senator Roberts retired to private life. He at once began the practice of law, which was of course precarious under existing conditions, and conducted a small law school at Gilmer. This quiet and uneventful period of his life was in many ways the most pleasant, as it was certainly a very useful part of his career. He taught the principles of the science he loved and thoroughly understood to a select class of earnest, ambitious youths, whose subsequent success they always justly ascribed to his tutorship and influence. Some of them have risen to great distinction in law and politics. One was a Supreme Judge, one was attorney general, another became United States Senator, and they have all been men of worth, weight, and usefulness in life.

After seven years of sacrificial suffering at the hands of "carpet-bag" and "scalawag" rule, Texas finally secured a restoration of her constitutional sovereignty as a State in the Union, in 1874, and her leading sons resumed their headship of affairs. Under the Constitution of 1869, the judges of the Supreme Court were five in number and appointed by the Governor to hold for nine years. But in order to get rid of the famous (or infamous) "semicolon court" appointed by Governor Davis in 1870, a constitutional

amendment was adopted at the State election of 1873, by which a new court was required to be appointed, still composed of five judges and holding for nine years. Governor Coke, on taking his seat in 1874, appointed O. M. Roberts Chief Justice, and Judges Moore, Reeves, Devine, and Ballinger associate justices. Judge Ballinger resigned in a few days and Judge Devine a year later, Peter W. Gray and John Ireland being appointed to succeed them. Under the Constitution of 1876, the court was again made elective, the judges reduced to three, and the term of office to six years. Under this Roberts was elected Chief Justice, and Moore and Gould associates. Judge Roberts remained Chief Justice until the memorable State Democratic Convention of 1878, when Throckmorton, Hubbard, and Lang "locked" the convention for a week, rendering a compromise imperative. A "commission" or conference committee of thirty-two members was selected to choose a candidate for Governor, and they named O. M. Roberts, then absent at his home in Tyler. He accepted and was elected at the ensuing election, and was re-elected in 1880.

In entering upon his service as the highest executive officer of the State, his equipment was not exactly such as ordinarily insures success and satisfaction. Lawyers and judges are not usually efficient business men in any line. Still less are they generally careful financiers or practical administrators of affairs. But in these respects Governor Roberts proved himself an exceptional success. He was from the start a shrewd political economist, a sagacious statesman in the department of governmental finances, and a broad, liberal manager of every interest of public concern committed to his care and encouragement. He was fond of calling attention to the fact that the secret of satisfactory executive service in the management of a government consists in the correct solution of the financial problem. He often emphasized the point that the Premier of England is usually the first lord of the treasury, and that in the United States the secretary of the treasury has come to be the most important officer in the Cabinet. On these lines he shaped his policy and practice, announced the motto, "Pay as you go," and through good and evil report adhered to his plans of rigid economy, provident taxation, liberal but exact appropriations to public purposes, and the utilization of every source of legitimate revenue and every inducement towards building up the State's population, in-

telligence and wealth. He was fortunate, in that his two administrations fell on peaceful and prosperous times. The details of the multifarious interests that were fostered by his management would stretch beyond the limits of an address like this. The chief results of his labors as Governor were the contract for building the new granite capitol, by which the State disposed of unmarketable lands in exchange for a superb public edifice valued at a million and half dollars; the complete reorganization of the whole educational system, including the inauguration of the State University, the foundation of an efficient system of normal colleges, and the thorough reformation of our free public schools; the radical improvement of our prison establishments, with the erection of an additional penitentiary; the building of another insane asylum, and the extension of all the institutions of public charity; a land policy by which, for the first time, the unsalable school lands of the West were put on the market and actual settlement by private ownership was promoted; and a general financial policy under which, at the end of his second term, the public debt had been reduced \$1,400,000, taxes lowered from fifty to thirty cents on the one hundred dollars, taxable values raised from \$280,000,000 to \$410,000,000, the permanent school fund increased from \$1,629,000 to \$5,361,000, and there was a cash balance in the treasury, to the account of general revenue, of over two million dollars.

These figures and facts speak for themselves. Although Governor Roberts was an old-fashioned Democrat, with many strong and pragmatical notions upon social and political questions, it was a distinguishing trait of his public views and conduct that he accepted existing conditions and accommodated his official acts to the progressive spirit of the age and country in which he lived. He was not an ideologist nor a *doctrinaire*. Neither did he belong to the age of ox-carts, or alarm himself with needless fears that "foreigners would some day elbow our children into the sea." He was a plain, practical, provident, business-like governor, whose judicial learning strengthened and adorned his political sagacity.

On his retirement from the executive chair in 1883, he was shortly elected Professor of Law in the State University, which position he held until 1892. It is needless to speak of his labors in these halls. They are reflected in the proficient training, and attested by the enduring gratitude of hundreds of aspiring young



men all over Texas, who will continue to revere him as "philosopher, friend, and guide."

He resigned his professorship to retire to a quiet repose and a scholarly review of his long and active life, residing first at Marble Falls, and later at Austin. His last years were as honorably and beneficially bestowed as any of those that went before. He did what so few of our great men have the thoughtful patriotism and the conscientious industry to perform—he collected the memorials of his fifty years of public service, revised the recollections of the many and momentous scenes in which he had mingled, verified the facts of the annals of his past career, and wrote for posterity, "The Legislative, Political, and Judicial History of Texas, from 1845 to 1895"—a work that is a monument of patience, patriotism, historical accuracy, and exhaustive presentation of the whole story of Texan Statehood for the first half century of its development. It forms the first part of Volume 2 of "The Comprehensive History of Texas," recently published, and when its merits are generally known, it will be regarded as indispensable to the completeness of every educated Texan's library. His latest work, as I have said, was his history of the Texas troops in the Civil War, not yet published.

One singular and striking feature of Governor Roberts' mental composition, was his fondness for scientific and philosophical studies. In the intervals of his busy professional and official life, he wrote a great many interesting and valuable articles upon such subjects. He was a remarkably observant man, noting with reflective intelligence the minutest details of the social and physical world around him, and drawing therefrom many curious and instructive ideas and theories.

Contemplating his whole life and services, I do not hesitate to declare that in all the departments of public, professional, and private labor, he was the most versatile and the most useful man Texas has produced in the fifty years of her existence as an American State. Others were pre-eminent in this or that direction; he was great and useful in all. As lawyer, jurist, statesman, soldier, teacher, and historian, the "Old Alcalde" has no rival in the annals of Texan worthies.

It has been said that "genius can mould no marble so speaking as the spot where a brave man stood or the scene where he labored." We stand to-day on the spot where he was wont to take his place

among those who lived and labored for this great commonwealth and its permanent happiness. All around us are the scenes in which he wrought out the manifold purposes of a life devoted to the lofty ideals of jurisprudence, statecraft, and education. On yonder hill, the splendid fabric and colossal beauty of a capitol, reared by his provident and practical care, enshrines the memories of his patriotism and typifies the enduring usefulness of his career. In these walls we may hear even yet the echoes of his footsteps and recall the sound of his voice, raised so often in behalf of youth and its noblest aspirations. These physical and tangible monuments, and memorials of his great mind and heart, bring welcome messages of his well-spent days; but the abiding tribute to his fame and influence is written in the table of laws he illumined by his learning, in the institutions of social life perfected by his patient skill, in the grateful remembrance of the people he served so faithfully and loved so well, and in the splendid prowess of the State whose grandeur was the dream of his youth, the purpose of his manhood, and the pride of his old age.

## THE OLD FORT AT ANAHUAC.

ADÈLE B. LOOSCAN.

On the shore of Galveston Bay, near the mouth of the Trinity River, and about half a mile south of the town of Anahuac, are to be seen the ruins of an old Mexican fort, erected in 1832. Its walls have long since been levelled to the ground, many of the bricks used in their construction have been utilized in various ways, but the outlines of its foundation may still be traced, and with the aid of the recollection of descendants of early settlers, whose childhood was passed near it, its site may be accurately located. Its history is that of the rebellion of Texan colonists against Mexican oppression, of their punishment by imprisonment within its walls, which were put up by the forced labor of colonial mechanics. The half-buried bricks of this ruin, which, according to primitive custom, were moulded by hand, are endued with a new interest, when we know Texan prisoners were made to contribute their labor by tramping the clay, as well as moulding the bricks for the walls of the fort.

In 1832, when the troubles between the citizens and Col. Juan David Bradburn first began, the latter was poorly equipped to take care of political prisoners, so Patrick C. Jack and Wm. B. Travis, the first who were arrested for expressing themselves too freely in regard to his arbitrary conduct, were imprisoned in a house contiguous to his own quarters.

Dr. N. D. Labadie, who had been living at Anahuac since March 2nd, 1831, relates the following particulars in regard to the building of the brick fort. He says, that the wants of Jack and Travis while in prison were attended by one of the slaves of James Morgan; that in a bundle of clothing, prepared by the prisoners for the laundress, a letter marked O. P. Q., requesting that "a horse should be in readiness at a certain hour on Thursday night," was found by the Mexican officer of the day. "The finding of this letter," says Dr. Labadie, "caused Bradburn much uneasiness, and, combined with other events, determined him to secure his prison-

ers more effectually. As he was laying the foundation of a fort near Anahuac, a large brick kiln had just been emptied, and all the masons and carpenters were forced to go down and put it up for a prison. In the course of a week the work was completed, and two large cannons placed on a platform near by. The two prisoners were now to be conducted to the new prison. The whole garrison was put under arms. The cavalry made a display at the head of a column. The letter to O. P. Q. had caused a double line of sentry to be placed inside with the prisoners, who were thus doubly guarded in order to be kept safe till the whole force of the garrison was ordered out to conduct the prisoners to the new place of confinement." In another part of the same narrative it is recorded that, some ten or fifteen men who were taken prisoners by the Mexicans in one of the skirmishes between the latter and the citizens, during those troubles, were put to hard labor, tramping clay and moulding it into bricks. Thus, not only was the old fort built by the compulsory labor of colonial carpenters and masons, but its very bricks were made and moulded by the feet and hands of prisoners taken while fighting in defense of their liberties.

But this state of things could not continue long, and the determined action of the citizen soldiery at that time, no doubt, had a powerful influence in shaping the conciliatory policy which prevailed during the ensuing year. In the fall of 1832 Colonel Souverein, who had succeeded Bradburn in command of the garrison, chartered two schooners from Wm. and David Harris and with the garrison sailed for Tampico. However, the evacuation of the fort was temporary, for, on May 30th, Stephen F. Austin wrote from Matamoras, that, "Mr. George Fisher will leave here shortly to enter upon the duties of Collector of Galveston, with only a sufficient number of troops for necessary guards." \* \* \* \*

Anahuac was known as the Port of Galveston, and here the revenue officer had his official station, but history is silent with regard to the official acts of George Fisher, and it was not until June, 1835, that little Anahuac again became the scene of resistance to oppression; this time, Wm. B. Travis and Patrick Jack, the former prisoners, performed the part of "rescuers of the imprisoned." The story is best told by letters of actors which explain and correct certain erroneous statements in historical records.

The following is a copy of a letter from D. W. C. Harris, of Harrisburg, Texas, to relatives and friends in Waterloo, New York:

HARRISBURG, TEXAS, August 17, 1835.

Dear Friends—On the 10th of June I went to Anahuac (about fifty miles from Harrisburg) to purchase some goods of a Mr. Briscoe; after purchasing my goods, I was informed that I could not remove them from town, until I got a gefe from the custom house; this I was determined not to do, if I could avoid it. The evening previous to my intended departure there were several guards placed around Mr. Briscoe's store, to see that nothing was removed. About eight o'clock a young man came to the store and asked Briscoe for a box to put ballast in; this Mr. Briscoe gave him, and he placed it on a wheelbarrow filled with brick and started for the beach; after he left the store I observed to Mr. Briscoe that we could now ascertain whether my goods would be stopped or not. Shortly after, we heard the young man calling for Mr. Smith, the interpreter. Mr. Briscoe and I then walked up to the young man, and found that he had been stopped by the guard. Mr. Smith soon came up and informed the guard of the contents of the box; this appeared to satisfy him, and the box was taken to the beach, Mr. Briscoe and I going with the young man. After the box was put in the boat and we were about returning, ten or twelve Mexican soldiers came on us and ordered us to stand. Mr. Briscoe and I were taken prisoners. As we were ascending the bank a young man named Wm. Smith came down the hill, and when within ten feet of us was shot down, the ball passing through the right breast; (he is recovering.) Mr. Briscoe and I were then put in the calaboose, where I remained until next day at 11 o'clock, when I was liberated, Briscoe still being detained. I immediately came to Harrisburg and made statements of the facts, which were sent to San Felipe, and on the 24th of June an order came from San Felipe for the Mexicans to be disarmed, which was done on the 27th. \* \* \*

CLINTON.

Further particulars with regard to the order, which came from San Felipe, "for the Mexicans at Anahuac to be disarmed," so briefly alluded to by De Witt Clinton Harris, are as follows: A company of about twenty men met at Harrisburg, elected Wm. B. Travis captain, mounted a six-pound cannon on truck wheels used for hauling logs to the saw mill, put it on board the sloop "Ohio," and proceeded to Anahuac, where they landed and captured the garrison of forty Mexicans, under command of Capt. Tenorio. The following is a list of a few of the men who went on this unique

naval expedition: P. C. Jack, D. and S. Harris, Jno. Iiams, Jno. Brock, Capt. Hunnings, E. Ray, J. Wilcox, Jr., and H. Callahan. A. B. Dodson, whose bride, a few months afterward, made the first Lone Star flag of Texas, and presented it to a company of which he was first lieutenant, went as far as Vince's, a few miles below Harrisburg, where he was detained on important business.

Important facts relating to the same affair are contained in the following letter from Travis to Henry Smith, who soon afterwards became Provisional Governor of Texas:

SAN FELIPE, July 6, 1835.

My Dear Sir—I hasten to write you a line by Mr. W. M. Smith, who is on hand to start for Columbia.

I have only time to say that I returned last evening from a successful expedition to Anahuac. On the 21st ultimo resolutions were adopted here recommending that, in connection with the general defence of the country against military sway, the troops of Anahuac should be disarmed and ordered to leave Texas. In addition to that, I had been invited to go to Anahuac for the above purpose by several of my friends, who are the principal citizens of that place, and who were suffering under the despotic rule of the military.

Under these circumstances, I set out for Galveston Bay, raised a volunteer company of twenty men on Buffalo Bayou and San Jacinto, and being elected captain of the company, I proceeded to Anahuac in the sloop "Ohio," with a six-pounder mounted on board. We landed on the 29th, took possession of the place, and commenced active offensive operations. On the morning of the 30th the troops, about forty in number, capitulated, delivered us sixty-four stands of arms (muskets and bayonets), and agreed to leave Texas immediately under parole, never to serve against the people of Texas. I sent them bag and baggage on board the sloop, and they are now on the march without arms to La Bahia.

This act has been done with the most patriotic motives, and I hope you and my fellow citizens generally will approve it or excuse it. \* \* \*

As ever, your friend,

TRAVIS.

This decisive action in disarming Mexican soldiers made plain the determination of Texans to no longer submit quietly to tyranny, and the part borne by Travis in the affair presaged the unrivalled heroism of his character. He was a warm friend of Andrew Briscoe, and when informed that "his friends were suffering

under the despotic rule of the military," friendship united with patriotism in emphasizing the ardor of his feelings. Nevertheless, public sentiment was by no means unanimous in approving the act, and Travis was sharply attacked by what was known at the time as the Peace Party or Submission Men. In a letter dated August 5, 1835, he alludes to a document or card published through the solicitations of friends, which probably entered into an explanation of his course, and which he seems to have regretted. In the same letter he says: "I know that I acted by the consent and approbation of the political authorities, I know that the people here all favored the measure, and I went into it believing it to be right and that it would meet the approbation of all; and, as you say, time can only determine whether it was a good or bad measure. \* \* \* Conscious that I have not intentionally erred, I bid defiance to any who may be disposed to persecute me, and feel assured that I have numerous friends to sustain me in it." \* \* \*

The following letter from Wm. B. Travis to Andrew Briscoe, for whose release he had suffered much blame at the hands of the Peace Party, shows the confidential relations existing between them. His allusion to Mr. Briscoe's publication, which was probably one of those circulars printed with the pen and posted up in public places for the purpose of arousing the people, shows that they were one in patriotic sentiment, and that neither faltered in the performance of duty. The letter also shows the happy change in public sentiment which had been wrought in the space of a few weeks, as well as the excited condition of the country.

SAN FELIPE, August 31, 1835.

My Dear Sir—I have not written to you before, because I was ashamed to tell what was going on. It is different now. Although the Mexican or Tory party made a tremendous effort to put us down, principle has triumphed over prejudice, passion, cowardice, and knavery. All their measures have recoiled upon them, and they are routed horse and foot. The extent of their glory was to denounce us to the military at San Antonio and Matamoras, and demand our arrest. An order was accordingly issued to Ugartachea, and repeated by Cos, to arrest seven of us and send us to Bexar to be tried by martial law. This was too much for the people to bear. When they were called on by an usurping political chief to carry these orders into execution, the sacrifice was too great. Their wrath was turned against the Tories and Spanish-Americans, who now dare not hold up their heads. The people call

now loudly for a convention, in which their voice shall be heard. They have become almost completely united. And now let *Tories*, *submission men*, and Spanish invaders look out.

There is to be a great meeting here on the 12th of September, on the subject of a convention. The Tories are dying a violent death, and their last expiring struggle will be made on that day. Therefore I invite you to attend, and hope you will do so. We wish to beat them in their stronghold, and I have no doubt we shall do so. But I wish to see them overwhelmed. I have seen your publication. It does you credit. You have shown yourself the real white man and uncompromising patriot. Stick to the text and Texas is saved.

I have this moment finished conversing with a Mexican just from San Antonio. He says marching orders have been given to the troops. They are to be here by the 12th or 15th of September to garrison this town, Temoxtitlan, and Nacogdoches with 200 men each; and it is concerted that 200 men shall arrive by water at Anahuac at about the same time to garrison that place. They have sworn vengeance against all engaged in the late expedition, and in that of 1832 at Anahuac and Velasco. They calculate to take up these men, with the aid of the other Americans, by which time they will gradually bring in troops enough to overrun the people and keep them in vile submission. They can not do it. We will not submit to be garrisoned here. I hope you will not there. We shall give them hell if they come here. Keep a bright look out to sea. Allow no pilots in the bay to assist them, and they can not land before you have time to prepare for them. Secure all the powder and lead. Remember that war is not to be waged without means. Let us be men and Texas will triumph. I know you can be relied on; therefore I exhort you to be active in preparing the minds of men for the scenes that are to be enacted.

News from Orleans that we will be liberally aided with men, money, and arms has arrived. Already we have five pieces of cannon, 100 kegs of powder, and lead and shot to correspond, landed in Matagorda, and sent from Orleans.

Come over if you can on the 12th. My respects to Wilcox and others. Please write soon.

Your friend,

W. B. TRAVIS.

In spite of the proclamations of Capt. Thomas M. Thompson, who, from the Mexican war schooner "Correo," assumed a petty jurisdiction over Galveston Bay and the citizens of Anahuac, forbidding the organization of militia, and insolently threatening to hang Travis at his yard arm in half an hour after he should be captured, Mexican rule at Anahuac could never be reinstated; the



little sloop "Ohio" and its heroic crew had done their work effectually; the fort was never again to know the tread of a Mexican garrison, nor its prison doors to close upon another political prisoner.

Guided by the old letters to which attention has been invited, I have been able to obtain authentic data in regard to this old Texas landmark.

The Wilcox mentioned in the letter of Travis to Andrew Briscoe was Capt. Chas. Wilcox, who settled at Anahuac in 1831, was present when the corner stone of the fort was laid, and lived there continuously up to the time of his death. From one of his sons, Geo. E. Wilcox, resident at Temple, the following description of the old fort was obtained:

"My earliest recollection of the Mexican fort at Anahuac is after the walls had been torn down to a level with the top of the hill or bank of the bay shore on which it was built.

"The fort was about 30x40 feet in the clear, built with the western side fronting and immediately on the bank. The bank had been excavated for a distance of ten feet, with the side next to the bay entirely open. This opening was closed up with heavy walls of brick, and lighter brick walls were built around the other three sides, and from the rear or eastern side of the fort there were two passage ways underground, leading back to a large magazine some forty yards back on the hill, under the surface, which passage could be used as an exit from the fort.

"On the exposed part of the fort there was a brick wall about four feet thick. In the corner stone, among other things, there is a Mexican dollar. My father saw the corner stone laid. \* \* \* There were only two cannon in the fort; they were about six-pound iron guns. One of them can be seen at Anahuac today."

Unfortunately, the rumor that money was buried in or near the fort has caused the ground to be dug up by treasure hunters, and in this way its otherwise clear outlines have been defaced.

A Confederate fort, called Fort Chambers, was built during the Civil War about half way between the Mexican fort and Anahuac, opposite Brown's Flats. Two cannon are said to have been mounted there, but they were afterwards conveyed to Galveston and placed at the corners in front of Artillery Hall.

There is no doubt about the cannon now in the possession of W. D. Wilcox at Anahuac having been left there by the Mexicans.

References:

"Narrative of the Anahuac or Opening Campaign of the Texas Revolution," by N. D. Labadie, Texas Almanac, 1859.

"Life of Henry Smith," by John Henry Brown.

Letters of D. W. C. Harris, Wm. B. Travis, A. B. Dodson, and Geo. E. Wilcox.

SKETCH OF THE DEVELOPMENT OF THE JUDICIAL  
SYSTEM OF TEXAS. I.

JOHN C. TOWNES.

[These articles embody the substance of several lectures given in the Pleading and Practice Course in the Law Department of the University of Texas. They have been condensed and arranged for publication at the request of parties interested in the subject and in THE QUARTERLY. To the lawyer and the student of governmental institutions the collection and citation of authorities, it is hoped, will be valuable. If they shall stimulate in any degree a desire to study Texas institutions in the light of her own history, the purpose of their publication will have been attained.—J. C. T.]

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The jurisprudence of Texas is in many respects different from that of any other country. It is a resultant of the combined forces of the Civil and Common law. For centuries these two great systems of jurisprudence have controlled the governments of Southern and Western Europe, the Civil law having its sway over the Latin, and the Common law, over the Anglo-Saxon and kindred peoples. In connection with them in their several jurisdictions has grown up the splendid civilization of Europe. As these several European nations established their colonies in the New World each colony brought with it the traditions, habits, and character of its parent state; and these influences of the Old World determined, to a large extent, the character of the several social and governmental institutions of the New.

England was a Common law country, and in all her colonies, that system was the base of colonial jurisprudence. Spain held most rigidly to the ancient Roman or Civil law and that system was the base of the jurisprudence of all her American dependencies. Neither system could be transplanted intact. The natural and social conditions in the two hemispheres were too different, and each code of laws received characteristic modifications, first by those in authority in Europe, and subsequently by the colonists and their descendants. The respective characteristics of the

English and Spanish peoples manifested themselves here and the changes in the English Common law by the Anglo-Americans were much greater and more fundamental than those wrought by the Spanish-Americans in the Spanish Civil law.

Texas furnished a meeting place and battle ground for these two peoples and their institutions. The Spanish-American and the Spanish Civil law were in possession of the territory. The invasion was by the Anglo-American and the Common law. Between the peoples, the struggle was sharp, short, and decisive. The Anglo-American was victorious. Between the systems of jurisprudence, the contest was protracted and the result a compromise. The Common law ultimately prevailed, but its victory involved the loss of some of its most cherished doctrines.

The founders of the government of Texas were free to choose the materials for their structure from whence they would. Their sympathies were with the Common law, but the Civil law had been in force; and marital relations, land titles, and other rights permanent in their nature had grown up under it. Sudden and radical changes would have been prejudicial, if not impracticable, and the Texans, in their wisdom, declined to disturb too violently existing institutions. On the contrary, they adopted many of the Civil law doctrines, modifying them to suit their purposes and conditions, and retained them as part of the permanent jurisprudence of the country.

Thus it will be seen that our Texas law rests upon the Common law of England, as adapted to American conditions by the several States of the Union prior to the Texas Revolution and upon the ancient Roman law, as modified in its transmission through Spain and her American dependencies, and is formed, to a large extent, from selections from each. In most instances, these selections were wisely made and the result is a blending in one homogeneous whole of much that is best in each of the two great sources from which the material was taken.

The peculiarities of the system thus established embrace matters both of substantive and adjective law. The most interesting relate to the first of these divisions—the law regulating substantive rights; but these are apart from our present purpose, which concerns only so much of the adjective law—or law of procedure—as is involved in the development of the judicial system.

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This development may be conveniently, though somewhat arbitrarily, divided into two periods—the first extending from the establishment of the Mexican Republic, in 1824, to the annexation of Texas to the United States, in 1845; the second extending from annexation to the present time. The first of these periods we may designate as the formative, and the second as the modifying.

A court may be broadly, though somewhat technically, defined as an agency created by the sovereign to determine rights and apply the sanctions of the law to individual conduct. The aggregate of such agencies, with their co-ordinated powers, existing in any government, constitutes the judicial system of that government. The character of this system depends upon the kind and number of these agencies; and these, in turn, depend largely, though not entirely, upon four considerations: first, the conception held by the sovereign of the purposes to be accomplished by these agencies and the power necessary to be conferred upon them; second, the basis of the distribution of this power among the several agencies; third, the number and kind of officers who are to represent or constitute such agencies; and, fourth, the methods of procedure in such agencies. Other elements enter in but these are the most potent. It would be tedious to attempt to trace the changes in these several regards in the development of our system and no effort will be made to do so. Still it will be well to bear these thoughts in mind as we consider the subject.

At the beginning of this century, Texas was an undeveloped Spanish province, inhabited almost exclusively by Indians and Mexicans. Soon thereafter, a few emigrants from the United States settled within her borders. At first, they were without influence, but as time passed and their numbers increased, they grew in importance and strength until, in 1836, they were powerful enough to successfully resist the military despotism of Santa Anna and establish an independent nation. For approximately ten years this national existence was maintained, and then the Republic of Texas voluntarily became one of the United States of America.

During this period, the history of Texas is one of intense interest and great suggestiveness. Probably the life of no other people shows such rapid advancement, or, in the same length of time,

furnishes such opportunity for studying social and political growth.

As stated above, prior to the revolution in Mexico, the Roman Civil law, with its various Spanish modifications, was in force in all the dependencies of Spain in the North American continent. The change of government wrought by the revolution necessitated material changes in its jurisprudence; still this Civil law remained as its base. After the overthrow of the usurper Iturbide, the Mexican congress reassembled and adopted the "Constitutive Act of Federation" as the plan of government for the Mexican nation. This act was promulgated January 31, 1824.

In this federation, Texas was combined with Nuevo Leon and Coahuila, forming the Internal State of the East.<sup>1</sup> This constitutive act denied to the several States the power to adopt permanent constitutions and organize permanent governments until the permanent Federal Constitution should be adopted. In the meantime, the existing State governments were to continue provisionally.<sup>2</sup> By Decree No. 403, of date May 7, 1824, the Mexican Congress divided the Internal State of the East, separating Nuevo Leon from Coahuila and Texas.<sup>3</sup> From this time until the Texas Revolution Coahuila and Texas constituted a State. The first Constituent Congress of Coahuila and Texas met on August 13, 1824, at Saltillo, and by Decree No. 1 declared itself duly installed, and inaugurated the provisional State government.

Section 10 of this Decree is as follows:

"The judicial power shall, for the present, be vested in the authorities by which it is now exercised in the State, and in the administration of justice they shall be governed by the laws in use so far as they are not opposed to the form of government adopted.<sup>4</sup>

This provision continued the former Civil law courts.

The "Constitutive Federal Government" was superseded by the adoption of "the Federal Constitution of the United Mexican States, sanctioned by the General Constitutive Congress, on the 4th of October, 1824." This constitution was intended to be permanent. It

<sup>1</sup> Art. VII., Constitutive Acts of the Mexican Federation.

<sup>2</sup> Arts. XXIV. and XXV., Constitutive Acts of the Mexican Federation.

<sup>3</sup> Legislacion Mexicana, Dublan y Lozano, I., 706.

<sup>4</sup> Laws and Decrees of Coahuila and Texas, p. 4.

was modeled, to a large extent, on the Constitution of the United States, although the influence of Spanish and Civil law ideas is manifest throughout the instrument. It recognized practically the same division of power between the national and State governments that exists in the Constitution of the United States. The division of the powers of each of these governments into legislative, executive and judicial departments was declared, though the lines of separation are not identical with those obtaining in Common law countries, the most noticeable difference being in regard to the right of construing the constitution and statutes. This power was conferred exclusively on the Congress, and no question as to the meaning of the constitution or a statute, nor of the violation of the former by the latter, could be determined by the courts. If such difficulties should arise they were to be called to the attention of Congress and it was to resolve the doubt; on the other hand, Common law courts had for centuries unhesitatingly exercised the power to interpret and construe statutes, and the American Common law courts, from the organization of the Supreme Court of the United States, have repeatedly exercised the power of determining the constitutionality of the acts of Congress and of the State legislatures.

The permanent constitution of the State of Coahuila and Texas was not promulgated until March the 11th, 1827.<sup>5</sup> This instrument clearly shows the influence of the various forces then striving for the mastery. It is neither Civil law nor Common law, but is manifestly a compromise between the spirit of conservatism, holding to the traditions and institutions of the past, and the spirit of innovation, insisting upon the adoption of a government similar to that of the United States of the North.

Under this Constitution, until 1832, the State Congress was to consist of twelve deputies, only two of whom were to be from Texas, the other ten having an exclusively Mexican constituency. The first Congress assembled on July 1, 1827,<sup>6</sup> and the first Governor was inaugurated on August 1, 1827.<sup>7</sup>

The judiciary title of this Constitution consists of thirty-four

<sup>5</sup> *Laws and Decrees of Coahuila and Texas*, p. 343.

<sup>6</sup> *Ibid.*, p. 47.

<sup>7</sup> *Ibid.*, p. 63.

articles.<sup>8</sup> The system of courts contemplated by it was composed of the inferior tribunals theretofore existing and a Supreme Court to sit at the capital having jurisdiction of appeals from the more important inferior courts throughout the State. In this system of courts was vested all the judicial power. No special tribunals were to be created, and no retroactive laws were to be passed, but all proceedings were to be uniform, according to pre-established rules and to the written constitution. The military was subordinated to the Civil authorities. The courts were forbidden to construe or pass on the validity of any constitutional provision or statute, the determination of all such matter being vested exclusively in Congress. Attempt to arbitrate was made a condition precedent to the right to litigate, except in special cases. No indictments were required in criminal prosecutions. Petty offences were dealt with summarily without formal trial or right of appeal. In more serious violations of the law, the accused might be arrested and detained for forty-eight hours without formal charges, but if no such charges were made within that time, he was required to be released. Prosecutions and trials were to be public. Confiscation, torture, and compulsion were forbidden; seizures and searches were declared unlawful, except in specified cases, and must then be made in conformity to law.

Article 192 is worthy of reproduction; because it is the first mention of a jury in any law ever in force throughout Texas territory; and also because it indicates the attitude of Congress and the people in reference to this institution. It is as follows: "One of the main objects of attention of Congress shall be to establish the trial by jury in criminal cases, to extend the same gradually, and even to adopt it in Civil cases in proportion as the advantages of this valuable institution become practically known."

The contrast between its doubtful and experimental tone and the vigorous and imperative language of the Anglo-American constitutions on this subject is sharp and clear. The spirit of doubt and indecision expressed in the article dominated those charged with its enforcement, and it was not until April 13, 1834, seven years thereafter, that any active steps were taken by Congress to establish trial by jury. It is true that on page 60 of the Laws and Decrees

<sup>8</sup> Laws and Decrees of Coahuila and Texas, p. 337.



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of Coahuila and Texas, as published authoritatively in Texas in 1839, appears this title:

“DECREE NO. 39.

“LAW FOR THE REGULATION OF JUSTICE.”

Neither text nor date appears. The next preceding decree is dated June 20, 1827, and the next succeeding June 22, 1827. References to this decree in other portions of the laws of Coahuila show it to have been an enactment of some length, evidently designed to meet the conditions in the Mexican portion of the State rather than in Texas.

On April 13, 1834, was passed Decree No. 277, commonly known as the “Chambers Jury Law.” It comprised an hundred and forty articles, extending from page 254 to page 270 of the Laws and Decrees of Coahuila and Texas. It is extremely interesting and instructive, but its length forbids its reproduction. Its title and preamble are as follows:

“DECREE NO. 277.

“The Constitutional Congress of the free, independent and sovereign State of Coahuila and Texas, desirous to provide for the happiness and prosperity of their constituents, and to comply with the obligation imposed upon them by the 192nd article of the constitution, decree the following:

“A plan for the better regulation of the administration of justice in Texas.”

The article of the Constitution referred to is the one quoted above.

This act was to be operative in connection with the constitution, and the courts provided by it were to be subordinate to the Supreme Court. So the Texas system, after its passage, consisted of the Supreme Court of Coahuila and Texas, as created by the Constitution and statutory courts provided for by this act.

These statutory courts consisted of, first, a superior court of Texas, to be presided over by a superior judge, with a circuit com-

prising the whole of Texas, which was divided into three districts, namely, Bexar, Brazos, and Nacogdoches, in each of which the superior judge was to hold court three times each year at designated times and places; second, courts of less jurisdiction, in each municipality, to be held by a primary judge; and, third, still inferior courts in the smaller political sub-divisions. This act was, by its terms, exclusive, and undertook to supplant all courts theretofore existing in Texas. In most cases submitted to them the decisions of the lowest courts were final. The primary courts had no jurisdiction to try criminal cases, except the most trivial misdemeanors; but the primary judges had extensive powers as examining and committing magistrates. In civil matters, however, the jurisdiction of the primary courts was very extensive. They had exclusive original jurisdiction of all suits involving more than ten dollars in value, without regard to the nature of the litigation. The decision in all such cases was final, unless appeal was prosecuted to the superior court. The superior court had exclusive original jurisdiction in all criminal cases, except the smallest misdemeanors, and appellate jurisdiction in all civil cases tried in the primary courts. Appeal lay from all judgments of the superior courts to the Supreme Court of the State.

The procedure in these courts was not regulated by the rules either of the Civil or Common law, but was peculiar to itself. The general provisions regarding juries are important enough to quote:

“Art. 2. All cases, civil and eriminal, shall be tried by juries in the manner and form prescribed by this law.”

“Art. 6. For the trial of civil causes, there shall be in every municipality a tribunal for each primary judge, composed of the judge, a subaltern sheriff, and the jury. Their sessions shall be held every two months of the year.

“Art. 7. In all causes, civil and criminal, the jury shall be composed of twelve men, who shall be sworn, and the joint opinion of eight of them shall be considered the decision of the jury.”

“Art. 24. Juries are the judges of all the facts in controversy, and all the laws concerning evidence, subject to the instructions from the judge, but they have the right to differ with him in opinion; but, in regard to all other laws, they shall be regulated strictly according to their literal tenor.

“Art. 25. The facts established by the decision of the jury shall be considered as conclusive, and can not be controverted before any tribunal or authority, except in the single case of the corruption of the jury.”

“Art. 72. The judge shall make such observations upon the evidence and facts adduced on the trial as he may think proper and necessary for the instruction of the jury, who shall retire for deliberation.”

“Art. 74. The verdict of the jury being agreed upon by the number required by law, it shall be committed to writing, expressing all the important circumstances that may have been established by the evidence, and shall be signed by all the jurors. Those, however, who may dissent from the verdict, shall be permitted to express their separate opinion.”

It is readily apparent that the jury contemplated by this act was a very different institution from the Common law jury, or that with which we are now familiar. No provision is made for a grand jury.

The petit jury decided questions of law and fact, both as to the admission of evidence and its legal effect. The verdict could be rendered by eight or more jurors, and the minority could file dissenting opinions. The verdict was conclusive upon the court in which it was returned, and all appellate courts, except in the one case of the corruption of the jury.

There were numerous other differences between the procedure provided for these courts and the practice in the courts with which the Anglo-Americans had been familiar. Probably the most noticeable is the absence of recognition of the Common law distinction between legal and equitable rights and remedies, and the giving to one tribunal jurisdiction of all causes, without regard to that distinction. Another is the requirement of an attempt to arbitrate as a condition precedent to suit; another is the provisions as to pleading. Here the contrast is so great that I quote a few paragraphs, as follows:

“Art. 94. In order to commence an action in writing, the complainant shall present himself before the primary judge of the respective jurisdiction, and shall signify his demand by a petition, plainly and clearly expressed, accompanied by a certificate of having

attempted in vain a conciliation with the opposite party, and without this requisite the demand shall not be admitted."

"Art. 101. Neither of the parties shall be permitted to present more than two writings; and the term of three days shall be allowed for the replica, counted from that of the contestation; and the same time shall be allowed for the duplica, counted from that of the replica; and the judge shall deliver these documents to the parties to whom they may respectively appertain immediately on receiving them."

The superior court contemplated in this act was never organized in any of the three districts, and no session of such court was ever held; hence, this first attempt to establish a Texas judicial system was of little, if any, practical effect. The state of the country was too unsettled to permit of orderly proceedings in any department. The causes which culminated in the Texas revolution were actively at work, and the attention of all parties was filled with other things than private litigation. Theoretically, this law remained in force until the meeting of the Consultation at San Felipe de Austin, on October 15, 1835, and the establishment by it of the provisional government, consisting of a governor, lieutenant governor, and council, who were authorized to administer the affairs of state.

This consultation did not declare nor contemplate national independence for Texas; it strove to accomplish the restoration of the national constitution of 1824. The plan of provisional government agreed upon conferred almost absolute power upon its officers, acting as a council. Among other things, this council was to exercise the power of courts of admiralty and maritime jurisdiction. It was especially required to organize a provisional judiciary.

The three articles relating to the latter, are as follows:

"Art. 5. There shall be constituted a provisional judiciary in each jurisdiction represented, or which may hereafter be represented in this House, to consist of two judges, a first and second, the latter to act only in the absence or inability of the first, and to be nominated by the Council and commissioned by the Governor.

"Art. 6. Every judge, so nominated and commissioned, shall have jurisdiction over all crimes and misdemeanors recognized and known to the Common law of England; he shall have power

to grant writs of 'habeas corpus' in all cases known and practiced to and under the same laws; he shall have power to grant writs of sequestration, attachment, or arrest, in all cases established by the 'Civil Code' and 'Code of Practice' of the State of Louisiana, to be regulated by the forms thereof; shall possess full testamentary powers in all cases; and shall also be made a Court of Records for conveyances which may be made in English, and not on stamped paper; and that the use of stamped paper be, in all cases, dispensed with; and shall be the 'Notary Public' for their respective municipalities; all office fees shall be regulated by the Governor and the Council. All other civil proceedings at law shall be suspended until the Governor and General Council shall otherwise direct. Each municipality shall continue to elect a sheriff, alcalde, and other officers of Ayuntamientos.

"Art. 7. All trials shall be by jury, and in criminal cases the proceedings shall be regulated and conducted upon the principles of the Common law of England; and the penalties prescribed by said law, in case of conviction, shall be inflicted, unless the offender shall be pardoned, or fine remitted; for which purpose a reasonable time shall be allowed to every convict to make application to the Governor and Council."

In these ordinances is the first Texas recognition of the English Common law. By them it was adopted as the law in all *criminal* cases. Judicial functions were, however, suspended in all *civil* matters, except in cases of special emergency, and as to these, the codes of Louisiana—another Civil law country—were adopted. The Council was authorized to order the opening of the courts for the trial of civil cases, if, in its discretion, this should be expedient.

Having elected a Governor and Council, the Consultation committed the government to them, and adjourned on November 14, 1835, to meet on March 1, 1836. The Council organized and took charge of the government. From time to time, judges for the different municipalities were elected and inducted into office. On January 16, 1836, the Council passed an act entitled "An Ordinance and Decree for Opening the Several Courts of Justice, Appointing Clerks, Prosecuting Attorneys, and Defining Their Duties, etc.," which was approved January 22, 1836. This is too long for insertion. Its most important provisions were: first, to open the courts for civil as well as criminal business; second, to

reiterate the terms of the executive ordinance, adopting the Common law of England in all criminal matters; third, to specially provide for grand juries; fourth, to continue the authority of the Louisiana codes in the special cases mentioned in the executive ordinances; fifth, to continue in force the former laws of Coahuila and Texas in all other civil matters; sixth, to authorize appeals from the decision of the primary court in any municipality to the like court in any adjoining municipality; and, seventh, to increase the jurisdiction of alcaldes to cases involving as much as fifty dollars.<sup>9</sup> The most striking peculiarity of this plan is the absence of any court of last resort, without which uniformity of decision is unattainable. As the plan, however, was only temporary, this omission was no serious defect.

The Provisional Government, though embarrassed by much internal strife, and the disordered condition of the country, sustained itself against the hostile invasions from Mexico. Difficulties increased, and the Council decided that it was proper that the Convention, which was to assemble on March 1, 1836, should be more thoroughly representative than the adjourned Consultation, and on December 10, 1835, it passed an ordinance providing for an election, to be held throughout the state, on February 1, 1836, to select delegates to such a body, to meet at Washington.<sup>10</sup> The Governor objected to some of the provisions of this act, and vetoed it, but on the succeeding day it was passed over his opposition.<sup>11</sup> The ordinance calling for this election is not set out in the journals of the Council. The preamble to the journal of the Convention gives the date of the passage of the ordinance as December 11, and of its approval by the Governor as December 13. The dates given herein are taken from the journals of the Council. The election for delegates was duly held.

The Convention assembled at Washington on March 1, 1836, and immediately organized. On the next day it adopted the Texas Declaration of Independence, and proclaimed the Republic of Texas a free, sovereign, and independent Nation. In this new nation, the Anglo-American element was overwhelmingly predominant, and its

<sup>9</sup> Orders and Decrees of the General Council, p. 135.

<sup>10</sup> Proceedings of the General Council, p. 101.

<sup>11</sup> *Ibid.*, p. 112.

traditions, sympathies, and prejudices were all in favor of the Common law. One of the grievances of the people against the Mexican government, as set forth in this Declaration of Independence, is in these words:

“It has failed and refused to secure on a firm basis the right of trial by jury, that palladium of civil liberty, and that only safe guarantee for the life, liberty and prosperity of the citizen.”

It was necessary to form a constitution as a basis of permanent national existence, and as no vote of the people could be taken on it then, or in the near future, and as the provisional State government had been superseded, it was necessary to make provision for a temporary National government. The Convention addressed itself vigorously to these several tasks, and on March 16th adopted an executive ordinance providing for a Government *ad interim*, and on March 17 passed unanimously, and signed the constitution of the Republic of Texas; and, having elected officers for the temporary government, adjourned without day. As men who could bring things to pass, the members of that Convention stand without peers. The swiftness of their work is equaled only by its quality and effectiveness.

The executive ordinance thus adopted, is as follows:

“WHEREAS, We, the people of Texas, through our delegates, in General Convention assembled, for the purpose of framing a constitution, and organizing a government under that constitution, free, sovereign, and independent; and finding from the extreme emergency of the case, and our critical situation, that it is a duty that we owe to our fellow citizens and ourselves, to look upon our present danger with a calmness unruffled and a determination unsubdued; and at the same time to pursue a prompt and energetic course for the support of our liberty, and the protection of our property, and our lives; therefore,

“1st. *Resolved*, That we deem it of vital importance to forthwith form, organize, and establish a government ‘ad interim,’ for the protection of Texas, which shall have full, ample, and plenary powers to do everything which is contemplated to be done by the General Congress of the people, under the powers granted to them by the Constitution, saving and excepting all legislative and judicial acts.

"2nd. *Resolved*, That said Government shall consist of a chief executive officer, to be styled the President of the Republic of Texas; a Vice-President, Secretary of State, Secretary of War, Secretary of the Navy, Secretary of the Treasury, and Attorney General, whose salaries shall be fixed and determined by the first Congress of the Republic.

"3rd. *Resolved*, That all questions touching the powers hereby confided to these officers shall be decided by a majority of said officers.

"4th. *Resolved*, That the President be elected by this convention; and that the candidate or the individual having the majority of the whole number of votes given in, shall be, and is hereby, declared to be duly elected.

"5th. *Resolved*, That the Vice-President, the aforesaid Secretaries and the Attorney General be elected by this Convention, a majority of the whole number of votes being requisite to a choice.

"6th. *Resolved*, That the members of this body vote for the above named officers 'viva voce.'"

The government thus inaugurated was not state but national, embodying all the attributes of sovereignty. Actual hostilities were then going on, and naturally more attention was given to the executive department, than to either the legislative or judicial. The only reference to either of the latter in the ordinance is to deny to the Government *ad interim* the power to exercise their respective functions. The change in the government growing out of the substitution of national for state sovereignty was fully recognized in the constitution of the Republic; but no provision conforming the existing judiciary to such change was made in the executive ordinance for the Government *ad interim*, and President Burnet and his cabinet found themselves without courts authorized to deal with national or international matters. Several vessels were captured, and it became a very practical and perplexing question as to who should deal with these prizes, and determine the questions of maritime and international law arising. The difficulty, and the steps taken to meet it, are given quite graphically in the first message of President Burnet to the First Congress of the Republic, October 4, 1836,<sup>12</sup> as follows:

<sup>12</sup> Journal House of Representatives of First Congress, pp. 17 and 18.



"The judicial department of the government is in a very imperfect state. By the constitution, the old system is abolished, and an entirely new judiciary is created; but it was not considered advisable by the executive government to make any further innovations upon the established course than necessity imperatively demanded. The courts were closed to civil business, and they were thought to be adequate to the conservation of the public peace of the country; but I am apprehensive that that opinion is illusory, and that a more energetic administration of eriminal law is indispensable. The increase is an invariable concomitant on increase of population.

"Under the existing system, there was no tribunal in the country vested with maritime jurisdiction, and consequently none competent to adjudicate questions arising from captures on sea. Some prizes had already been taken, and it was due the character of our navy and the country that a regular and lawful disposition should be made of them. The government, therefore, concluded to appoint a district judge for the district of Brazos, within which it was probable all prizes then taken would be brought, or to which they could easily be transported. I accordingly appointed Benjamin C. Franklin, Esquire, to that office. It remains to the wisdom of Congress to determine how soon the new organization shall be perfected."

The exact date of this appointment is not given. This action in effect anticipated the adoption of the constitution of the Republic, and gave Judge Franklin the powers and jurisdiction of a district judge under that instrument. His appointment, and the value of his services, were recognized by Congress, which made an appropriation for the payment of his salary.<sup>13</sup>

On July 23, 1836, the Government *ad interim* ordered an election to be held on the first Monday in September for the adoption or rejection of the constitution of the Republic, and the election of officers thereunder. The constitution was adopted.

At the date at which the subject was introduced, the whole jurisprudence of the country, substantive and adjective, was the Spanish Civil law. Up to the time now reached Common law ideas had

<sup>13</sup> Acts of First Congress, p. 276.

so far prevailed that in all criminal matters it, the Common law of England, had become the law of Texas; and in civil matters, juries had been introduced; but in all other respects, the Spanish law still prevailed.

The system of courts adopted by the constitution of the Republic consisted of, first, one Supreme Court with appellate jurisdiction only, composed of a chief justice and the several district judges throughout the State, as associate justices; second, district courts, which had exclusive original jurisdiction in all admiralty and maritime cases, in all cases against ambassadors, public ministers, and consuls, of all criminal cases punishable with death, and original jurisdiction in all civil cases, when the matter in controversy amounted to one hundred dollars, or more; third, county courts, one in each county; and fourth, justice courts in the smaller political subdivisions. The jurisdiction of the district court, except as indicated above, was not exclusive, and the jurisdiction of the inferior courts was not fixed by the constitution; so that the divisions of jurisdiction among these courts was left largely to Congress.

Congress at once set to work to bring governmental order out of the existing chaos and to provide for the establishment and maintenance of all the instrumentalities necessary to this purpose. The judicial department received its full share of attention and acts were passed organizing and fixing the jurisdiction of the system of courts contemplated by the constitution. As the first Texas legislation by the Anglo-Americans on this subject these acts are important and still interesting.

The act organizing the Supreme Court passed December 15, 1836. Some of its sections are as follows:

“Section 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled:

“That there shall be established in this Republic a court to be styled the Supreme Court of the Republic of Texas, which court shall consist of one supreme judge, to be styled the Chief Justice; to be elected by joint vote of both houses of Congress, and such judges as shall be elected judges of district courts, who shall continue in office during the time prescribed by the constitution. The Chief Justice shall receive a salary of five thousand dollars per annum, payable semi-annually at the treasury of the Republic.

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“Section 2. The Supreme Court shall be held annually at the seat of government, on the first Monday in December, and a majority of all the judges shall be necessary to constitute such a court.

“Section 3. The said Supreme Court shall have jurisdiction over, and shall hear and determine all manner of pleas, complaints, motions, causes and controversies, civil and criminal, which may be brought before it from any court in this Republic, either by appeal or other legal process, and which shall be cognizable in said Supreme Court according to the constitution and laws of this Republic: *Provided*, That no appeal shall be granted, nor shall any cause be removed into the Supreme Court in any manner whatever until after final judgment by decree in the court below, except in cases particularly provided for by law.

“Section 4. When, by appeal or in any other manner permitted by law, the judgment, sentence, or decree of the court below shall be reversed, the Supreme Court shall proceed to render such judgment, or pronounce such sentence or decree as the court below should have rendered or pronounced, unless it be necessary, in consequence of the decision of the Supreme Court, that some matter of fact be ascertained, or some damages be assessed by a jury, or when the matter to be decreed is uncertain, in either of which cases the suit, action or prosecution, as the case may be, shall be remanded to the court from which it was brought for a more definite decision.”

“Section 8. The said court, or any judge thereof, in vacation, may grant writs of injunction, supersedeas, and such other writs as the laws permit to the judgments or decrees of the county or district courts, on such terms and conditions as the laws may prescribe in cases of appeals, and also to grant writs of habeas corpus, and all other remedial writs and processes granted by said judges by virtue of their office, agreeably to the principles and usages of law, returnable as the law directs, either to the Supreme Court or to any judge of said court, as the nature of the case may require.”<sup>14</sup>

The jurisdiction of the district court was defined by act approved December 22, 1836, as follows:

“Section 4. The district courts in the several counties of the Re-

<sup>14</sup> Acts of First Congress, p. 79.

public, shall have original jurisdiction of all suits of whatsoever nature or description, when the matter in controversy shall be one hundred dollars or upwards, and which are not especially cognizable in some other court established by law; and shall have power to hear and determine all prosecutions in the name of the Republic, by indictment, information, or presentment for treason, murder, and other felonies, crimes and misdemeanors, committed within their respective jurisdictions, except such as may be exclusively cognizable before a justice of the peace, or in some other court of this Republic; and shall, in criminal cases, have and exercise all the powers incident and belonging to a court of oyer and terminer and general jail delivery, and generally to do and perform all other acts lawfully pertaining to a district court of this Republic. And the judges of said courts, and each of them, either in vacation or term time, shall have authority to grant writs of habeas corpus, mandamus, injunction, supersedeas, and all other remedial writs known to the law, not repugnant to the Constitution, returnable according to law, into the Supreme Court, or either of the said district courts, as the case may be."

The provisions relating to appeals was as follows:

"Section 15. Any party may appeal from any final judgment or decree of any district court, during the term at which the decree was rendered, to the Supreme Court, provided the amount in controversy amounts to three hundred dollars, upon entering into bonds and security, to be approved of by the court, in double the amount of the debt or damages in the said suit, for prosecuting the same with effect, or performing the judgment, sentence or decree, which the Supreme Court shall make or pass thereon, in case the applicant shall have the case decided against him."<sup>15</sup>

The organization and jurisdiction of the county court was provided for by act approved December 20, 1836, as follows:

"Section 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled:

"That there shall be established in the several counties of this Republic an inferior court of law which shall be styled the county court, of the county of ———, to be composed of one chief justice, who shall be elected by joint ballot of both houses of Congress,

<sup>15</sup> Acts of First Congress, p. 198.

and shall hold his office for a period of four years, and two associate justices, who shall be selected by a majority of the justices of the peace of each county, from among their own body, at the beginning of each and every year, and the justices so elected shall attend the county courts, or pay a fine to be assessed by the chief justice not exceeding one hundred dollars."

"Section 6. The several county courts of this Republic shall have original jurisdiction of all suits and actions for the recovery of money, founded on any bond, bill promissory note, or other written contract, covenant or agreement whatsoever, or any open account where the sum shall exceed one hundred dollars, and shall have concurrent jurisdiction with the district courts in such suits and actions: *Provided:* That no suit relative to the title of land shall be tried and determined in said court, and generally to do and perform all other acts, and exercise all other powers, lawfully pertaining to a county court within this Republic."

"Section 24. The chief justices of the county court shall be judges of probate for their respective counties, shall take the probate of wills, grant letters of administration of the estates of persons deceased, who were inhabitants of or residents in said county, at the time of their decease, shall appoint guardians to minors, idiots, and lunatics, and in conjunction with the associate justices, shall examine and settle the accounts of executors, administrators, and guardians; and said chief justice shall have full jurisdiction of all testamentary and other matters appertaining to a probate court within their respective counties."

In addition to the jurisdiction thus conferred, these courts had supervision and control of the business matters of the county, roads, etc., such as our county commissioners now have.

The provisions relating to appeals are as follows:

"Section 13. Any party may appeal from any final judgment or decree of any county court, provided the amount in controversy shall exceed two hundred dollars, to the district court for said county, in the same manner and under the same restrictions as provided in the sixteenth section of 'an act establishing the jurisdiction and powers of the district court,' and the forty-second section of the aforesaid act, shall apply equally to the county courts, so far as is consistent with this act."

"Section 26. Any person may appeal from any decision or de-

creed of any court of probate, within ten days after such decision or decree shall have been rendered, to the district court of the county, provided such appellant shall give bond with good and sufficient security, to be approved by said court of probate, conditioned that said appellant shall prosecute said appeal to effect, and perform the sentence, judgment, or decree which the said district court shall make therein, in case the cause be decided against said appellant."<sup>16</sup>

The justices of the peace had large power as committing magistrates, but seem to have had no power to finally try any criminal case.

Their jurisdiction in civil cases was as follows: "Justices of the peace shall have jurisdiction of all suits and actions for the recovery of money on any account, bond, bill, or promissory note, or other written contract, covenant, or agreement whatsoever, or for specific articles, where the sum demanded does not exceed one hundred dollars."<sup>17</sup>

Section 7 of the general provisions of this constitution is: "So soon as convenience will permit, there shall be a penal code formed on principles of reformation, and not of vindictive justice; and the civil and criminal laws shall be revised, digested and arranged under different heads; and all laws relating to land titles shall be translated, revised and promulgated."

Section 13 of the judiciary article of the Constitution is: "Congress shall, as early as possible, introduce by statute the Common law of England, with such modifications as our circumstances, in their judgment, may require, and in all criminal cases the Common law shall be the rule of decision."

In obedience to this mandate, the First Congress incorporated in the judiciary legislation of its first session, the following article:

"The Common law of England, as now practiced and understood, shall, in its application to juries and to evidence, be followed and practiced by the courts of this Republic, so far as the same may not be inconsistent with this act, or any other law passed by this Congress."<sup>18</sup>

<sup>16</sup> Acts of First Congress, p. 147.

<sup>17</sup> *Ibid.*, p. 141.

<sup>18</sup> *Ibid.*, p. 157.

Thus, on these two important branches of the adjective law, evidence and trial by jury, the Civil law and prior statutory provisions were superseded, and the rules of the Common law, to which the citizens had been accustomed, were introduced.

Other Common law methods of procedure were not adopted. The few years of their experience with the administration of justice in all civil cases in one court, even under the very great disadvantages then existing, had demonstrated to these pioneers, who were wise enough to receive the truth from any quarter, that the maintenance of separate courts of law and equity was not to be desired, and they declined, therefore, to incorporate this feature of the Common law into the system they were framing. In regard to pleading, the same influences operated. Neither the system obtaining in courts of the Common law, nor in courts of Equity, was entirely adapted to the new conditions. The Common law system, with its single issue, and its forms of action, could not be adjusted to the procedure necessary in a court of blended jurisdiction; and the Equity system was not in all things suited to jury trials; besides, there were elements of formalism in each, which might well be looked upon as hindrances, rather than aids, in arriving at justice. On the other hand, the pleadings of the Civil law were **very simple, and** admirably adapted to the development of truth.<sup>19</sup>

The laws of Coahuila and Texas regarding pleadings, as before quoted, provided for a petition by the plaintiff, a contestation by the defendant, a replica by the plaintiff, and a duplica by the defendant. In these pleadings, the parties were respectively allowed and required to set forth, in a plain and intelligible manner, the facts upon which they respectively relied to sustain their positions before the court; in short, to state to the court the real truth of the matter in controversy, so far as they might be able.

The responsibility of choosing between these two systems, the Common law and the Spanish Civil law, devolved primarily on Congress. On December 20, 1836, Congress passed an act organizing the district courts. Its only section referring to pleading is as follows: "It shall be the duty of the plaintiff, or his attorney, in taking out a writ or process, to file his petition, with a full and

<sup>19</sup> *The Laws of Las Siete Partidas* (translated by Lislet & Carleton), Vol. I., law 1, p. 36; law 32, p. 52; law 31, p. 51; law 40, p. 57; laws 7, 8, 9, 10 and 11, pp. 70-74.

clear statement of the names of the parties, whether plaintiff or defendant, with the causes of action, and the nature of relief he requests of the court."

This section makes no mention of defensive pleadings; but the courts interpreted it, in the light of the constitutional provision, that old laws should continue until changed by Congress, as a practical adoption of the system theretofore obtaining, and so enforced it. The earliest mention by our Supreme Court of "petition and answer" as a system of pleading, occurs in the third paragraph of the opinion rendered at the January term, 1840, in *Winfred vs. Gates, Dallam*, 364. This opinion declared that the Spanish system of pleading was still in force. The exact date of the opinion is not given; but it was the ninth case decided by the Supreme Court of the Republic, at the January term, 1840.

The Fourth Congress of the Republic, early in its first session, January 20, 1840, passed an act entitled:

"An Act to Adopt the Common Law of England, to Repeal Certain Mexican Laws, and to Regulate Marital Rights of Parties."

Sections 1 and 2 of this act are as follows:

"Section 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Common law of England, so far as it is not inconsistent with the Constitution or acts of Congress now in force, shall, together with such acts, be the rule of decision in this Republic, and shall continue in full force until altered or repealed by Congress.

"Section 2. Be it further enacted, That all laws in force in this Republic prior to the 1st of September, one thousand eight hundred and thirty-six (except the laws of the Consultation and provisional government now in force; and except such laws as relate exclusively to grants and the colonization of land in the State of Coahuila and Texas, and also, except such laws as relate to reservations of islands and lands, and also of salt lakes, licks, and springs, mines, and minerals of every description, made by the General and State governments) be, and the same are hereby repealed."

The effect of this, unqualified by other legislation, would have been to annul all laws enacted prior to the adoption of the Constitution of the Republic, except those specially retained, and to substitute therefor the Common law and the Constitution and then existing statutes of the Republic; and, as Congress had not passed



any general practice act, the Common law system would have been in force. This was prevented, however, because at the same session, Congress passed an act entitled, "An Act to Regulate Proceedings in Civil Suits." This was approved February 5, 1840.

Section 1 is as follows:

"Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the adoption of the Common law shall not be construed to adopt the Common law system of pleading; but the proceedings in all civil suits shall, as heretofore, be conducted by petition and answer; but neither petition nor answer shall be necessary in a cause to recover money before a justice of the peace."

A portion of Section 12 is as follows:

"In every civil suit, in which sufficient matter of substance may appear upon the petition, to enable the court to proceed upon the merits of the cause, the suit shall not abate for want of form. The court shall, in the first instance, endeavor to try each cause by the rules and principles of law. Should the cause more properly belong to equity jurisdiction, the court shall, without delay, proceed to try the same according to the principles of equity. \* \* \* Provided, nothing herein contained shall be so construed as to prejudice the right of the parties to a trial by jury."<sup>20</sup>

This is the first reference in Texas to the difference between law and equity; but it must be noticed that there is no separation of the jurisdictions; both law and equity are to be administered by the same court in the same cause, and trial by jury is not to be precluded by the exercise of equity powers by the court.

Congress, at the same session, passed an act that laws passed by it should not go into effect until forty days after adjournment, unless otherwise expressly provided.<sup>21</sup> This act had such a provision, but there was none in either the act adopting the Common law, or the one denying its application to our system of pleading. These two acts, therefore, went into effect at the same time, forty days after adjournment of Congress, and must be construed as parts of the same act. Hence, the Common law system of pleading in civil suits did not obtain in Texas at any time under these acts.

<sup>20</sup> Laws of Fourth Congress, p. 88.

<sup>21</sup> *Ibid.*, p. 6.

In the case of *Fowler vs. Poor*, decided by the Supreme Court of the Republic, January term, 1841, Dallam, 403, this language occurs:

“Our system of proceedings in civil suits differs from that known in England, and adopted in most of the States of the United States. \* \* \* The mode of conducting proceedings in civil suits by petition and answer, is so highly appreciated by the legislative power of this Republic, that at the last session of Congress, it was expressly enacted, that “the adoption of the Common law shall not be construed to adopt the Common law system of pleading, but the proceedings in all civil suits shall, as heretofore, be conducted by petition and answer.” Here is strong legislative declaration that the proceedings in civil suits had been heretofore commenced by petition, and that they shall be conducted in the same manner for the future.”

In *Hamilton vs. Blank*, Dallam, 587, decided at the June term, 1844, the Supreme Court says: “The object of our statutes on the subject of pleading, is to simplify as much as possible that branch of the proceedings in courts which, by the ingenuity and learning of both Common and Civil law lawyers and judges, has become so refined in its subtleties as to substitute in many instances the shadow for the substance. Our statute requires at the hands of the petitioner to a court of justice only a statement of the names of the parties plaintiff and defendant, a full and fair exposition of his cause of action, and finally the relief which he asks.”

Many other interesting cases could be given from the decisions of the Supreme Court of the Republic to show that the practical interpretation of the statutes under consideration was that the Common law system of pleading was never in force in Texas, and that the purpose of the lawmakers was to eliminate as far as possible all technicalities and useless forms, and require only a full and fair statement of the facts upon which the party relied, and the relief sought from the court, supplemented by a few indispensable matters, such as names and residences of parties, etc., to enable the court to act intelligently. This is substantially the Texas system of pleading to-day.

There were no material changes made during the Republic in the judicial system thus established. In dealing with this period of our history, we must not lose sight of the important fact that at

this time the Supreme Court consisted of a chief justice and the district judges sitting together. This plan, impracticable under most circumstances, was of great value then; it was the unifying and harmonizing element in the system. The laws of Coahuila and Texas were in a language unknown to most of the judges, and to a large extent inaccessible to the few that could have translated them. The enactments of Congress on methods of procedure were meagre, and the meeting and interchanging of views on these matters by the several district judges, when assembled for the purpose of holding the Supreme Court, must have been salutary in its influence, and have had a strong tendency to introduce the same procedure in all courts.

During the year 1845 it was definitely determined that the Republic of Texas should surrender its nationality, and take a place as a State in the Federal Union. A State constitution looking to this end was prepared and adopted; State officers were elected; and on February 16, 1846, the State government was organized, the Republic of Texas passed into history, and in her stead the State of Texas became a member of the United States of America.<sup>22</sup>

The formative period of her history had passed. Though there have been many modifications made from time to time to adjust herself to the varying conditions of her development, the fundamental ideas of her jurisprudence have remained unchanged. To trace the most important of these modifications affecting her judicial system will be the purpose of a subsequent paper.

<sup>22</sup> *Cocke vs. Calkin & Co.*, 1 Texas, 541; *Calkin vs. Cocke*, 14 Howard, 235; *Lee vs. King*, 21 Texas, 577.

H. P. BEE.

F. R. LUBBOCK.

General Hamilton Prioleau Bee was born in Charleston, S. C., July 22, 1822, and died in San Antonio, Texas, on October 3, 1897, aged 75 years. His grandfather was Judge Thomas Bee, who held a commission from President Washington, as Judge of the United States Circuit Court for South Carolina, and his father, Col. Barnard E. Bee, occupied quite a conspicuous place in the history of the Texas Republic, having been Secretary of War under President Sam Houston, and Secretary of State under President M. B. Lamar, and also Minister to the United States and to the Republic of Mexico, though Santa Anna declined to receive him, treating the young Republic as a rebellious province, notwithstanding the Mexican disaster at San Jacinto.

After Santa Anna's surrender to General Houston, he was sent to Washington, in order that he might, in the presence of President Jackson, renew the promises he had made, in order to secure his liberty, and Colonels Hoekley, Bee, and Potter were selected to accompany him. It became necessary for him to have a large sum of money, about three thousand dollars, and Colonel Bee advanced it, receiving in return a draft on Santa Anna's bank, in the City of Mexico, for the amount. Upon presentation, the payment of the draft was refused by Santa Anna, on the ground that at the time of its execution, he was a prisoner of war, and, therefore, under duress. Colonel Bee died in 1854.

General Bee's brother, General Barnard E. Bee, was a graduate of the West Point academy, and was killed at the battle of Manassas, being the first general officer killed in the Civil War. He was a splendid soldier, and he it was that christened Gen. T. J. Jackson as "Stonewall," while rallying his troops, saying to them: "See, there is Jackson, standing like a stone wall. Let us determine to die here, and we shall conquer."

He was soon after mortally wounded, while holding in his hand the beautiful sword presented to him by the State of South Carolina for his distinguished services in the Mexican war.

Hamilton P. Bee, at the early age of fifteen years, brought his mother out to the then young Republic of Texas, the trip being made by sea, on the steamship *Columbia*. They landed at Galveston, Texas, then lately desolated by a fearful storm, in November, 1837. His father was then in Houston filling the office of Secretary of War, and the subject of this sketch thus linked his life with that of the young Republic. Dutifully and faithfully he followed during life its standards through all the mutations of fortune, always true to the cause of Texas. He first held the position of clerk in the Comptroller's office, the Comptroller being the writer of this article.

It is a marked incident, as showing the stupendous progress of the State, that at that time there was only one clerk in the Comptroller's office, and now the working force is counted by scores.

The friendship thus begun between the Comptroller and his clerk continued unbroken throughout.

General Bee lived in Houston until his father retired from President Houston's cabinet, when the family moved to Velasco. Here they resided until the election of Lamar, when they returned to the capital, Colonel Bee assuming the position of Secretary of State.

When the capital was removed to Austin, General Bee took up his residence in that village, and engaged in the study of law under Judge Webb, a distinguished lawyer of the early days. The Comanche war soon breaking out, he joined the army, which engaged in several conflicts with the Indians, including the battle of Plum Creek, in which the Texans commanded by Gen. Ed Burleson and Col. Jno. H. Moore were completely successful, routing the Indians and recovering a large part of their stolen plunder. Later on, in 1840, General Bee acted as Secretary of the Commission that ran the boundary line between the Republic of Texas and the United States, the Texas Commissioner being Gen. Memucan Hunt. The engineer in charge was Major Graham, of the United States Corps of Engineers. He was the father of Gen. W. M. Graham, who at present is in command of the Department of the Gulf, and Lieuts. Jos. E. Johnston and Geo. C. Meade were the assistant engineers. These officers afterwards occupied prominent places in the late "War between the States." The expedition started from the mouth of the Sabine and followed the line of the

Sabine River to its source, thence to Red River. Its work was of a very satisfactory nature.

When the Vasquez raid on San Antonio occurred in 1842, he volunteered and joined a company that set out to assist in expelling the invaders. By the time San Antonio was reached the trouble was over, and the command, after a short stay in the vicinity, returned home. Meanwhile President Houston conceived the plan of arranging a meeting at Bird's Fort—the present site of Fort Worth—of all the tribes of Texas with the Commissioners from Texas, for the purpose of making a treaty of peace. General Bee accompanied the Commission, headed by Col. Jos. C. Eldridge, as secretary. There was only one other member of the Commission, Thos. Torrey, a member of the Torrey family, so well known in Southwest Texas, and they were accompanied by three Delaware Indians as guides and interpreters. This expedition started out in 1843 from Washington on the Brazos, at that time the seat of government, and was absent for over eight months. It was filled with exciting experiences and at times promised to terminate fatally to the members of the Commission.

The Commission visited all the wild tribes extending as far north as Fort Sill in the Indian Territory, and succeeding in inducing the tribes to meet with the Texas Commission.

In 1846, General Bee was elected Secretary of the First Senate of Texas; but when the war with Mexico broke out he joined Capt. Ben McCulloch's company and participated in the battle of Monterey. He afterwards became first lieutenant of M. B. Lamar's company and continued in the service until the close of the war. He then took up his residence in Laredo and engaged in merchandising. He was next elected a member of the legislature, and served in that capacity from 1849 to 1856. He was Speaker of the House from 1854 to 1856, filling the office with great credit to himself and his constituents. He was a delegate to the Democratic convention at Cincinnati which nominated Buchanan for President in 1856. After retirement from the legislature, he engaged in planting near Goliad, where he was living at the outbreak of the war. He served as presidential elector and cast his vote for Jefferson Davis as President of the Confederate States. He was shortly afterwards appointed brigadier general of the State militia by Governor Edward Clark, and then commissioned a

brigadier general in the Confederate States army and assigned to the command of the Western District of Texas, stationed at Brownsville. He was desirous of finding a place in the main theater of the war, but in vain, since by reason of his acquaintance with the frontier and with the people of Mexico, his services were considered indispensable to the Confederate cause in that quarter.

He remained in command at Brownsville until the arrival of Banks' army at the mouth of the Rio Grande, when with the one company which had been left with him—the others having been ordered to the more eastern seat of war—he retired to the interior, taking with him a large amount of government supplies, etc. Upon reporting to General Magruder he was assigned to the command of a brigade consisting of the regiments of Likens, Terrell, De Bray, Woods, and Buchel, and marched to Louisiana, where he participated in the battles of Mansfield and Pleasant Hill. He led the cavalry charge at the battle of Pleasant Hill, one of the most brilliant on record, in which the gallant Col. A. Buchel lost his life.

After the Red River campaign, General Bee returned to Texas and continued with the army as a cavalry commander until the close of the war.

On the fall of the Confederacy, General Bee sought in Mexico to retrieve his lost fortunes, but after spending some years in that country, he returned to Texas and was appointed to a responsible position at the Agricultural and Mechanical College of Texas. After the expiration of his term he moved to San Antonio in 1879, where he continued to reside until his death, with the exception of two years spent at Austin as Commissioner of Insurance, Statistics and History, under the administration of the lamented Governor John Ireland.

General Bee was married in 1854 to Miss Mary Mildred Tarver, who survives him. Of their large family six are yet alive. He was a splendid type of the old school of Southern gentlemen—honorable, high-toned, brave and chivalrous. He passed his long life with the people of Texas, being the contemporary and associate of Lamar, Henderson, Ford, Burleson, Maverick, and a host of others whose names have become historic. He was earnestly interested in the history of Texas and its perpetuation, and died as he had lived, universally beloved and admired for his sterling qualities of mind and heart. Peace to his ashes.

## THE CHEROKEE NATION OF INDIANS.

V. O. KING.

[For much of the matter contained in this paper I am indebted to the Bureau of American Ethnology and to Mr. Charles C. Royce and Professor Cyrus Thomas, its learned and efficient workers. These sources of information may be profitably consulted by any person interested in the aboriginal literature of our country.—V. O. K.]

The Cherokees, more properly the Tsullakees, have occupied a more prominent place in the affairs and history of the United States than any other tribe, with the possible exception of the Iroquois, or Six Nations, of New York. They bear some resemblance to each other, and though an open question, the Cherokee dialect is held by the American Bureau of Ethnology to belong to the Iroquoisan family of languages. This opinion leaves the inference that in the remote past there was tribal union between them.

Less than half a century after Columbus touched these shores, De Soto and his followers began their march to explore the lands that lay beyond. They penetrated the country as far as what is now the northern limits of Georgia, and the northeastern corner of Alabama, when they came in contact with a tribe of natives, reported in their memoirs as Chelaques, but which have since been abundantly identified with the Cherokee Indians. They occupied as homes and hunting-grounds nearly the whole territory south of the Ohio river and east of the Mississippi—the areas excepted being the present States of Mississippi and Florida, and the southern extremities of Alabama and Georgia.

Among the most interesting of the relics that reveal somewhat of the inner life of these autochthones at this early period, are their sacred formulas, transmitted to them from a remote past, through traditions confided to their shamans, or priestly fathers. For a knowledge of these formulas, the world is indebted to the genius of an unlettered Cherokee. Sequoyah, in 1821, with a marvelous gift of invention, and unaided by artificial learning, constructed a syllabary, by means of which the speech and thought of his people



were, for the first time, brought in obedience to written characters. No other tribe in North America had then an alphabet of its own. The Crees and Miemacs, in Canada, and the Tukuth Indians, in Alaska, had ideographic systems, invented by missionaries, and the Mayas, in Central America, wrote in hieroglyphics, but neither of them possessed a literary contrivance by which words and sentences could be constructed, after the method of a true orthography. The admirable genius of Sequoyah gave to his people this contrivance, by which their sacred formulas were rescued from infirm or unfaithful memories, and have become part of the written literature of the native races. Many of the Formulas, thus escaped from the crypt of ages, have been secured by the United States Bureau of Ethnology, and possess for the lover of aboriginal research the peculiar interest that in them is embalmed the faith and the philosophy of one of the most striking of the primitive peoples of the continent. These Formulas are terse, turgid, and cabalistic phrases addressed to their divinities, and which, though chiefly in the form of supplication, are sometimes songs of praise and eulogy, and sometimes charms to compel the favors of languid or reluctant spirits. In this latter form, they are multiplied to meet every danger and every exigency of life; and in war, in pestilence, in famine, in floods, in droughts, they are trusted with reverent, unflinching faith. The lover, the hunter, the warrior, each, through his shaman, appeals to the potential energy of the Formula for the successful issue of his enterprise. Even after the missionaries of the white men had introduced their religion among these simple worshippers, and they had surrendered most of their creed, they still held tenaciously to the Formulas, as if, in some manner, interwoven with the destiny allotted them. The shaman, after his profession of the Christian faith, combined his mystic phrases with texts of Scripture in the same religious service, and it was not uncommon to see him publicly officiating as Indian conjurer and Methodist preacher.

The Formulas, in their structure and purpose, very closely resemble the phylacteries of the Hebrews, which consists of extracts from their sacred book written on strips of parchment and, according to the Targum, worn about the person as amulets to drive away evil spirits. That these phylacteries should reappear in oral form among an unlettered people, between whom and Israel there are other points of resemblance, may, not unreasonably, be taken as

an added argument in support of the theory that part of the Jewish captives wandered from Assyria into the New World, where they were absorbed and lost in the broad and friendly bosom of their indigenous host.

The Sacred Formulas possess an ethnologic value second to no other known means of discovering tribal cult and character, and they afford measureless aid to the study of native folklore before it was influenced by the white man's presence. The MEDICAL Formulas are concerned only with the health of the people, and they are based upon the following allegory: All the animals of the earth met in council to devise means for the destruction of man, their common enemy. Each species possessed the power over some particular deadly pestilence; these distempers they combined and turned loose upon the devoted race. The suffering and mortality that followed were so appalling as to excite the pity of the vegetable world, which, in its turn, called a council. Each species in this Kingdom was gifted with the balm that brought healing to some one of the many ills that afflict mankind, and, in the supreme moment of his despair, they distilled their life-giving balsams for the deliverance of man. The Shamans, who lived in close communion with floral nature, were intrusted with her secrets; these secrets they embodied in formulas which they delivered to the people that they might hear the glad message; and thus they were saved. To the credit of this tradition, it may be affirmed that their Shamans were really instructed in the medicinal qualities of many indigenous plants. Other plants in their *Materia Medica* were wholly inert; these they employed as fetiches from some fancied resemblance to diseased organs, for the principle of "*similia similibus*" was as familiar to their ancestors as to the modern school of Doctor Hahnemann. Failing memory was treated with *beggartlice* and other burr-bearing plants, that the sticking qualities of the burrs might be imparted to the memory. *Goat's Rue* was prescribed for falling out of the hair because the roots of this plant are tough and difficult to pull up. The *Maidenhair Fern* was administered for rheumatism that the contracted muscles might unbend as the fronds of the fern unroll during its healthy growth. But the MEDICAL Formulas were not restricted to *drugs* as curative agents. The bath, especially in a running stream, was a most trusted resource in the Cherokee therapeutics, and it is curious to

note that the patient was directed to plunge seven times in the healing flood, even as Elisha, three thousand years before, directed Naaman to wash in Jordan "seven times" for his leprosy. The numeral *seven*, it may be remarked, was as much a mystical number with the Cherokee as with the Israelite; this is shown in his law establishing the seven days' purification and in other ceremonial customs enjoined by his faith.

The RELIGIOUS Formulas of the Cherokees reveal a system of belief and practice almost unique. They had no Great Spirit, yet their pantheon was crowded with gods; they looked forward to no happy hunting-ground as the reward of their courage and sacrifices, but their faith was immovable in the temporal rewards that were to crown their savage virtues. Long life, freedom from pain, success in war, in love, in the chase, were the gifts of the gods they worshiped, and their name was legion. They saw these gods clothed in the forms of birds and reptiles, of mountains and streams, they heard their voice in the storm and felt their presence in the frost, and they bowed down in homage to them all. When death came it was to them the end of all things; no fears disturbed their last moments and no sorrow wrung the heart of their children.

The MILITARY Formulas of the Cherokees were designed to render their warriors invulnerable in battle, to which end they prescribed charmed roots and ceremonial washings. A writer for the American Bureau of Ethnology, referring to the practice here enjoined, mentions the fact that it was religiously observed by almost every man of the three hundred Cherokees who served in the war between the States, and he humorously adds, "It is but fair to state that not more than two or three of the entire number were wounded in actual battle."

The devotional methods of the Cherokee disclosed by these Formulas and the traditions inspiring them reveal in him an essentially religious mind—the result of his close relation to creative power. Like the Jew, and in common with other Indians, he "believed himself to be the result of a special creation by a partial deity, and held that his was the one favored race," but, unlike the Jew, he has not been able to impress his sacred character upon other races of men.

It was nearly a century after the expedition of De Soto before the Cherokees again met the white man. Then they encountered the pioneers from the Atlantic coast, and then the racial conflict began—a conflict that for two hundred and fifty years has been waged against the rapacity of Anglo-Saxon civilization. When first begun, the villages of the Cherokees covered the mountains and valleys of the Shenandoah, and their scouts camped on the summit of Monticello. Upon the Blue Ridge the Cherokee sat as upon a throne; within his dominion was cradled “the Tennessee and the Cumberland, the Kanawha, and the Kentucky, the Pedee and the Santee, the Savannah and the Altamaha, the Chatahoochee and the Alabama;” along their banks he pursued his game, and upon their laughing waters his love-song and his war-whoop were carried to the sea. These scenes of sovereign sway remained undisturbed for many years after the white man became the red man’s neighbor. The distance between the mountains and the sea coast for a long time kept them apart. The cupidity of the white fur-trader, however, and the display of his coveted goods brought the two together within the dominions of the native monarchs. The Ahabs thus saw their neighbor’s splendid vineyard and were stricken with a passion to possess it. The title to the coveted possession was thenceforth to be only a question of time.

From 1721 to 1783, the Cherokees made ten treaties, by which the Colonies of Virginia, Georgia, and the two Carolinas acquired seventy thousand square miles of land. From 1785 to 1866, they executed thirty-five treaties with the United States, by which they ceded fifty-six thousand square miles of territory lying south of the Ohio river. To the new country thus acquired, the Americans of the Atlantic States were early attracted. Among these immigrants was the widowed mother of Sam Houston, who, with her family, moved from Virginia to Tennessee, in 1807, and settled on the Tennessee river, the boundary line between the American and Cherokee possessions. Her son, the future hero of San Jacinto, was then fourteen years of age, and was not long in finding his way across the river to the red braves of whom he had heard, and for whom he had conceived a most romantic passion. Their unfettered habits, their wild liberty, their love of adventure, found in him a responsive chord. He was daily, and often for days, without intermission, among his new friends, and for four years the companion-

ship continued. During this time he was adopted by the Chief Oolooteka, as his son. Two years afterwards, he fought in the Creek war, side by side with the Cherokees, as American allies.

Notwithstanding the vast areas acquired from the Cherokees, they were still in possession of extensive domains, and these gave rise to such frequent conflicts with white settlers, that the United States government resolved upon separating the hostile elements. As early as 1803, President Jefferson suggested the exchange with the Indians of their lands on the east of the Mississippi for equal areas on the west, lying within the Louisiana purchase. In 1809, a few Cherokees moved to Arkansas, and ten years later six thousand had emigrated; the majority, however, resented the most alluring offers, and clung with superstitious tenacity to their native hills and streams. Their obstinacy, and the commotion attending it, again brought Sam Houston in the drama of Cherokee life. He was appointed sub-agent to the refractory tribe, and successfully carried out the treaty recently concluded with it.

In 1822, a convention was made between the Cherokees and the Empire of Mexico, by which the Indians were permitted to occupy and cultivate certain lands in eastern Texas, in consideration of fealty and service in case of war. Neither the empire, however, nor its successor, the Republic of Mexico, would consent to part with their sovereignty in the soil, and persistently refused any other rights than those of domicile and tillage to the savage tenants. What is known in Texas history as the Fredonian War, was largely the result of this refusal. It was inaugurated under a solemn league entered into in December, 1826, between the white colonists and the disappointed tribes, and its purpose was to prosecute against Mexico a war of conquest, and divide the conquered territory. Owing to a combination of disasters, the expected recruits did not join the Fredonian standard, and its little army melted away under the apathy of friends and the overwhelming numbers of enemies.

In 1825, the Cherokees remaining east of the Mississippi numbered about thirteen thousand, and owned about the same number of slaves. They had adopted many of the habits and industries of the white man, and were rapidly adopting his laws and his civilization. Trusting to their interpretation of certain treaty guarantees, made by the United States, they formed themselves into a sovereign nation, within the limits of Georgia, which aroused the

resentment of the State, and resulted in serious complications with the general government—only tranquilized by tedious negotiations and wise counsels.

In 1828, the government ceded to the Cherokees seven million acres of land in Arkansas Territory, in exchange for lands east of the Mississippi. The year following, they were visited in their new home by their friend and former guest, Sam Houston. In the ten years that had elapsed since his sub-agency among them in the east, he had achieved distinction at home, had married a young wife, and had become Governor of Tennessee. For reasons not historically known, he had abandoned his bride, abdicated his high office, become a voluntary exile from civilization, and was then in the wild home of his friends, seeking the hospitalities of refuge that he knew would not be denied him. He there found Oolooteka, his adopted father, who took him to his bosom, and soon made him a citizen of the Nation. He lived three years among this untutored but warm-hearted people, and then was called back to civilization by the President's commission to negotiate a peace with the Comanche Indians. This took him to Texas, where distinction awaited him; also an opportunity to serve his constant friends.

After occupying the Arkansas tract for five years, the Cherokees, by a new treaty—that of 1833—exchanged it for seven million acres, lying in the present Indian Territory. The Cherokees east of the Mississippi were, meanwhile, agitating with endless conflicts the white people and their governments. They were haunted with the fear of forcible expulsion from their ancestral seats in the east, and of losing their tribal identity in the common mass of amalgamated savages in the west. There seems to be a sentiment universal in the human heart to cherish with reverence the ancestral stream down which has coursed its own life blood. "Even the meanest and most ignorant of the Tartars," says Gibbon, "preserved with conscious pride the inestimable treasure of their genealogy." Pride of ancestry had deep root in the Cherokee breast, and it cried aloud for resistance to acts that would, at a blow, rob them of both the name and the home of their fathers. They, therefore, in 1829, set up their claim to nationality, and to all the sovereign rights that belong to it. President Jackson answered this claim by recalling the fact that, during the Revolutionary war, they were the allies of Great Britain, and that, consequently, by the event of the war, their

sovereignty, like hers, ceased over every part of the territory embraced within the limits of either of the thirteen Colonies. He also recalled the fact, that, while the government, under the treaty of 1783, received the vanquished Cherokees "into favor and protection," it did not restore to them their lost sovereignty. A sullen discontent rankled in the bosom of these disappointed Indians for several years. At last, in 1835, a treaty was negotiated with them, by which they ceded to the United States all their remaining territory east of the Mississippi, consisting of about eight millions of acres; and stipulated to remove west two years after the ratification. The consideration therefor was five million dollars, and the new home designated was the western outlet lying beyond the Indian Territory. The removal of the Indians was opposed by John Ross, their Chief, and excited such general discussion that it forced itself into the politics of the day.

In this same year of 1835, the Western Cherokees sought recognition of their alleged claim under the Mexican convention of thirteen years before. The General Consultation, urged thereto by Sam Houston, who was a member of that body, also commander of the Texas army, affirmed their title to the lands they then occupied north and west of Nacogdoches and lying between the Neches and Angelina rivers. In February of the following year, Sam Houston, as chairman of a commission appointed by Governor Henry Smith concluded with these Indians a treaty of amity, alliance and cession. In 1837 the senate of the Republic of Texas rejected the treaty of the Provisional Government, and in 1838 President Lamar directed the attention of congress to this act of the senate, and to the further fact that Mexico had never, under any form of government, either conveyed or promised to convey as allodial property any portion of the Texas territory then, or at any time, occupied or claimed by the Cherokees. In July of the following year the Texan government summoned a conference with the Indians and proposed to reimburse their expenditures on condition of their peaceable return to the Indian Territory. Their wily chief, Bowles, prolonged the parley till he could bring up reinforcements. A two days' battle resulted. Rusk and Burleson, with five hundred Texans, drove a thousand braves out of the land, killing their leader and burning their villages. This appeal to arms decided the conflict of title in a manner that admitted of

no appeal and brought permanent peace to the settlements. Six months later, Gen. Rusk drove a remaining fragment of these Indians from San Saba county, in which they had sought refuge. In the following year their powerful and steadfast friend, Sam Houston, then a member of the Texan congress, made a last and vigorous appeal in their behalf. It was unavailing, and the Cherokees thenceforward ceased to vex the people of Texas with either their presence or their supplications.

During these struggles of the Western Cherokees for expansion of territory, their Eastern brethren were contending with the United States for the possession of the lands they had surrendered under the treaty, and were ultimately transferred by threats or by military force to the West. A few of their number had betaken themselves to the mountains of North Carolina and Tennessee, and thus escaped the general exodus of their tribe.

After all the Cherokees were finally settled on their extensive reservation in the West, it was found that they were torn by dissensions and divided into hostile parties. These parties were three in number: The "old settler" element that had voluntarily removed in 1819, the "Treaty" or "Ridge" element that migrated under the treaty of 1835, and the "Ross" element that was removed by military force. All efforts at reconciliation were futile; the chiefs grew more resentful under discussion; ferocity crept into every wigwam; and the assassination of prominent leaders became the rule of conduct expected of every patriot. These disorders could not be permitted by the government of the United States, and in 1844 the President appointed a commission to inquire into their cause and suggest a proper remedy. It met at Fort Gibson, but its inquiries yielded no practical results.

About this time, when the nation most needed the counsels of its wise men, it sustained an immeasurable loss in the death of the venerated and gifted half-breed, Sequoyah, also called from his Dutch father, George Guess, who, it will be remembered, was the unlettered inventor of the Cherokee alphabet. He has been called the Cadmus of his people; but greater was he than Cadmus. The Phoenician carried to Greece letters already invented, the Cherokee invented them himself. A true lover of his people, he had gone to Mexico to find and bring back the scattered bands of his discontented brethren and died in the midst of his search, and was



buried far from the tomb of his fathers and unsung in the solemn dirge of his nation.

After this great national bereavement, the factions grew more violent, and so great became their rancor that within the short space of a few months the annals of this wretched people were stained with a record of thirty-three murders of the nation's distinguished men. The United States again interposed their authority to put an end to this state of anarchy and crime. Commissioners conferred with representatives of the three factions and negotiated with them a plan of pacification out of which grew the treaty of 1846. It provided for the extinction of all sectional policies and a general amnesty of all political offenses; it also reaffirmed and extended the cession of land already made, and provided for their reversion to the United States in case of the extinction of the Cherokees or their abandonment of the possession.

After an interval of comparative repose, the Cherokees were again aroused by serious disturbance. White settlers were trespassing upon their territory, and abolitionists from the North were corrupting their slaves. The United States, in 1860, sent troops to expel the invaders, but the Civil War put a stop to these military operations. The war itself was the signal for further intestine strife. The Indians were divided on the question of slavery, and were, therefore, divided in their allegiance between the two contending sections. The Ross party was in sympathy with the North; its opponents were friendly to the South. The two factions, however, met in convention and there healed their differences, and as a single nation formed an alliance with the Confederate States. They organized two regiments for the Southern army, and placed them in command of Col. Drew and Col. Stand Watie, adherents of the Ross and anti-Ross parties, respectively. Col. Drew's regiment of Ross men soon deserted the Confederate colors and enlisted in the United States service. Ross then renounced his affiliations with the South and threw himself into the arms of the Federal government, not, however, to incur any peril in its defense, but to hide under the shadow of its protection; for he at once took refuge in the safe city of Philadelphia, in which he closely abided till the close of the war. The Indian Territory, meantime, became the theatre of guerilla warfare, and its warring factions daily grew in the fervor of their mutual hatred.

At the close of the war the United States became anxious to define their authority and to readjust Indian reservations conformably with plans to promote western emigration of citizens from the States. In pursuance of this purpose, delegates from all the tribes were summoned to meet in council at Fort Smith, and although no definite treaty resulted from this meeting, it afforded the commissioners an opportunity to submit the demands of the United States government for the preservation of peace and public order. It also enabled them to denounce John Ross as a public disturber, and degrade him from his chieftaincy; and it further afforded them the personal conference necessary to give adequate instructions to the two Cherokee factions for the submission of their grievances to the general government. For the purposes of this last object, representatives of the Federal and Confederate elements of the Nation repaired early in 1866 to Washington, where for several months their cause was judicially considered, though the court failed to effect the reunion so ardently desired by the goverment. In consequence separate treaties were negotiated with the hostile sections. In June that with the *Southern* Cherokees was concluded, by which a certain portion of the reservation was set apart for their exclusive use and subject to their exclusive jurisdiction. In July that with the *Northern* Cherokees was made, and inasmuch as they were in the majority, and in undisputed possession of the machinery of government, the treaty with them was made binding on the whole Nation. It provided by its terms for the establishment of a Federal court and one or more military posts in the Nation, also a general inter-tribal council; it authorized, under certain conditions, the settlement of other tribes in the Nation; it ceded to the United States in trust its "neutral" land and its "Cherokee strip," to be sold for the benefit of the Nation; it provided a right of way through the Nation from north to south and one from east to west for the construction of railroads; and it guaranteed the Cherokees in the peaceable possession of their lands, in the enjoyment of their domestic institutions, and against the unauthorized intrusions of white men. Two years later a supplemental article to this treaty was confirmed, whereby was ratified the sale of the "neutral land" made by the United States. Four years after this the government began the sale, in limited parcels, of the "Cherokee strip."

About the time of the proclamation of the treaty of '66, the Secretary of the Interior recommended to the commissioners to restore John Ross to the chieftaincy from which they had removed him. The old leader, however, had passed beyond the clemency of his judges; he lay stricken with a mortal sickness, and died within a few days at Washington, at the advanced age of seventy-six years. He was of Scotch-Indian parentage, and his character was strongly marked with the thrift of one side, the cunning of the other, and the persistency of both. Though only a half-breed, he was always the champion of the full-blooded Cherokees in any conflict between them and their brethren of mixed descent. His career, though not altogether an admirable one, was, throughout its course, singularly remarkable.

By virtue of a provision in the treaty of '66, a body of Delawares and a fragmentary band of Munsees, also about eight hundred Shawnees, were assigned homes in the Cherokee domain, and were merged into the great family tribe of the Cherokees. The Osages, the Kaws, the Pawnees, the Poncas, the Otoes, and the Missouriias, also acquired homestead tracts in the Cherokee reservation, but they still preserved their tribal independence and identity. This infusion of a new strain into the national life of the Cherokees seemed to bring together the fragments of this broken people. A season of peace blessed their unhappy dwellings, and abundant harvests rewarded their reluctant toil. Two years of such contentment served to soften the asperities that had so long divided them, and to cover their past with a healing oblivion.

Under another provision of this treaty of '66, the Congress of the United States, by grants of lands and privileges, secured the construction of two important railroads through the Indian Territory. Both opened vast regions to civilization, and peopled them with a multitude of its pioneers. Many of these did not go beyond the Cherokee lands, and so great was their number, and so largely augmented by other alien residents and by the irruption of negro freedmen, that the Cherokees, realizing their feeble minority and the danger that threatened their power, enacted laws that limited the privileges of citizenship to their own unmixed people, and that provided for the removal of all others beyond their borders. These acts were resisted, not only by the sufferers under them, but by the United States government, whose authority was thereby superseded,

in violation of treaty engagements. In consequence, an order was promulgated, forbidding the removal of aliens unless by judicial process after due trial and approval by the Department of the Interior. The harsh procedure proposed by the Nation's legislative council was thus averted, but for ten years the questions involved provoked angry and unending conferences between the Federal government and the Nation, and kept the threatened classes in perpetual fear of physical harm or of ultimate eviction from their homes.

The United States government sought to remedy these evils, which, it was thought, resulted from the system of holding the entire Indian domain in a single unbroken tribal tract. Provision was, therefore, made, under act of February 8, 1887, for the allotment of lands in severalty to Indians on the different reservations. Four years later, part of the cause of the irritation was removed by the retrocession to the United States of the six million acre tract known as the "Cherokee Outlet" and the enrichment of the Cherokee treasury by a deposit of eight million dollars to its credit.

By act of March 3, 1893, Congress, among other measures of relief, made provision for the training school of the Cherokee settlement in North Carolina—the last remnant of the Nation east of the Mississippi. By the same act the system of land allotments already inaugurated was further strengthened and promoted. To this end the President was directed to appoint three commissioners to negotiate with the Five Civilized Tribes, of which the Cherokee Nation is one, for the surrender of tribal title to all lands in the Territory, either by cession to the United States, or by allotment in severalty among the Indians, or by other equitable means to be agreed on—this extinguishment of title to be the precursor of the creation of one or more States out of the lands so taken from the national domain. The agency created under this law is known as the Dawes Commission, so called from the name of its chairman. It has been perpetuated and its powers enlarged by subsequent acts, the last of which abolishes tribal courts in the Territory, substituting Federal courts in their stead, and gives to the President the veto power over all acts of tribal councils. Thus despoiled of a Nation's vital functions, but little remains to be done to complete the destruction of tribal autonomy; that little may be safely predi-

cated of the policy that has thus far directed the counsels and the conduct of the government.

The Dawes Commission has reported its inability to effect the submission of the tribes, and it particularly mentions the Cherokees as inflexible in their opposition to any agreement that contemplates the final act of tribal disintegration. The chairman is of opinion that the only remedy for the "evils that afflict these people" lies in the division and allotment of their public domain among the individuals of the several tribes. The Secretary of the Interior, in his report, presents a gloomy array of vicious results growing out of the Indians' methods of administering the public business, and he concludes his searching arraignment by recommending the total extinction of tribal government in the Territory and the substitution of a system by which the Indians will become United States citizens and be governed by United States laws. The President, in his message to Congress, fully accepts the Secretary's conclusions, and adds that the conditions of Indian life have so changed that their system of government has become "practically impossible," and that the evils resulting from the perversion of the great trusts confided to them can only be cured "by the resumption of control by the government which created them."

It does not require any remarkable perspicacity to perceive that history is about to close its brief page of the Cherokees as a Nation. Their broad fields and the boundless desire of their neighbors to possess them is hastening this consummation. The most universal passion in the breast of man seems to be an immortal longing after the soil from which he sprung, whether continent, island, or vineyard. From the day he was expelled from the garden he has wanted a paramount estate—a paradise of his own. To that end all his aspirations have pointed, and, whether Israelite, Goth, or Anglo-Saxon, his mania has ever been the conquest and possession of the earth. He may be honest in all that concerns the money and the movables of another, he may be sinless of even the *desire* for the personalty of his neighbor, but, alas, the allodium of his brother puts too great a strain upon his virtue; his nature breaks down under the temptation. And thus it is that the spacious and fertile acres of the Cherokees are destined, through the devices of the white man, to pass into other hands.

The Nation now numbers about twenty eight thousand souls, consisting of pure and mixed-blood Cherokees, of whites who have intermarried with them, of other tribes absorbed by them, and of negroes who, though socially distinct, have acquired civil rights under their government. Although so composite in character, this people has, for years, been daily becoming more homogeneous in all that appertains to its national life.

Notwithstanding the faults, the failures, and the infirmities of the Cherokee Nation, it may be said to have achieved a splendid victory over the calamities that have, for a hundred years, decimated its numbers and imperiled its life; and history will record that the Cherokee, in his individual progress, has demonstrated "the capability of the American Indian, under favorable conditions, to realize in a high degree the possibilities of Anglo-Saxon civilization."

JOTTINGS FROM THE OLD JOURNAL OF LITTLETON  
FOWLER.

WITH BIOGRAPHICAL INTRODUCTION.

DORA FOWLER ARTHUR.

[The authorities consulted are: Redford's "Methodism in Kentucky," McFerrin's "Methodism in Tennessee," Thrall's "Methodism in Texas," and old diaries and letters of the missionary.]

Littleton Fowler was born in Smith County, Tennessee, September 12, 1802. His father was Godfrey Fowler, of a sturdy old English family of Wake County, North Carolina, and his mother was Clara Wright, of an equally respectable family of Tennessee.

In 1806, his parents, with their small family of four boys, moved to Caldwell County, Kentucky, and located near Princeton. Here the old Fowler homestead is still known to this day and generation, as is also known the older Fowler homestead, dating back more than a century, near Wake Forest, North Carolina. The family has claimed Methodist preachers ever since the labors of Wesley and Asbury in America, but lawyers, teachers, writers and artists have divided family honors. Mr. Redford says, in his "Methodism in Kentucky:" "One of the sweetest spirits that ever belonged to the Methodist ministry of the West was Littleton Fowler." The following data are from the same source, and from the missionary's old Kentucky diary:

He began to preach in 1820, but his health, which was never robust, became so impaired that he was left without an appointment for a few years. In 1828, we find him in charge of the Bowling Green church; in 1829, he was the co-laborer at Louisville of H. H. Kavanaugh, who was later bishop. Here his health again failed him, and he was given an easier work, Cynthia Station, and later Maysville.

At a subsequent date he was transferred to the Tennessee Conference, and stationed at Tusculum, Alabama. In 1833, he was made financial agent of La Grange College, Alabama, which office

he filled for four years, traveling over the Southern States in the interest of this foremost Methodist college for the young men of the South. It has been said that he did more for that institution of learning than any other man except its president, Robert Payne, who afterwards became a bishop of the M. E. Church.

Early in 1837, a call was made in the Alabama Conference for volunteers to go as missionaries to the Republic of Texas. A tall, slender, and delicate looking young man of thirty-five years was the first one to volunteer, saying: "Here am I; send me." He was Littleton Fowler. Dr. Martin Ruter, an older minister, and a married man with a large family, then took his stand by the side of the first volunteer. They were immediately joined by Robert Alexander, a hearty frontiersman, who said, "I am both strong and young; let me go."<sup>1</sup>

Thrall says, in his "Methodism in Texas": "In the early annals of Methodism in Texas, the name of Littleton Fowler will be forever conspicuous."

Two older brothers, John H., and Wiley P. Fowler, had emigrated to the Spanish province, Texas, as early as 1816, and had joined a party of Tennessee relatives, George and Travis Wright, on Red River. Wiley P. Fowler soon returned to Kentucky to live a long and honorable life as one among the ablest jurists and judges of that proud State. John H. remained on Red River to serve his adopted country in many ways. In 1838, he represented Red River County as senator in the Texas Congress.

Bradford C. Fowler, another brother, was a Red River County volunteer in the Texas Revolution of 1836. He was a young sergeant in Fannin's command, but he was separated while on detail duty from the main command at the time of Fannin's calamitous surrender, so he escaped the subsequent massacre at Goliad. He went to California in 1849, to seek gold, but he found a grave instead.

Andrew J. Fowler—familiarily known as "Jack Fowler"—followed his missionary brother to Texas, in 1837, to hold many positions of trust during old Republic days and through her early state-

<sup>1</sup> These facts have been related in the family circle by the widow of Littleton Fowler, and by A. J. Fowler, the youngest brother of the Texas missionary, who once contributed the same to the Texas Christian (Methodist) Advocate.



hood. He served Lamar County as Representative in the lower house of the Texas Congress in 1840-41. When the shadow of the Civil War fell on Texas, the two surviving Fowler brothers, Col. John H., and Judge "Jack" Fowler, were staunch Union men and Henry Clay Whigs; and although the younger one, my father, went to the front as lieutenant colonel of Bass's Texas Regiment of cavalry, he never again adjusted himself to the dominating political conditions of his adopted State.

With this introduction of Littleton Fowler and his brothers, in their early connection with Texas history, I quote the following from the Memoir of Littleton Fowler, written by Hon. Frank B. Sexton, of San Augustine, now an aged and honored lawyer of El Paso, Texas—and published in the Southern Quarterly Review, 1861, with the accompanying explanation by the editor: "The name of Rev. Littleton Fowler was inserted in the programme of the 'Biographical Sketches of Eminent Itinerant Ministers, distinguished for the most part as pioneers of Methodism within the bounds of the M. E. Church, South,' but the sketch of that excellent man did not reach us in time for insertion in that volume. \* \* \* Having been for several years associated with him in the Texas Conference, our acquaintance beginning with the organization of that body in 1840, it affords us great personal gratification to insert this interesting monograph in the Quarterly, though it is not a Review article."

Mr. Sexton says: "My first recollections of the Rev. Littleton Fowler are these of my early boyhood. He was my father's intimate and valued friend. \* \* \* I distinctly remember, when he was one of our family group, that I was often impressed with his great capacity for entertaining and interesting the social circle. He was easy and versatile, oftentimes humorous, and generally instructive, and always received attention without compelling it. When Mr. Fowler came to Texas, 1837, the Republic was then a comparative wilderness. Many of his ministerial appointments were separated by a distance of several days' journey, which often had to be traveled alone and without reference to weather or accommodations of comfort. He had often to sleep on the ground, with no companion but his horse. Frequently it was necessary for him to leave the ordinary roads, or 'Indian trails,' to avoid meeting treacherous Indians.

"His appointments were regularly filled, whether few or many came out to hear him. He was as ready to dispense the Word of Life to two or three gathered together in the wilderness of Texas as he had been to the hundreds in the spacious churches of Kentucky, Tennessee, and Alabama. He could pray as earnestly for the solitary sinner whom he met by the wayside, as for the Senators assembled in the Congress of the infant Republic.

"In stature, Mr. Fowler was about six feet two inches. Apparently inclined to leanness, his frame was compactly knit. \* \* \* He was straight as an Indian; his forehead was high, expansive, and commanding; his eyes dark, brilliant, and when stirred with emotion, full of fire. \* \* \*

"His intellectual powers were of a very high order. His views of every subject were liberal and comprehensive. Though his early education was defective—simply such as the frontier schools of his day afforded—he compensated that by close and untiring application to study after he was admitted to the ministry. All his life he was an ardent student. His style of speaking, both in the pulpit and in the social circle, was rigidly correct, and I was surprised to learn from his own lips that he had never had the benefits of scholastic training, but his attainments were almost entirely self-acquired.

"I have often heard him commence a sermon in the mildest manner; then, warming to his subject, his fine eye would kindle, and his words would enchain every ear, and his sincerity penetrate every heart. If to be able to instruct, to interest, to hold in breathless silence an entire assembly, be oratory, then Littleton Fowler was an orator." \* \* \*

On the 21st of June, 1838, Mr. Fowler was married to Mrs. J. J. Porter, of Nacogdoches, a lady of great beauty of person and many graces of the heart. She was one of the Lockwood sisters, of Newport, Kentucky, who were noted beauties and belles of Louisville, Frankfort, and Cincinnati. They were the daughters of an army officer, and she was born in 1806, at Fort Madison, Louisiana—which was near Baton Rouge—while her father was stationed at that frontier military post. Later, her mother, being widowed, married John Cleve Symmes, author of "Symmes' Theory," which made such a stir in the world about 1825.

[I have lately read with eager interest, a letter from Boston, of

date 1825, from Anthony Lockwood, the step-son of the lecturer, Symmes. The letter mentioned tells of the large crowds that greeted Captain Symmes nightly in Boston, New York, Philadelphia, and other cities, to hear him lecture on his "Theory of Concentric Spheres," or a hole through the earth, from pole to pole.<sup>2</sup>

Miss Missouri Lockwood married Dr. J. J. Porter, in Newport, Kentucky, and came with him to Texas to make their fortune, in 1835. He became a merchant at the old mission village of Nacogdoches, but he soon met an early and shocking death. A large bear had been captured and chained to a tree near the old stone fort. Late at night, Dr. Porter was returning home, when all others were asleep, when he walked into the arms of the powerful beast, and was killed before his cries could bring help. His wife, who had accompanied him to Texas to seek riches, remained, to subsequently marry a missionary, and share with him his many and varied labors, becoming herself the first Protestant woman missionary of Texas.

For years she was his constant companion, traveling on horseback over Indian trails to minister to sick and dying emigrants and settlers, or to help bury the dead. Many a time she fashioned a simple shroud of a sheet, or a curtain, by the light of a tallow dip, while her husband helped to nail together a rude coffin for some pioneer who had died in Texas' wilds, far from home and kindred.

This remarkable woman, the exponent of all that was good, beautiful, and true, of native refinement and great culture, possessing rare piety and broad Christian humanity, lived out her life of rich deeds well beloved throughout all East Texas as "Aunt," or "Mother" Woolam, the wife of the venerable Methodist preacher, John C. Woolam. She survived her missionary husband nearly half of a century. Her memory is cherished as something beautiful and precious by all her descendants and kindred. Truly, it was a privilege to know her.

The foregoing facts may seem to be too much of a personal nature, but they belong to a sketch of the missionary and to Texas history; old letters and journals, which establish every proof, are in possession of the author of this sketch.

Quotations from the journals of the missionary are now begun on his departure from Alabama for the mission field of Texas:

<sup>2</sup> Published at Cincinnati, 1826.

“Tuscumbia, Ala., August 22, 1837. This day I start for the Republic of Texas, there to labour as a missionary. I have recently been appointed to this work by the Board of Foreign Missions at New York. The impression on my heart and the call to go as a missionary to Texas were as strong and as loud as was my call to the ministry; consequently I go fully expecting the presence and blessings of God. While viewing the labours and privations that await me, my soul is unmoved. Rather do I rejoice that I am accounted worthy to labour and suffer for my blessed Lord; yet the fact of leaving my country, my kindred, my friends, and brethren, fills me with deep sorrow and touching affliction. Rev. Dr. Martin Ruter and Rev. Robert Alexander are to be my co-labourers in the mission field of Texas. \* \* \*

“In Arkansas I engaged John B. Denton, a local preacher, to accompany me to Texas to work in the missionary field. \* \* \* We held a camp-meeting near Clarksville, Red River County, near the first of October. From Clarksville, in the protecting company of three others, we two, with provisions for four days packed on our horses, struck out across Texas for Nacogdoches. We slept in the forest four nights, and arrived at Nacogdoches on October 16, 1837, and preached two sermons. On our way thither we passed the unburied body of a man who had been shot six weeks previously for horse stealing.

“October 19th we reached San Augustine and preached four nights in succession. There I began a subscription for building a church. In less time than two weeks a lot was decided, \$3500 were subscribed, trustees were appointed, and the building was under written contract to be finished before the first of next September. ‘Praise God from whom all blessings flow.’”

This was certainly the church, the laying of the corner-stone of which is written of in an isolated part of the missionary’s Kentucky journal. It has often been written that Littleton Fowler set up the first Protestant church in Texas. However that may be, here is quoted the isolated entry mentioned:

“San Augustine, Republic of Texas, January 17, 1837.” (The figure seven is evidently wrong, a slip of the pen, and should be eight.) “To-day the corner-stone of a Methodist Episcopal Church was laid at this place, according to the usages of the Masonic Order. Between forty and fifty Masons were present, and from five to

eight hundred people, about one hundred of whom were ladies. Two speeches were delivered, the first by myself, and the second by Gen. T. J. Rusk, in his clear and convincing style. The event was one of moral grandeur. This corner-stone is the first one of a Protestant Church west of the Sabine River. \* \* \* This is only the beginning, the first step of Protestantism that will some day march a grand army to the confines of the Republic of Texas."

During the session of the East Texas Conference, held in Palestine last December (1897), the old bell from this church was presented, as an historic relic, to that Conference, by Mr. Columbus Cartwright, of San Augustine. The son of the missionary, Presiding Elder Littleton Morris Fowler, and a grandson, Ellis Smith, preacher in charge of Jefferson Station, were requested to convey the bell to the altar, and there ring out its old voice in memory of early Methodism in Texas.

The presentation speech was made by Presiding Elder Thomas J. Smith. The son of the missionary was requested to give the speaker historic data relating to the old bell, but he deferred to the author of this sketch. A few days later, great was my amazement to see the bell presentation written up in the Galveston News, with the startling assertion that this old bell was first rung on the day of the laying of the corner-stone. I met the News correspondent a few hours later, and I told him I was "so glad to learn when the old bell of the first Methodist Church in Texas was rung for the first time." All the light I had on the subject was a letter from Judge W. P. Fowler, of Kentucky—about 1840—saying that the First Methodist Church of Louisville, which the missionary had served as pastor, would send him its first bell for his first Texas church. The News correspondent replied that nobody said when it was rung for the first time in Texas, so he "fixed it up that way." Thus is much of our history writ.

Again, quotations from the old journal are resumed:

"On the night of the 14th, November, 1837, I preached in a school house in Washington-on-the-Brazos, to a crowded assembly, with many people standing before the door. Here Mr. Gay gave two lots, 100x120 feet, for a Methodist church. The Baptists have the frame of a church already up here.

"From Washington I traveled (on horseback) to the capital city of Houston. I arrived Sunday morning, November 19th, and

preached in the afternoon to a very large assembly. \* \* \* Here I find much vice, gaming, drunkenness, and profanity the commonest. The town is ten months old, and has 800 inhabitants; also many stores, and any number of *doggeries*." Note the old-time Texan word.

"November 21st. To-day the Senate of the Texas Congress elected me Chaplain, to serve the rest of the session. It is my prayer that this act of the Upper House may prove an open door for the entrance of the Gospel into the new Republic. I pray that God will give me grace, keep me humble, and make me faithful in the discharge of my religious duties.

"Nov. 24th. To-day I have been listening to the trial of S. Rhoads Fisher, Secretary of the Texas Navy, in the Senate Chamber. He stands impeached by President Houston. Gray and Kaufman are the counsel for the prosecution. Ex-President Burnet and General Rusk for the defense. Gray opened the trial by the reading of documents for two hours and one-half. He was followed by Burnet at some length and with much bitterness towards the Chief Executive; his speech disclosed a burning hatred for the President. Rusk spoke in a manly style, that was clear, forcible, and full of common sense—the best kind of earthly knowledge.

"Nov. 25th. The trial of Mr. Fisher was continued to-day by Mr. John Wharton, in a most furious tirade against President Houston; it was the bitterest invective I ever heard uttered by man. He was followed by Mr. Kaufman, who was quite respectful to Mr. Fisher; his whole speech was fair and well taken.

"Nov. 26th. I preached morning and night in the *capitol*, to large and respectful assemblies. \* \* \*

"Nov. 27th. Steamboat arrived to-day with 103 passengers from the United States. \* \* \*

"Nov. 28th. The Senate is in secret session on the case of Fisher. \* \* \* I gave one dollar for one-half pound of bacon for a poor, sick, and hungry man." \* \* \*

Here occurs a break in the record, caused by the serious illness of the recorder. After two weeks, the journal resumes:

"Dec. 12th. Many have been my temptations since coming here, but, thank God, they have been overcome. I have lived near to God by prayer, preaching, visiting the sick and dying, and burying the dead. \* \* \*

"Dec. 19th. Congress adjourned to-day.

"Dec. 21st. This morning I leave for San Augustine. I have obtained a deed to a lot in Houston for a house of public worship. It is situated near the capitol, and is 125 feet long and 250 feet wide."

Thrall's "Methodism in Texas" says: "During the time he—L. F.—was in Houston, he received from the Messrs. Allen, a title to half a block of ground, upon which the church and the parsonage in that city now stand."—1872.

His journal tells also of his negotiations for church lots, and the erection of church buildings in Nacogdoches and Marshall, in addition to the churches of San Augustine, New Washington, Houston, and other places.

As the records between are of church work alone, entries made at Houston during the spring session of Congress, are again resumed:

"April 5, 1838. I left Nacogdoches in company of Generals Rusk and Douglass, and Drs. Rowlett and Richardson, for Houston, where we arrived on the 12th, after six days of travel over good roads in fair weather. We found Houston much improved and improving. There is much building and a great increase in population. The Senate had organized when I arrived, and the Rev. Mr. William Y. Allen, a Presbyterian minister, had been appointed Chaplain *pro tem*. He impresses me as a man of piety. Rev. Mr. Newell was invited by the Speaker to so serve the House. Mr. N. is an Episcopal minister, who is said to be engaged in writing a history of Texas."

In a private letter, dated April 21st, Mr. Fowler speaks more freely of the chaplaincy, as follows: "Two days ago there was held an election in the House for Chaplain. The result showed one blank, four votes for Mr. Newell, fourteen for Mr. Allen, and seven by way of burlesque for an apostate Catholic priest of San Antonio. Had they so handled the sacred office in the Senate, they could have done their own praying so far as I was concerned, for I would not have served them."

"Sunday, April 14th. I preached morning and afternoon in the Capitol, Mr. Allen at night. There were large gatherings at all three services.

"April 16th. To-night I attended the assembly of the Grand Lodge in the Senate Chamber. There were about forty (40) members present, and much decorum was observed by the fraternity."

Here is quoted a paragraph from the memoir by Mr. Sexton:

"Mr. Fowler was a zealous and active member of the Ancient and Honorable Order of Free and Accepted Masons. Here, as elsewhere, he merited and received the confidence and attachment of his brethren. He was the first Grand Chaplain of the Grand Lodge of Texas, and was present at its organization. The records of the Grand Lodge still exhibit his name as one of its original members."

"April 23rd. I was invited to dine with President Houston, but declined on account of indisposition and for other reasons. He had about a dozen friends attendant on his hospitality."

Again the private letter of date 21st April is quoted from: "To-day is the second anniversary of the battle of San Jacinto, and a fine time for "Big Bugs" to get drunk without reproach. Happy am I to say that my friend and brother, General Rusk, is much reformed. Last night a splendid ball was given at the hotel. About fifty ladies, and two hundred or three hundred *gentlemen* were in attendance. I enclose a ball invitation which may afford you some amusement to see how such things are done in the Capital of the Republic. Please do not infer from this that I am partial to such assemblies."

One more incident copied from his journal, and a letter dated May 14th. "So soon as I recovered from my serious illness I took a trip to Galveston Island with the President and the members of Congress, and saw *great* men in *high* life. If what I saw and heard were a fair representation, may God keep me from such scenes in future. \* \* \* The island is destitute of timber, but seems to be quite healthy. We were most hospitably entertained. It is destined to be the chief point of commercial importance, perhaps the chief city of Texas. On our return on Sunday afternoon, about one-half on board got mildly drunk and stripped themselves to their linen and pantaloons. Their Bacchanalian revels and blood-curdling profanity made the pleasure boat a floating hell. The excursion to me was one of pain and not pleasure. I relapsed from this trip and was brought near to the valley of death."

After the marriage of Mr. Fowler that spring, 1838, he continued to reside in Nacogdoches and San Augustine for several



years. Later he placed his family, consisting of his wife, two children, Mary and Littleton, and his stepson, Symmes Porter, on his farm in Sabine County. For their protection during his many and prolonged absences, he engaged an illiterate but aspiring and worthy young man, John C. Woolam, promising Mr. Woolam a home and an education in return. He was the same friend to whose keeping Mr. Fowler gave his family when he was dying. So worthy of the trust confided to him did Mr. Woolam prove, that he became, in the course of time, a husband to the widow and a father to the orphans of the distinguished preacher, whose memory he never ceased to revere "e'en down to old age." Father Woolam was a noble man.

Mr. Fowler held responsible positions in his church till his death. After the death of Dr. Ruter in the spring of 1838, Mr. Fowler succeeded him as Superintendent of the Texas Mission till the organization of the Texas Conference in 1840. He was then made presiding elder of the East Texas district, which embraces Texas territory between Red River and the Gulf of Mexico and the Sabine and Trinity rivers.

For nine years Mr. Fowler represented the Texas work in the general conferences of the United States. So stirring were his appeals at those assemblies for co-laborers in Texas, that many young men responded to the call, and came out in small companies, to die of Texas malaria while preaching the Word of God to the Texas pioneers.

Mr. Fowler was co-delegate with a Mr. Clark, of Austin, to the General Conference, held in Philadelphia in 1844, memorable for the division of the Methodist Church into North and South. Mr. Clark took his stand with the Abolition party, while Mr. Fowler voted with the Southern delegation. His letters to his wife during that troubled session show great anguish of spirit, for he sadly deplored the wrathful separation.

He, with his beloved co-worker, Robert Alexander, was the moving spirit in the founding of Rutgersville College, 1838, in memory of the great and lamented Dr. Ruter. He founded Wesley College, at San Augustine, 1842, and made his brother, Jack Fowler, professor of mathematics and ancient languages in that institution. Fowler Institute, of Henderson, Rusk County, 1851, was so named

in memory of Littleton Fowler, and many men of middle life to-day got their education at that East Texas school.

Littleton Fowler died at his home in Sabine County, January 19, 1846, at the comparatively early age of forty-four years. This soldier of the cross is fifty years dead and forgotten by his beloved Texas, but his reward is where noble deeds are never forgotten. His bones lie under the pulpit of McMahan Chapel, which stands in a sequestered spot twelve miles east of San Augustine, in Sabine County. There was where he organized his first Methodist "society" in Texas. Another building has taken the place of the old log church of his burial, but his grave has been undisturbed this half century. A marble slab against the wall bears this inscription:

"Sacred to the Memory of Rev. Littleton Fowler, Methodist Missionary to the Republic of Texas; Kentucky was his beloved State; Texas his adopted country; Heaven is his eternal Home."

With one more quotation—this time from Mr. Thrall, who knew the missionary personally—this sketch closes: "In forming an estimate of the character of Littleton Fowler, the first thing that strikes one is his perfect symmetry. His fine physical form furnished a fitting tenement for his noble mental traits. In his manner, dignity and affability were beautifully blended. He had a most benevolent expression of countenance, a keen, piercing eye, and a musical, ringing voice. His mind was well cultivated; his religious experience was cheerful; his convictions of the truth and the power of the gospel were remarkably strong. He was the very man for Texas, and when he died, Texas Methodism went in mourning. He was buried under the pulpit of his home church, where he had so often stood as a Christian ambassador."

## BOOK REVIEWS.

*The Government of the People of the State of Texas.* By George Pierce Garrison, Ph. D., Professor of History, University of Texas. Philadelphia: Eldredge and Brother. 1898. Pp. 160.

That education is the guaranty of good government is almost axiomatic. That instruction should have a direct reference to the duties of citizenship begins to be recognized. Knowledge of general principles of political economy and of the broad outlines of constitutional law is no longer considered ample equipment for the citizen. He is of the government. It his duty and right to know its workings.

In his "Civil Government of Texas," Dr. Garrison has performed a most valuable service to the cause of education in the State, and has furnished a model to be followed in other States. The book is designed for use in the public schools, and is admirably adapted to that purpose; few people are, however, so well informed concerning the history of Texas, and the details of her government, that a careful study would be without profit to them.

The suggestive preface is followed by a short historical sketch of Texas. This part of the work shows great discrimination in the selection of material, and excellent taste and judgment in its disposition.

The body of the book is devoted to an exposition of the government of Texas. An outline of all the departments and divisions and agencies of the State is given, and their several functions are defined. Concise statements are made concerning the duties of State, county, and municipal officers. The duties and privileges of citizenship are set forth, the more general principles of administrative law are mentioned, and attention is directed to some of the characteristic features of Texas jurisprudence. Nothing appears to be omitted which would seem properly to belong to such an outline.

The whole is concisely, clearly, and accurately stated and logically arranged. The author suggests in his preface that the purpose kept steadily in view had been to give "a description of the origin and growth of the State of Texas and the present working of its gov-

ernment, that shall be both easily understood and also, in a manner at least, logical and scientific in its arrangement." The author, the teacher, and the student are to be congratulated upon the excellent manner in which this purpose has been accomplished. A Texan proud of the history and the institutions of his State can but entertain and express the hope that Dr. Garrison's work will find its way into all the school houses of Texas.

R. L. BATTS.

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*Batt's Annotated Revised Civil Statutes of Texas.* By R. L. Batts, Professor of Law, University of Texas. Vol. I. Austin, Texas: Eugene Von Boeckmann Publishing Company. Pp. xv-1164.

During the existence of Texas as a government, there have been numerous and radical changes in her constitutional and statutory law. In many respects, her jurisprudence is peculiar, and these peculiarities can be learned nowhere except in her own enactments and decisions. Elementary works and decisions of courts of other jurisdictions are, of course, helpful, but the Texas lawyer must get his information from the Constitution, statutes, and decisions of Texas. These are becoming very numerous. Since Texas ceased to be a Mexican province she has had seven constitutions, and several of these have been frequently amended. Her statutes are changed every two years, and the decisions of her seven courts of appellate jurisdiction are accumulating with a rapidity that taxes the energy of the most enthusiastic to keep pace with them. The volumes of reports comprise six series, some with few volumes, but others approaching a hundred in number. From this it is manifest that any book which serves as a tie to bind this mass of original matter together, and at the same time offers an intelligent key to its contents, and lightens the labor in comparing its several parts, and understanding them collectively and separately, must be very valuable to all persons interested in Texas law. This task has been undertaken and most creditably performed by Hon. R. L. Batts, Professor of Law in the University of Texas, in the preparation of his *Annotated Civil Statutes of Texas*. The work comprises all the present constitutional and statutory law, arranged topically in alphabetical order, as in the *Revised Statutes*. Each topic is treated

historically. That is, every article of the Constitution and every Statute is given as it is, and in notes are given references to every prior statute on the subject, with date of its adoption and its substance, and in more important matters, the prior law is quoted. In addition, under each section are notes referring to all the decisions on the subject embraced in it. These notes are carefully prepared, and are accurate and short, presenting the real gist of the case in a few clear words. None of these cases are taken or cited from other digests, or even from the syllabi of the reports, except in a few unimportant cases, on points which have been fully covered. In all other instances, the text of the decision has been examined and the note made from it. So thoroughly and intelligently is the work done, that in the text and references to former constitutions, and statutes, and quotations from them, and in the notes and citations of the decisions, it may be truthfully said that all the Texas law, on any subject, is brought together in a form easily accessible and quickly covered, and full opportunity for intelligent comparison and study is afforded. There has been no digest work in Texas since the death of Judge Paschal which, in my judgment, is equal to it.

JOHN C. TOWNES.

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*A Comprehensive History of Texas, 1685 to 1897.* Edited by Dudley G. Wooten. In two volumes. Dallas: William G. Scarff. 1898.

This history is often called the "New Yoakum." On account of the magnitude of the work, and the interest attaching to it, the Table of Contents is, with the exception of matter explanatory of the titles, given in full:

CONTENTS OF VOLUME I.

PART I.

History of Texas, 1685-1845.....By *Henderson Yoakum*.<sup>1</sup>

<sup>1</sup> This is a reproduction of the text of Yoakum's *History of Texas*, with new notes.

PART II.<sup>2</sup>

CHAPTER.

- I. Sketches of Moses Austin, and Stephen F. Austin, with an Account of Their Colonial Enterprises..By *Guy M. Bryan.*
- II. The Plan, Progress, and Government of Austin's Colonies.  
By *Guy M. Bryan.*
- III. Official Documents, Laws, Decrees, and Regulations Pertaining to Austin's Colonies .....By *Guy M. Bryan.*
- IV. Stephen F. Austin's Influence in Mexico, Captivity there, Return to Texas, and Reception by His Colonists.  
By *Guy M. Bryan.*
- V. The Fredonian War in Edward's Colony, 1826-1827.  
By *Guy M. Bryan.*
- VI. The Campaign of the Texan Army in 1835, Under Austin and Burleson, Ending in the Capture of Bexar.  
By *Guy M. Bryan.*
- VII. Reports, Letters, and Speeches of Stephen F. Austin, Giving His Views on Independence in 1835-1836.  
Compiled by *Guy M. Bryan.*
- VIII. Austin and Williams' Colony—Robertson's Colony—Last Days, and Public and Private Character of S. F. Austin.  
By *Guy M. Bryan.*
- IX. Mode of Living, Customs, and Perils of the Early Settlers of Texas .....By *Guy M. Bryan.*
- X. Fannin at Goliad—Battle of the Coleta—Massacre of Fannin and His Men .....By *Dr. J. H. Bernard,* an eye-witness.
- XI. The Siege and Fall of the Alamo.....By *Seth Shepard.*
- XII. The Women of Pioneer Days in Texas—Domestic and Social Life in the Period of the Colonies, the Revolution, and the Republic.....By *Mrs. M. Looscan.*
- XIII. The "Runaway Scrape", 1836..By *Mrs. Kate Scurry Terrell.*
- XIV. The Annexation of Texas to the United States.  
By *Sam Bell Maxey.*
- XV. The Mexican War, 1845-1848 .....By *Sam Bell Maxey.*
- XVI. The History and Evolution of the Texas Flag.  
By *Mrs. M. Looscan.*
- XVII. Tombs and Monuments of Noted Texans..By *Mrs. M. Looscan.*
- XVIII. The Indian Tribes of Texas... .....By *M. M. Kenney.*
- XIX. The Land System of Texas: *Part I.* Spanish and Mexican Titles to Land in Texas. *Part II.* Land Titles, Policy and Legislation of the Republic and State of Texas, 1835-94.....By *Dudley G. Wooten.*

<sup>2</sup>This consists of "special chapters, embracing topics not adequately treated by Yoakum. \* \* \*"

CONTENTS OF VOLUME II.

PART III.

The Political, Legislative, and Judicial History of Texas for its Fifty Years of Statehood, 1845-1895. . . .By *Ex-Governor Oran M. Roberts.*

PART IV.<sup>a</sup>

CHAPTER.

- I. History of the Texas Rangers . . . . .By *Gen. W. H. King.*
- II. History of the Texas Press . . . . .By *A. C. Gray.*
- III. History of the Educational System of Texas. . . . .By *J. J. Lane.*
- IV. The Physical Geography, Geology, and Natural Resources of Texas . . . . .By *E. T. Dumble.*

PART V.

Texas and the Texans in the Civil War. . . . .By *C. I. Evans.*

CHAPTER.

- I. Military Events and Operations in Texas along the Coast and Border, 1861-1865.
- II. Service of Texan Troops in the Armies of the Confederate States.
- III. Hood's Texas Brigade . . . . .By *Mrs. A. V. Winkler.*
- IV. Terry's Texas Rangers . . . . .By *Mrs. Kate Scurry Terrell.*
- V. History of Green's Brigade. . . . .By *J. H. McLeary.*
- VI. Notes on Granbury's Brigade. . . . .By *O. P. Bowser.*

PART VI.

The Results of Fifty Years of Progress in Texas.  
By the Editor, *Dudley G. Wooten.*

Considering its conglomerate character, this work is something more than a history in the ordinary acceptance of the term. Its basis, however, is the exact text of Yoakum, minus the matter in appendix. The addenda to Yoakum, bringing the history down to the present time, are on two lines—the civil by Ex-Governor

<sup>a</sup>Consisting of "Supplemental Chapters, Covering New Matter."

Roberts, and the military by C. I. Evans, with a closing paper on the whole work by the editor. Thus the proper historical continuity has been preserved, and all the other supplemental matter may be regarded as so many side-lights thrown upon the main subject.

The dedication is to The Daughters of the Republic of Texas. The character and scope of the work are well indicated in the publisher's preface.

Col. A. T. McKinney's preliminary sketch of the author is doubtless welcomed by the public, who know curiously little of Henderson Yoakum. Even well-informed Texans will be rather surprised to learn that before leaving his native Tennessee, Henderson Yoakum was considered a great lawyer, had been a member of the State Senate, and had attained in the army the rank of colonel, and commanded a regiment in an Indian campaign.

Judge Seth Shepard's introduction, touching on every phase of Texan development, is an admirable summary of the whole work.

In the preparation of his work, Mr. Yoakum did not have access to any respectable collection of documents bearing on our earliest history; for in the fifties none existed in the State. From his scant and faulty treatment of the Franciscan missions, it is to be inferred that he made but little use of the valuable mass of Spanish MSS. then in the archives of Nacogdoches and Bexar. For want of better authorities on our early history, ecclesiastical and secular, Mr. Yoakum resorted almost exclusively to the Spanish diplomatic documents in the American state papers, and he did not always intelligently construe these.

He could not, for want of the proper documents, begin further back than 1685, and even then he was much hampered for authorities to present clearly the struggle between France and Spain for dominion in Texas. The sale of Louisiana to the United States in 1803, followed by an influx of Americans, paved the way for diplomatic intrigue and military incursions into Texas. Thanks to the jealous Spaniard and enterprising Yankee, there is henceforth no lack of material for history. In this period of the filibusters, ending in 1821, Yoakum's outline assumes more the fullness of history, enlivened with many well-told, exciting adventures. It is not, however, till the period of American colonization that the author appears in full sympathy with his subject, as he graphically



portrays the labors of Austin and his colonists in laying the foundations of our mighty commonwealth.

Then ensues, in the reviewer's opinion, the best part of Yoakum's work, with its well-told story of the life of the Republic, ending abruptly with annexation in 1845.

The new notes on Yoakum do not begin till 1831. They seem to be entirely trustworthy, made up as they are from the unpublished MSS. of Col. F. W. Johnson and from the contributions of Moses Austin Bryan and Col. Guy M. Bryan, giving "the other side," never before published, on many disputed points of our history. These notes are very valuable, and will probably stimulate further inquiry for the truth.

Colonel De Bow thus noticed Yoakum's *History of Texas* on its first appearance: "Mr. Yoakum seems to have collected with great care all the existing material, with much that has never yet appeared in print. All contemporary accounts, personal narratives, private correspondence, individual reminiscences, newspaper statements, and official documents are called into requisition. The work, though wanting in system and condensed expression, is still of very great interest and value, and is deserving of general study. The author was evidently an enthusiastic admirer of General Houston."<sup>4</sup>

While approving this criticism, I would also state that "Yoakum," with whatever defects it may have, is the accepted standard of authority to-day, having more merit than any other history of the State ever written by a Texan.

The author of the continuation of the history on its main line was a lifelong lawyer, and had been successively a colonel in the Confederate army, Chief Justice of our Supreme Court, and Governor of the State. Besides this, he was an ardent secessionist and an honest doctrinaire of the Calhoun school of State Rights politics. He has, however, given the public the most impartial history of Texas for the period covered that has ever been written.

Beginning with a striking picture of scenes attendant on the demise of the Republic and on the inauguration of the first Governor of Texas in the Union, the author patiently goes through every administration, noticing public events according to his estimate of their importance, and giving fairly both sides of every dis-

<sup>4</sup> De Bow's Review, September, 1857.

puted question. The many public documents, with proceedings of political conventions, the courts, and the Legislature, given in the work, add greatly to its value. All public questions are fearlessly met and treated with judicial fairness.

Perhaps the best part of Roberts' history is that which relates to the disruption and reconstruction of the Union. The author's mental bias and legal training peculiarly fitted him for the task. The rise, progress, and consummation of the secession movement in Texas are described with the calmness and impartiality of a well-trained jurist. This is the more remarkable, as the author was one of the prime movers of secession and the president of the Secession Convention. In narrating the events of those exciting times, he never loses his dignity or his sense of fairness towards Houston and other Unionists. But reconstruction was the hideous nightmare worse than war for Texas. The exasperating events of this period are given without loss of temper, but the tyranny of the Davis administration does not escape recital and the proper condemnation. The period succeeding the restoration of Democratic supremacy in the State government has been an unbroken rule of peace and progress, and the author records with becoming pride these triumphs of popular rule.

"History," said a great thinker, "is philosophy teaching by example." The Old Alcalde does not content himself with a faithful narrative, but often probes for the philosophy of events. His style is plain and unpretending, without ornament, and without close adherence to the accepted canons of history-writing; but the sincerity of the author is reflected on every page; and, whether we agree with his conclusions or not, we are bound to recognize his impartiality, his patriotism, and his imperturbable common-sense.

In conclusion, the first thing noticeable about this work is its immense size—two royal octavo volumes, of nearly 1800 pages. Reduced to a 12mo in size of page, it would contain thirty volumes. The next thing to attract attention is the great variety of subjects treated. But the line of history is clear and unbroken through Yoakum and Roberts from 1685 to 1895. The size of the work is no disparagement, but rather a guaranty of extraordinary scope and comprehensiveness. The monographs, however seemingly diverse, are all germane to the text. It will be borne in mind that Justin Winsor constructed his *Narrative and Critical History of North*

America on the same plan. This plan has its merits and demerits. It throws greater labor upon the editor to have the proper harmony, while it tends to secure better work on any special topic; and the rule, as I take it, holds good as to the excellence of the monographs in these volumes. Certainly it would be hard to find a more respectable array of well-known Texas writers than the contributors to the *Comprehensive History*.

A gem in typography and mechanical finish, this history is a vast picture gallery, with its hundreds of portraits, never before published, of famous men and women of Texas.

If a man were to be restricted to one book on Texas, I would advise him to get Scarff's "*Comprehensive History*," as it makes, in itself, a good library on Texas. The citation of authorities at the proper places would have added much to the value of the work.

The editing of such a comprehensive work, with its many monographs, must have been an arduous task, requiring critical taste, mental equipoise, and thorough acquaintance with the subject in all its details, to say nothing of patient industry and common-sense. From the excellence of the editorial work apparent on its face, it may be inferred that Mr. Wooten, the editor, possessed all these qualifications in an eminent degree. Both editor and publisher are to be congratulated on the production of these volumes.

C. W. RAINES.

NOTES AND FRAGMENTS.

Mr. W. R. Smith, who holds a fellowship in history for the year 1898-9 from Columbia University, will work on the colonial history of South Carolina. He expects to go to Columbia about the first of August, in order to begin work.

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Mr. W. F. McCaleb, who was mentioned in *THE QUARTERLY* for April as having been awarded a traveling fellowship by the University of Chicago, is now in Mexico. Mr. I. J. Cox, of the San Antonio Academy, will work with him during the summer. Their ultimate destination is the City of Mexico, where Mr. McCaleb expects to spend most of the year, but it is their intention to make stops more or less lengthy at other places in which there are archives of value for the history of the Southwest, especially at Chihuahua, Saltillo, and Querétaro. They are traveling on bicycles, and will doubtless learn much of Mexico as it is, as well as of Southwestern history, before their return to Texas.

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Mr. L. G. Bugbee is spending his vacation at work in the Bexar archives at San Antonio. These archives include a very large amount of material for the history of Texas previous to the Revolution, of which but little use has hitherto been made. Perhaps *THE QUARTERLY* will be able, before very much longer, to publish a sufficient description of them to show the nature and value of their contents.

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Professor Garrison has announced as the subject of the graduate course in history in the State University for 1898-9, "The Texas Revolution." It is his intention to spend the summer in gathering

and classifying materials for this course. He hopes to work several weeks in the collection of Col. Guy M. Bryan, at Quintana, and the remainder of the vacation in the State library. Any one having in his possession unpublished material relative to this period of Texas history will confer a great favor upon Professor Garrison by informing him of the fact and describing the documents, and especially by giving him an opportunity to use and copy them. Official papers, diaries, private letters, and various other kinds of documents are all useful in historical investigation. The citizens of Texas are certainly much interested in determining the true history of the State. They ought, therefore, to give those who undertake this work in the University all possible help.

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The readers of *THE QUARTERLY* will be grieved to hear of the death of Miss Brownie Ponton, which occurred at Muscogee, Indian Territory, July 10. She was spending the summer with relatives, when she was stricken with illness, which, after about ten days, resulted in her death.

Miss Ponton had just completed her junior year at the University of Texas. She was an excellent student, and showed special aptness for historical investigation. The paper on *Cabeça de Vaca's Wanderings in Texas*, which was prepared by herself and Mr. Bates H. McFarland, working jointly, and was read at the last midwinter meeting of the Association, and published in *THE QUARTERLY* for January, attracted much attention, and elicited favorable comment from a number of experts, together with a very inconsiderate and unjust sneer from one who seems to have the public confidence, but who must have misunderstood the real import of the article. She gave promise of becoming an elegant and forcible writer, as well as a successful investigator; but the pen has fallen from her grasp, and her work is done.

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The collection of Ex-Governor Roberts, one of the most valuable relating to Texas history ever gathered, is bequeathed to the State University, in which he was so greatly interested, and for which

he has done so much. The best part of his collection is in manuscript, and consists of a diary kept by the testator from 1858 to 1865, together with an extensive and carefully preserved correspondence with most of the men who have been prominent in Texas during the last sixty years. The Roberts Papers are a treasure, and will doubtless be treated as such by the University authorities.

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The death, by an unfortunate accident, of Col. J. K. Holland, a few weeks since, takes from the State one of its prominent historical characters. He came to Texas during the early days of the Republic; was a member of the House of Representatives, and of the Senate, subsequent to annexation and previous to the Civil War; was on intimate terms with most of the well-known public men of the Republic and the State; and has been, in various ways, identified with the history of Texas through both periods. He took great interest in the Association, and it has been placed under obligations to him for many favors.

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DAVID SHELBY.—The name given in Baker's Texas Scrap-Book, in the list of the "Old Three Hundred," as David Shelly, should be David Shelby. It is correctly printed in the list given by Lester G. Bugbee in *THE QUARTERLY* for October, 1897.

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**THE ALLEGED ABANDONMENT OF CHILDREN AT PLUM CREEK.**—In justice to our comrades who have passed away, we beg leave, as three participants in the battle of Plum Creek, with the Indians, on the 12th day of August, 1840, to emphatically deny a report which has been circulated and published, to the effect that after the battle of Plum Creek, there were thirty-three children, whose parents were murdered in the Indian raid down the Guadalupe, left on the battle field and gathered up and taken to San Antonio by the Sisters of Charity of that place and raised and educated by them.

We regret exceedingly that this report has been circulated, as it is a reflection on the old Texans, and would be a blot on Texas' history.

A. J. BERRY,  
ROBERT HALL,  
J. W. DARLINGTON.

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CONCERNING SAINT-DENIS.—The Mission San Juan Bautista, situated on the small stream called Costañón, about six miles west of the Rio Grande, and about twenty-five miles below Piedras Negras, now Ciudad Porfirio Diaz, was first founded in 1699, some distance from where it now stands; but, being abandoned by the tribes first settled there, it was re-established where it now stands in 1701. In the same year, the Conde Valladores made the place a presidio, with the name of Presidio de San Juan, Bautista putting there a small garrison of Spanish troops. And from that time it has maintained its existence in the same place, though its name was changed by an act of the State Congress of May 18th, 1835, to Villa de Guerrero; yet it is generally known as Presidio Rio Grande.

The mission building, now the cathedral of the place, has been well preserved, and may still contain the early archives relating to the mission, including the marriage of Saint-Denis to the niece of Captain Ramon.

The accusation of Saint-Denis, his trial, acquittal, its approval by the Viceroy, and the revocation and his condemnation as a spy by the Consejo de Indias, and final sentence to imprisonment, with his wife, in Guatemala, may also be found in the Archivo General at Mexico.

The famous *Acordada*, where Arnuto Arroyo was killed on the night of the sixteenth of September last, after his attempt to assassinate Porfirio Diaz, is the same in which Saint-Denis was confined for some time, and his name may possibly be found on the roster, with a note of his sentence, and when he was taken away for Guatemala. This prison stands on the west side of the great square, south of the principal cathedral, commonly called el Zocalo, on account of the Aztec Zocalo standing there, and generally be-

lieved to be the place where human beings were formerly sacrificed to the Aztec god of war.

Much of the real facts of early Texas history may be found in the General Archive, among the various reports of the Spanish officers who were here in different capacities; but hitherto there has not been any considerable interest manifested in such sources of knowledge of the past of a country now reckoned among the greatest States of the American Union. Not even the chart of the Gulf Coast, from Cape Florida to Pánuco, made by two mariners, sent out by the King, in 1540, has been copied into the archives of Texas; and the cavalry expedition of Captain Sancho Caniegas, in 1528, from Pánuco to forty leagues north of the mouth of the Rio Grande, possibly to the point now known as Flour Bluff, has been overlooked by our historians, though the report of it has a place in the history of New Spain, as well as in the "*Noticias Historicas de Nuño Guzman*," who was then governor of the Province of Pánuco.

The archives at Monclova, Saltillo, San Luis Potosi, and Mexico all contain data for Texas history worthy of a place in our records, to enable the future historian to brush away many blunders found in writings extant to-day; such as that Saint-Denis laid out the old San Antonio Road, and the story of the origin and first site of the Presidio "La Bahia del Espiritu Santo," now standing on the right margin of the San Antonio River, and many others of like character.

A properly directed examination of the public archives of different places in Mexico, would furnish material for the works of writers of history never yet touched, and show much in its true light that has hitherto been but partially treated; and the advantages to be derived would richly compensate for the labor and money expended in making it. BETHEL COOPWOOD.



QUESTIONS AND ANSWERS.

MOUND PRAIRIE.—The Mound Prairie referred to by Yoakum and Thrall, and mentioned on page 307 of the April QUARTERLY of the Texas State Historical Association as being five and one-half miles west of Alto, was doubtless so designated because of the existence of two ancient Indian mounds on the old San Antonio road, two miles east of the Neches River, and formerly known as the Bradshaw place.

There is a locality which has been known, for at least sixty years, as Mound Prairie, which is situated some six miles northeast of the town of Palestine, in Anderson County, on the old Kickapoo road, and not ten miles west of Palestine, as stated by Mr. Dabney White.

JOHN H. REAGAN.

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I should be glad to receive through THE QUARTERLY, answers to the following queries:

1. What is the date of an order of Philip II., cited by several writers on Texas history, forbidding any but Spanish ships to enter the Gulf of Mexico? How could this furnish a pretext for capturing La Salle's St. François, before she had reached the Gulf?

2. Besides the claim which La Salle made in 1682, to all Louisiana, did he make a second formal claim to the region around Ft. St. Louis? Neither Joutel nor Douay, so far as I have noticed, mention any second claim.

3. In the translation by French of the proclamation wherein La Salle takes possession of Louisiana, the Mississippi is called the "River Colbert, or Mississippi."<sup>1</sup> Joliet, as quoted by Margry, calls it the "Colbert, ou Mississippi selon les sauvages." Who gave it the name Colbert?

4. In the same document, La Salle mentions by name the tribes along the Mississippi, so far as he knows them; further on he uses

<sup>1</sup>Historical Collections of Louisiana, Part I., 49.

the expression: “\* \* \* upon the assurance which we have received from all these nations, that we are the first Europeans who have descended or ascended the said River Colbert.” French, in the *History of the Discovery of the Mississippi River*, says: “By reading the accounts of the Spanish adventurers, La Salle seems to have been the first to identify the great river of Marquette and Joliet with the great river of De Soto.”<sup>2</sup> If he knew of these early explorations, how could he, in good faith, say that the French were the first Europeans on the river?

5. What was the “Seignelay, or Illinois,” which La Salle mentions in his memoir to M. Seignelay, as a branch of the Colbert, by which he hopes to find his way to the South Sea?

6. When was the name *Nuevas Filipenas* first applied to Texas? How long was it used?

7. Did St. Denis leave the City of Mexico for San Juan Bautista, before the expedition for reoccupation started, or did he accompany young Ramon?

ELIZABETH H. WEST.

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JOHN RICE JONES.—On page 307 of the last number of *THE QUARTERLY*, Edmond J. P. Schmitt seeks information concerning the John Rice Jones who was Postmaster-General of Texas during, and immediately subsequent to, the Texas Revolution. Through the courtesy of James H. Jones, Esq., Austin, Texas, and of his daughter, Mrs. M. F. Lochridge, I have obtained information concerning the John Rice Jones who is here mentioned, and who was the father of James H. Jones, which enables me to answer as follows:

This John Rice Jones did live at Vincennes, Indiana, in the beginning of this century, but he was then only a boy, having been born at Kaskaskia in 1792. At that time his Christian name was only John, but some time after the death of an older half-brother, Rice, who was murdered by political and personal enemies at Kaskaskia in 1808, he added this more distinctive name to that which he already bore.<sup>1</sup> The John Rice Jones, however, to whom Mr. Schmitt refers as living at Vincennes early in this century, was, it

<sup>2</sup> *Historical Collections of Louisiana, Part IV., Preface, page xxxv.*

<sup>1</sup> This is the statement of Mr. James H. Jones, and Mrs. Lochridge.

may be inferred, not the subject of this note, but his father. The latter was very prominent in the early history of Indiana, and later of Missouri, where he was associated with Moses Austin in his mining ventures. He was a member of the first board of trustees of Vincennes University.

From a pamphlet by W. A. Burt Jones, reprinted from Vol. IV., Chicago Historical Society's Collections, and having for the title of one of its parts "John Rice Jones: a Brief Sketch of the Life and Public Career of the First Practicing Lawyer in Illinois,"<sup>2</sup> I quote the following (pp. 33-34) relative to the John Rice Jones inquired about:

"Gen. John Rice Jones, the eldest son,<sup>3</sup> served under Capt. Henry Dodge in the war of 1812, and removing to Texas, then a Mexican State, as early as 1831, he became identified with its struggles for independence; which gained, he became Postmaster-General under the three forms of the Republic, provisional, *ad interim*, and constitutional—proof enough of his ability and fidelity—in the cabinets of as many of its executives, namely, Governor Henry Smith and Presidents David G. Burnet and Mirabeau B. Lamar, respectively, and was a personal friend of and fellow-patriot with those men and their compeers, Hon. Stephen F. Austin, 'the father of Texas,' and his dearest of friends; Gen. Sam Houston, Col. Wm. B. Travis, Col. James Bowie, Col. David Crockett, Col. Benjamin R. Milam, and many others whose memories are justly dear to the people of Texas, and whose names are as 'familiar in their mouths as household words.' General Jones was one of the two executors of the will of the heroic Col. Travis, the other being ex-Governor Henry Smith.

"Locating in 1831 at San Felipe de Austin, he was one of the first settlers of that place, which, as Austin, is now the capital of the great 'Lone Star State,'<sup>4</sup> and for years was one of its prosperous merchants. He died in Fayette County, Texas, on his plantation,

<sup>2</sup>This title refers to the father, not to the son, John, who afterwards called himself John Rice. The pamphlet, as well as that quoted further on, was furnished me by Mr. James H. Jones.

<sup>3</sup>By the second wife.

<sup>4</sup>This, of course, is a mistake caused by confusing San Felipe de Austin with the city of Austin.

'Fairland Farm,' in that eventful year in which the Republic he loved so well had so long and faithfully served ceased to exist on becoming a State of the American Union, 1845; and having married a daughter of Maj. James Hawkins, in Missouri, in 1818, he left a large and respectable family of children to cherish the memory and contemplate with just pride the record of a devoted father and a noble man."

F. B. Wilkie, in a sketch of Geo. W. Jones, of Dubuque, Iowa,<sup>5</sup> published originally in the Chicago Times, and afterwards in the Iowa Historical Record, says<sup>6</sup> of the Texas John Rice Jones that "he was twice Postmaster-General of the Republic of Texas, and later United States Senator, serving in the same session with his brother, the subject of this sketch."

This is clearly a mistake; Mr. Jones died in 1845, before Texas had a United States Senator.

GEORGE P. GARRISON.

<sup>5</sup> Younger brother of John, or John Rice, Jr., himself quite prominent in ante-bellum Northwestern history. He died in 1897.

<sup>6</sup> Iowa Historical Record, p. 434.

## AFFAIRS OF THE ASSOCIATION.

Members of the Association have doubtless observed that no index to Volume I. of *THE QUARTERLY* has yet been published. This is no oversight, and is much regretted by the Publication Committee. It is due simply to the fact that up to this time no satisfactory arrangement for indexing has been made. The index will, however, be printed and distributed as early as possible, and it would be well on this account for any one in possession of the volume to delay binding in the meantime. Those who understand the amount of work involved in attending to the publication of *THE QUARTERLY* and other matter issued by the Association, and the demands upon the time of those responsible for it, together with the inadequacy of the Association's income to provide sufficient clerical help, will know how to excuse this annoying failure to bring out the index on time. The Committee is fully aware of the necessity for an index in this age when time is so precious to the investigator, and is resolved that the index for Volume II. shall go out with the last number of that volume.

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In this number appear the reports of the treasurer and librarian. The necessary expenditure involved in organizing the Association has been considerable, and it will be possible hereafter to publish much more historical matter with the same income. It is hoped, however, that the available means of the Association will increase constantly. Not until it can begin the work of copying the public and ecclesiastical archives in Mexico can its members claim that it has fairly entered the field which it should cultivate. This can not be until the treasurer can show larger receipts.

The library has begun well and already has grown into a collection of no little value—of much greater, in fact, than the number of volumes and pamphlets would indicate. The gifts of rare materials for Texas history to the Association have been consider-

able, and a good deal more has been promised. The collection may be expected to show more rapid growth for the year just begun.

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In the death of Ex-Governor Roberts, the Association has lost a faithful friend and supporter. Though his age prevented him from working as actively for it as some younger members, none showed a deeper interest in its welfare or was more desirous of serving it by all possible means. His last signature was affixed to the circular announcing the second annual meeting. He cherished fondly the hope of the perpetuation and success of the Association. Could he himself have named the way in which his friends might best show their respect for his memory, he would doubtless have suggested such action on their part as would secure the realization of this hope.

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Among the more valuable recent gifts to the library of the Association are, a pamphlet by Ashbel Smith, entitled *Reminiscences of the Texas Republic*,<sup>1</sup> presented by Hon. Beauregard Bryan, of Brenham; MS. copies of the original report of Postmaster-General John Rice Jones, to the first Congress of the Republic, and several other official papers of the Postmaster-General, presented by James H. Jones, Esq., of Austin; a collection of MSS., including military correspondence during the first half of the year 1863, and general orders, issued mainly in April and May, 1865, by Gen. Wm. Steele, presented by his daughter, Miss Lily Steele, of San Antonio; a scrap book, with various old Texas newspaper clippings, presented by the widow of Col. J. K. Holland, of Austin; and an interesting old book, entitled *Memorias de la insigne Academia Asnal*, presented by Dr. M. B. Porter, of the State University.

<sup>1</sup> Originally read before the Galveston Historical Society, December 15, 1875. It deals mainly with the question of annexation, and gives much history that could hardly be found elsewhere.

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# Oran Milo Roberts

Chief Justice of Texas, 1864-66 and 1874-78

Governor of the State, 1878-82

Professor of Law in the University of Texas,  
1883-92

President of the Texas State Historical Association,  
1897-98

Born July 9, 1815

Died May 19, 1898

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## THE SECOND ANNUAL MEETING.

The second annual meeting of the Association was held at the University building, Austin, June 16th and 17th. The meeting was opened with the address on the life and services of Ex-Governor Roberts, by Hon. Dudley G. Wooten, which appears in this number of *THE QUARTERLY*, as do papers which were read by Ex-Gov. F. R. Lubbock, Dr. V. O. King, Judge John C. Townes, and Mrs. Dora Fowler Arthur. Professor Garrison read a paper on Rutgersville College, by Mrs. Julia Lee Sinks: while others, on the old fort at Anahuac, by Mrs. Adèle B. Looscan; the Pease Administration, by Judge Z. T. Fulmore; and *Enduring Laws of the Republic*, by Judge C. W. Raines, were read by title. The paper by Mrs. Looscan is also to be found in this number.

At the meeting of the Council, the price of single numbers of *THE QUARTERLY* was fixed at fifty cents, and Mr. L. G. Bugbee was elected business manager for 1898-99.

It was resolved to take steps towards securing recognition for the Association from the State.<sup>1</sup>

Drawing for terms on the Council, in accordance with the constitution, took place, with the following results: Of the Fellows, Judge Z. T. Fulmore drew the term ending in 1900, Judge C. W. Raines that ending in 1899, and Ex-Gov. F. R. Lubbock that ending in 1898. The drawing for the members gave them respectively terms ending as follows: Capt. M. M. Kenney, in 1902; Mrs. Bride Neill Taylor, in 1901; Dr. Rufus C. Burleson, in 1900; Prof. R. L. Batts, in 1899; and Mrs. Dora Fowler Arthur, in 1898.

The following nominations were made for the year 1898-9: Dudley G. Wooten, President; Guy M. Bryan, First Vice President; William Corner, Second Vice President; Julia Lee Sinks, Third Vice President; F. R. Lubbock, Fourth Vice President; L. G. Bugbee, Corresponding Secretary and Treasurer.

About one hundred new members were recommended for election.

At the meeting of the Fellows, Judge Seth Shepard, of Washington, D. C., and Capt. M. M. Kenney and Prof. R. L. Batts, of Austin, were elected to membership in that body.

<sup>1</sup> This work will be in charge of a committee, to be announced later by the President of the Association.



The Association, at its business meeting, elected the officers nominated by the Council, and filled the vacancies on the Council by electing Prof. R. L. Batts for the Fellowship term ending in 1901; Hon. Beauregard Bryan, of Brenham, for the membership term ending in 1903, and Mrs. Dora Fowler Arthur for the unexpired membership term of Prof. Batts, ending in 1899.

The Association has now completed the first year of its existence, and enters with a hopeful outlook upon the second. The results of the year's experience are highly encouraging. Historical interest has increased throughout Texas, the Association has attracted notice in almost every State in the Union, if not for what it is actually doing, at least for what it aims to do, and its membership now approximates five hundred. If it can secure, as it hopes, the proper recognition from the State, its future is assured.

TREASURER'S REPORT FOR 1897-98.

RECEIPTS.

94 membership dues for year ending March 2, 1898.....	\$188 10
143 " " " " June 17, 1898.....	286 00
60 " " " " December 29, 1898.....	120 00
29 " " " " March 2, 1899.....	58 00
2 " " " " June 17, 1899.....	4 00
2 " " not credited.....	4 00
10 fellowship dues for year ending March 2, 1898.....	50 25
1 " " " " June 17, 1898.....	3 00
2 " " " " March 2, 1899.....	10 25
1 " " " " June 17, 1899.....	5 00
Contribution from D. M. O'Connor, 1897.....	50 00
Sale of QUARTERLY.....	4 25
Refunded by Ben C. Jones & Co.....	6 35
Overpaid by Governor O. M. Roberts.....	2 00
Contribution by D. M. O'Connor, 1898.....	100 00
Total.....	<u>\$891 20</u>

EXPENDITURES.

Vouchers	1897		
No. 1	Mch. 10	George P. Garrison— Stationery and printing, 4.75; stamps, 5.00	\$9 75
2	May 21	Lester G. Bugbee— Stationery, .25; supplies, 6.45; stamps, 13.50; refunded to Gov. Roberts, 2.00...	22 20
3	Apr. 8	Eugene Von Boeckmann— 500 catalogue envelopes.....	6 00
4	Apr. —	Ben C. Jones & Co.— Stationery, 8.75; Printing, 21.60.....	30 35
5	Apr. 30	University Book Store— Stamps.....	5 00
6	June 10	Stamps.....	5 00
7	July 8	Eugene Von Boeckmann Pub. Co.— Stationery.....	12 15
8	July 16	Stamps.....	10 00
9	July 19	Clarke & Courts— Maps (engraving) for QUARTERLY, July, 1897.....	25 00
10	July 17	Joe Bauer— Clerical assistance.....	45
11	July 22	Postage on July QUARTERLY.....	2 93
12	July 22	Lester G. Bugbee— Express charges (Clarke & Courts) .75; telegrams to Clarke & Courts, .85; post- age and drayage, .39.....	1 99
13	1898 Jan. 4	George P. Garrison— Postage and express charges, 2.50; cleri- cal assistance and notary fee, 1.25.....	3 75

EXPENDITURES — *continued.*

Vouchers	1897		
14	July 21	Ben C. Jones & Co.— Stationery, 13.50; dummies and engraving, 4.75; July QUARTERLY, 141.78.....	\$160 03
14a	Aug. 18	Express charges from Austin to Ford .....	35
15	Sept. 20	Stamps .....	10 00
16	Oct. 15	Ben C. Jones & Co.— October QUARTERLY, 78.05; extra for tables, 26.85; matter killed and alterations, 8.20; engraving, 1.75; postage and drayage, 1.50 .....	116 35
17	Oct. 30	Ben C. Jones & Co.— Stationery, 22.20; express charges, .30...	22 50
18	Oct. 26	P. T. Lomax— Clerical help .....	4 50
19	Dec. 13	University Book Store— Stationery, .65; stamps, 10.00.....	10 65
20	Dec. 20	Southwestern Telegraph & Telephone Co...	55
21	Dec. 20	Southwestern Telegraph & Telephone Co...	1 50
22	Dec. 23	Stamps .....	3 50
23	1898 Jan. 7	Southwestern Telegraph & Telephone Co...	45
24	Jan. 11	William Corner— Stamps, 4.60; clerical assistance, 8.00; stationery, .40; telephone fee (long distance), 1.00 .....	14 00
25	Jan. 17	Austin Photo Engraving Co.— January QUARTERLY engravings .....	10 00
26	Jan. 22	Stamps .....	10 00
27	Jan. 29	E. C. Barker— Clerical assistance .....	3 30
28	Jan. 29	Corner's Bookstore— Paper files .....	30
29	Jan. 31	Ben C. Jones & Co.— Programs and notices of San Antonio meeting, 6.75; express charges on above, 5.75; stationery and wrappers, etc., 6.25; wrapping, mailing, etc., 3.00; postage on same, 7.31.....	29 06
30	Jan. 31	Stamps .....	33
31	Feb. 1	Ben C. Jones & Co.— January QUARTERLY, 105.10; cost of maps in full, 24.80 .....	129 90
32	Feb. 11	Corner's Bookstore— Scrap books .....	2 50
33	Feb. 17	University Bookstore— Stamps, 11.00; stationery, .15.....	11 15
34	Feb. —	University Bookstore— Plaster paper, 1.00; ink, .05; drayage, .25	1 30
35	Mch. 12	James B. Clark—Express charges .....	1 15
36	Mch. 21	E. C. Barker— Clerical help .....	3 30
37	Mch. 31	Ben C. Jones & Co.— Circulars and stationery .....	1 20

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EXPENDITURES—*continued.*

Vouchers	1898		
38	Apr. 30	Ben C. Jones & Co.— Folders and wrappers .....	\$3 50
39	May 4	Ben C. Jones & Co.— April QUARTERLY, 134.60; stamps, 5.10; wrapping, etc., 2.75 .....	142 45
40	May 30	Stamps .....	10 00
41	June 1	Rudolph Kleberg, Jr.— Clerical assistance .....	3 00
42	June 15	Ben C. Jones & Co.— Circulars and programs .....	10 50
43	June 14	University Bookstore— Pens and drayage .....	35
		<i>Balance on hand</i> .....	38 96
			<u>\$891 20</u>

Respectfully submitted,

L. G. BUGBEE,  
Treasurer.

LIBRARIAN'S REPORT FOR 1897-98.

ACCESSIONS DURING THE YEAR.

AUTHOR	TITLE	Vols.	Pamps.	DONOR
Becker, G. F.	Rainfall in California.		1	University of California.
Bliss, E. F.	Dairy of David Zeisberger.	2	1	Hist. and Phil. Soc. of Ohio.
Bradley, C. B.	Reference List to Published Writings of Jno. Muir		1	University of California.
Broadhead, Jas. O.	Extent of Territory Acquired by La. Purchase.		1	Missouri Historical Society.
Conway, J. J.	Catholic Church, St. Louis.		1	Missouri Historical Society.
Crane, Rev. W. C.	History of Washington County (Texas).	1	1	Jas. K. Holland.
Dellenbaugh, F. S.	Memorias De La Insigne Academia Asnal.		1	Dr. M. E. Porter.
Elliott, Orrin L.	True Route of Coronado's March.		1	The Author.
Gallagher, W. D.	The Tariff Controversy, 1789-1833.		1	Leland Stanford, Jr., Univ.
Gilman, D. C.	Progress in the North-West.		1	Historical Society of Ohio.
Hempstead, Fay	Report on National Schools of Science.	1	1	Bureau of Education.
Holden, Edward S.	School History of Arkansas.		1	The Author.
Hoss, E. E.	List of Recorded Earthquakes in the Pacific States		1	University of California.
H. C. Adams.	Elihu Embree, Abolitionist.	1	1	Vanderbilt Hist. Society.
Johnston, Wm. Preston	Statistics of Railways in the United States.	1	1	Interstate Commerce Com.
Littlejohn, E. G.	The Johnstons of Salisbury.		1	The Author.
Loughery, E. H.	Texas History Stories: Houston, Austin, Crockett, La Salle.		1	"
Low, Seth.	History of the Austin Fire Department.		1	"
Lowber, J. W.	Eighth An. Rept. to Trustees of Columbia Univ.	1	1	Columbia University.
May, Col. Jno.	Struggles and Triumph of the Truth.		1	The Author.
McGuire, J. F.	Journal and Letters of Col. Jno. May, of Boston.		1	Ohio Hist. and Phil. Society.
Porter, R. P. (Supt.)	Annual Report of Reformatory at Gatesville (Texas)	26	1	Department of State (Texas).
Potter, R. M.	Eleventh Census.		1	Census Bureau.
Potter, R. M.	The Texas Revolution.		1	Mrs. Julia Lee Sinks.
Potter, R. M.	The Fall of the Alamo.		1	Mrs. Julia Lee Sinks.

LIBRARIAN'S REPORT — *continued.*

AUTHOR	TITLE	Vols.	Pamps.	DONOR
Powell, J. W .....	Annual Reports of U. S. Geol. Survey: 11th to 16th	10		The Department.
Powell, J. W .....	Annual Reports of Bureau of Ethnology: 3d to 16th	18		Bureau of Ethnology.
Schmitt, Rev. Ed. J. P. ....	Geschichte der Deutschen St. Marien Geminde .....	1	1	The Author.
Schmitt, Rev. Ed. J. P. ....	Bibliographia Benedictina .....	1	1	"
Shelton, Jno. E. ....	Supplementary Reading for Travis County .....	1	1	"
Smith, Ashbel .....	Reminiscences of the Texas Republic .....	1	1	Hon. Beauregard Bryan.
Smith, Mary Roberts..	Almshouse Women .....	1	1	Leland Stanford, Jr., Univ.
	Scrap Book: Diary of Dr. Bernard concerning the Goliad Massacre.	1		C. W. Raines.
	Scrap Book: The Sinks Papers .....	1		Mrs. Julia Lee Sinks.
	Scrap Book: The Wilson Papers .....	1		Mrs. Wm. L. Wilson.
Textor, Lucy E. ....	Scrap Book: Newspaper Clippings .....	1		Jas. K. Holland.
Trent, W. P. ....	Official Relations between U. S. and Sioux Indians	1	1	L. Stanford, Jr., Univ.
Winkler, Mrs. A. V. ....	Study of Southern History .....	1	1	Vanderbilt Hist. Society.
	The Confederate Capital and Hood's Texas Brigade	1		The Author.

TITLE	Vols.	Pamps.	DONOR
Scrap-Book : Newspaper Clippings.....	1		Mrs. Julia Lee Sinks.
Annual Report of American Historical Association for 1894 and 1895 .....	2		The Association.
Annual Report of Smithsonian Institution, 1895 .....	1		The Institution.
Second Annual Report of Texas Agricultural Bureau .....	1		Dept. of Agriculture, etc.
Report of Commissioner of Education, 1894-5 .....	2		Department of Education.

LIBRARIAN'S REPORT—*continued.*

TITLE	Vols.	Pamps.	DONOR
Report of Commissioner of Education, 1895-6 .....	2		Department of Education.
International American Conference: Reports of Committees .....	2	23	Department of State.
Bullelins and Reports of Bureau of American Republics .....			The Bureau.
International American Conference: Reports and Recommendations .....	1		Department of State.
Ohio Archaeological and Historical Association Publications, Vol. V .....	1		The Association.
Catalogue of Library of Long Island Historical Society .....	1		The Society.
Memoirs of Long Island Historical Society, Vol. IV .....	1		"
Annals of Iowa, Vol. III .....	1		"
Minnesota Historical Society Collections, Vol. VIII .....	1		"
Minnesota Historical Society: Ninth Biennial Report .....	1	1	The Library.
Illinois State Historical Library: Trustees' Report, 1894 .....	1	1	"
Illinois State Historical Library: Fourth Biennial Report .....	1	1	"
Third Annual Report of Librarian of Montana Historical Association .....	1	1	The Association.
Publications of Louisiana Historical Association .....	1	1	"
Twelfth Annual Report of Ohio Archaeological and Historical Association .....	1	1	"
Charter and By-Laws of Rhode Island Historical Association .....	1	1	"
Manual of New Hampshire Historical Society .....	1	1	The Society.
University of California Publications .....	1	1	The University.
Annual Publication of Historical Society of Lower California .....	12	2	The Society.
Manual of University of Georgia .....	1	1	"
Announcement of University of Georgia .....	1	1	"
Catalogue of Trustees, Officers, Alumni, and Non-Graduates of University of Georgia, 1785-1894.	1	1	"
Catalogue of University of Pennsylvania, 1896-97 .....	1	1	University of Pennsylvania.
Sketch of American Academy of Political and Social Science .....	1	1	The Academy.
Old South Leaflets: Constitution of the United States .....	1	1	The Publisher.
Old South Leaflets: Franklin's Plan of Union .....	1	1	"
Old South Leaflets: The Federalist, Nos. 1 and 2 .....	1	1	"

LIBRARIAN'S REPORT—*continued.*

TITLE	Vols.	Pamps.	DONOR
Catalogue of Officers and Graduates of Yale, 1701—1895.....		1	Yale University.
Directory of Living Graduates of Yale.....		1	Yale University.
Obituary Record of Yale during the year ending June, 1895.....		1	The University.
Annual List of Books Added to Public Library of Boston.....		1	The Library.
Military Literature in War Department Library.....		1	"
Publications, Articles and Maps Relating to Mexico in War Dept. Library		1	"
Proceedings of Texas Veteran's Association, 1883, '92, '95, '96, and '97.....		5	The Association.
Monthly Bulletin of Bureau of American Republics, Vols. II. and III.....	2	2	The Bureau.
Transactions of Texas Academy of Science for 1896 and '97.....		1	The Academy.
Southern Historical Society Papers, Vol. XXIV.....		1	The Society.
Louisbourg in 1745.....		1	University of Toronto.
The Charities Review, November, 1893.....		1	George P. Garrison.
Catalogue of Yale University, 1897-98.....		1	Yale University.
"Cactus" 1895.....	1	1	George P. Garrison.
Publications of Rhode Island Historical Association, Vols. IV. and V.....	2		The Association.
Proceedings of Texas Teachers' State Convention, 1866.....		1	G. Duvernoy,
Documents of Major General Sam Houston to David G. Burnett.....		1	Mrs. W. G. Belding.
Southern Historical Society Papers, Vol. XXV.....	1		The Society.
Thirteenth Annual Report of Ohio State Archaeological and Hist. Society		1	The Society.
Catalogue of the Torrence Papers.....		1	Ohio Hist. and Phil. Society.
Historical and Philosophical Society of Ohio: Annual Reports.....		7	"
Historical and Philosophical Society of Ohio: Transactions of.....		1	"
Historical and Philosophical Society of Ohio: Journal of.....		1	"
Historical Papers Read Before the Society of the Cincinnati.....		1	The Society.
Annual Publication of Historical Society of Southern California.....		1	The Society.
Twentieth Annual Catalogue of the A. and M. (Texas) College.....		1	The College.
Catalogue of Graduate School Yale, 1897-98.....		1	The University.
Annual Report of Managers of Buffalo Historical Society for 1896-97.....		2	The Society.



LIBRARIAN'S REPORT—*continued.*

TITLE	Vols.	Pamp.	DONOR
Annual Report of American Historical Association, 1896 .....	2	1	The Association.
Stone Idols of New Mexico .....		1	The Hist. Soc. of New Mex.
Annals of Early Settlers' Association of Cuyahoga County .....		1	The Association.
Western Reserve Historical Association: Charter and Reorganization. ....		1	"
Bureau of American Republics: Annual Report of Director, 1896 .....		1	The Bureau.
Bureau of American Republics: Import Duties of Uruguay .....		1	"
Bureau of American Republics: Import Duties of Chili .....		1	"
Bureau of American Republics: Import Duties of Peru .....		1	"
Bulletin of Department of Labor, 1898 .....		1	The Department.
William and Mary College Historical Quarterly, Vol. VI .....		1	The College.
A Comprehensive History of Texas .....	2		William G. Scarff.
Wisconsin Historical Collections, Vol. XIV .....	1		Hist. Society of Wisconsin.
Total Number in Library .....	93	123	

Besides the above books and pamphlets, the Association has a large number of incomplete volumes of the current historical periodicals.

Respectfully submitted,

GEORGE P. GARRISON,  
Librarian.



# THE QUARTERLY

OF THE

## TEXAS STATE HISTORICAL ASSOCIATION.

Vol. II.

OCTOBER, 1898.

No. 2.

*The Publication Committee disclaims responsibility for views expressed by contributors to the Quarterly.*

### THE CAPITALS OF TEXAS.

O. M. ROBERTS.

[This is an unfinished paper, which Governor Roberts was preparing for THE QUARTERLY at the time of his death.—G. P. G.]

While Texas was under Spain and Mexico, it can hardly be said to have had a seat of government within its territory. The Consultation of 1835, by which the first provisional government of Texas was organized, and which represented the different municipalities, met at San Felipe de Austin on the Brazos river. That continued to be the meeting place of the executive officers, i. e., the governor, lieutenant-governor, and the members of the executive council, of whom there was one for each municipality, until their powers ceased upon the meeting of the Convention, March 1, 1836. The most remarkable circumstance pertaining to this temporary government was the violent controversy between the governor and the executive council.

The Convention of 1836, which made the declaration of independence and organized the second provisional government with a president and cabinet, was held at Washington on the Brazos. There was no capital then established, nor did the executive officers remain

at any one place during their term of service. They were for a time at Lynchburg and afterwards at Velasco.

In the fall of 1836 the Texas congress met at Columbia on the Brazos, and there held its first session with Gen. Sam Houston as president. During that session a law was passed making the city of Houston the seat of government of Texas from that time to the end of the session of congress that should be held in the year 1840. Gen. Stephen F. Austin, who was secretary of state under President Houston, died at Columbia, as it was said, from exposure in the discharge of his duty during the first session of congress.

At Houston a large frame house was built for a capitol, and when the seat of government was moved from that city the house became known as the Capitol Hotel. Now the ground is occupied by a large brick structure called by the same name. According to the constitution of 1836, which provided that the first president should serve two years, that the term should thereafter be three years, and that no one holding the office should be eligible to succeed himself, President Houston could not be his own immediate successor. Vice-President Mirabeau B. Lamar became the next president, and was inaugurated at the capitol in Houston in 1838.

In 1839 the Texas congress passed a law for the selection of a seat of government by five commissioners, two from east and three from west of the Trinity river. They were to purchase or have condemned for the State a tract of land upon which a capital city should be built. They were required under oath to keep their proceedings a profound secret and make their selection between the Trinity and Colorado rivers, north of the Old San Antonio Road or "King's Highway", which ran near Crockett and Bastrop. The possibility of selecting Houston, which had been named for President Houston, and was understood to be favored by him, was thus excluded. That was perhaps one amongst other evidences that President Houston's influence did not prevail during Lamar's administration. The fact that the place selected was on the northeast side of Colorado river, being in what was then Bastrop county on the extreme frontier of the settlements of the State, suggests the inquiry as to what could have been the reason for it. It has been said that one reason was because the place was as nearly as was then practicable in the center of the State. That could hardly have been the controlling reason; for since then there have been two elections throughout the

State to locate the seat of government, one in 1850, and one in 1872. In 1839 when the selection was made a majority of the inhabitants of Texas lived east and north of the Trinity river, from one hundred and fifty to four hundred miles from the place selected. If the circumstances attending the selection are examined into, it will be found that there were other reasons than the fact of the central position of the locality that determined the choice. For many years afterwards there was occasionally mentioned a report that Lamar while vice-president came with a party to this place on a hunt, that he early one morning shot and killed a buffalo in the narrow valley where Congress Avenue in the city of Austin is now situated, and that in taking a survey of the mountains and country around he said with poetic ardor to his comrades, "Here should be located the capital of Texas." This may explain why some prominent men located certificates on these ridges and hollows near the river on the northeast side of it in preference to locating them upon the rich black plains in the neighborhood. It may also explain why the five commissioners in the public report of their proceedings spoke of no other place having been examined by them. In about twenty days they had all the steps taken for the condemnation of 5,004 acres of land, instead of purchasing from those who had located it, as the law permitted them to do. The commissioners were made aware of the parties and of the lands located by them as shown by their report<sup>1</sup>. It is not reasonable to suppose that the selection could then have been made by a general vote of the people; this may be presumed from the subsequent efforts to remove the capital by election. Fortunately, however, the more extensively the State became settled up, the more appropriate became the location of the capital where Austin is now situated; and the building of the magnificent granite State house that has recently been erected may be taken as conclusive evidence of the general wish of the people that the seat of government shall remain permanently in this city.

There was a large frame structure built for the capitol on the

<sup>1</sup> Those who had located the lands were paid by the government for their claims. Afterwards it was found that Gen. T. J. Chambers had previously appropriated eight leagues of land, including the 5,004 acres condemned for the capital city. His claims also have been sustained by the supreme court of the State in the case of Chambers vs. Fisk et al. (22 Texas, 504); but neither he nor his heirs have ever been paid for this city tract of land.

ridge immediately west of Congress Avenue, where the City Hall now stands. The government offices having been removed, and Gen. Sam Houston having been again elected president of the Republic, he was inaugurated at the capitol in Austin in 1841.

In 1842 a large body of Mexican troops captured San Antonio and took many persons prisoners, including the officers of the district court then in session. The news of it soon reached Austin and produced great excitement. Preparations were shortly begun to remove the public archives, under the apprehension that Austin might also be attacked. President Houston and his cabinet left the city and went to Washington on the Brazos. He sought to have the archives removed to that place, which was resisted and prevented by the citizens of Austin and of the surrounding country. This affair has been called the Archive War. It involved no bloodshed, though much hard talk, but the archives were not removed from Austin.

The president convened congress at Washington on the Brazos in the fall of 1842. The sessions were held in cedar frame buildings that apparently had been erected for store houses. The capital remained there until July 4, 1845, when the Annexation Convention met in Austin, and the terms of the United States were agreed to and a new constitution adopted. From that time to the present, Austin has continued to be the seat of government of the State of Texas. It was in the building above mentioned west of Congress Avenue that President Anson Jones, on the 16th of February, 1846, surrendered the government of the Republic of Texas, to the executive officers and legislature of the State government, and the first governor of the State, J. Pinckney Henderson, was inaugurated.

A few years thereafter a more substantial building was erected for the capitol, near the center of the plat of ground of ten acres that had been set apart for a capitol building in laying off the city of Austin. This building was about one hundred feet long, fifty or sixty feet wide, and three stories in height, with broad stone steps at the south front reaching from the ground to the floor of the second story. The halls for the senate, the house of representatives, and the supreme court were situated on the third floor. The walls were built of hard limestone on the inside, and a soft yellow limestone on the outside that had been sawed in shape and smoothly planed. The same soft stone was used in building the Temporary Capitol in 1882 and may be seen on the outside of its walls. It was on the top of

the high steps in front of the Capitol that Governor Houston delivered his inaugural address to the assembled audience seated on the steps below and standing in the yard around them, on the 21st day of December, 1859. In the Hall of Representatives in this house, on the 28th of January, 1861, met the Secession Convention, composed of 180 members, prominent citizens of Texas, who, by their acts, in conjunction with those of the legislature, withdrew the State from the Federal Union and made it a part of the Southern Confederacy. On the 9th of November, 1881, this capitol building was burned by accident during my administration as governor. The greatest loss was that of the State library and the collection of geological specimens in the building, and the use of that house while the new capitol was being erected. The burning was accidental, and was caused by a clerk having a stove put up in one of the rooms with the top of the stove-pipe inserted in a hole in a partition wall. He supposed the hole to be the entrance to a flue that extended up through the roof of the house; when in fact it had been made in the partition wall to pass a pipe through the adjoining room to a flue in the next wall. This adjoining room had in it a large pile of books and papers that were set on fire by the sparks from the stove. The partition being of wood, the fire ran up it to the ceiling above before it was discovered; and then it was found that the pressure in the hose was not sufficient to throw the water to the top of the burning wall, and consequently the building could not be saved. The room in which the fire started was a book and paper store-room, that was entered only to put in and take out books and papers, and therefore but few persons were aware of the fact that the hole in the partition wall did not enter a flue. This explanation is made to show that the burning was accidental, and that it could not be prevented when it was discovered.

Most of the record books and papers of the executive offices were removed from the house before the fire reached them. The county authorities kindly furnished the governor with offices in the court house, and the secretary of State with a room in the county jail, and other rooms were rented for the different executive officers and for the senate and house of representatives. The legislature was convened in special session April 6, 1882. A bill providing for the erection of a temporary capitol was soon passed, and was approved May 4, 1882. It authorized the capitol board, consisting of the

governor, comptroller, treasurer, attorney-general, and commissioner of the general land office, to erect or rent a building for the purpose, and appropriated the materials of the buildings left on the capitol grounds and fifty thousand dollars to enable them to do it. The stone walls of the burned buildings, it may be remarked, had suffered little damage.

Finding that nothing suitable for their purpose could be rented, the commissioners determined to erect one large building to accommodate the government officials, and selected a place for it on Congress Avenue opposite the county court house. The site chosen is within the ten acre tract of land originally laid off for a capitol in surveying the city of Austin, as is also the ground upon which the court house stands. It was completed, and the executive offices were moved to it in time for the meeting of the legislature on the 9th of January, 1883, and soon afterwards Gov. John Ireland delivered his inaugural address in the representative hall of that building. According to the law mentioned above, it was to be used by the State officials until the completion of the new capitol, which was dedicated a few days after it was finished, on the 16th of May, 1888, during the administration of Gov. L. S. Ross.

There was a circumstance connected with the erection of the temporary capitol that deserves to be noticed. The walls had been completed, and the building had been covered with a blank roof for the shingles, when a very hard storm of wind and rain struck it, tore down the northwest corner nearly to the ground, and threw down parts of the north and west walls, which caused the roof to lean over to the northwest quite low. That took place at night, and the next morning the unfinished capitol was a bad looking sight. The capitol board selected three experienced builders to advise them what should be done to restore the building. The three met, examined the structure, and made their report in writing. They advised, in substance, that the whole of the north and west walls still left standing should be torn down and the foundation enlarged, and upon it thicker walls should be built. Then they immediately left for their homes. The board submitted the proposition to the contractor Mr. Smith, who refused to comply with it, because it would perhaps cause the other walls to fall, and because, even if it did not, he could not afford to do it under his contract. Thereupon the governor denounced the proposition as wholly unreasonable and impracticable,



and others of the board joined him in the opinion. Colonel Myers, the designer of the new capitol, who was in the city, was employed to examine the building and report some plan by which the walls should be rebuilt without tearing down any part of them, and it was done according to his directions. This accounts for the iron girders in the walls of the house. They were put in for greater safety but are really unnecessary; for the house with its partitions and substantial walls is really a good building, in which was used the best material of the old capitol and other structures.

\* \* \* \* \*

## RUTERSVILLE COLLEGE.

JULIA LEE SINKS.

I find from a quaint document furnished me by Mrs. Chauncey Richardson<sup>1</sup> and written by Mr. John Rabb, one of the original projectors of Rutgersville College, that in the summer of 1838 ten members of the Methodist church, living in the upper part of the district known as Austin's Colony, agreed to purchase a league of land for the purpose of locating thereon a settlement including a college, or at least a permanent academy. The same document says that "it was first suggested by Rev. Martin Ruter, one of the first missionaries that were sent to Texas, but his death soon after prevented his undertaking with his brethren the enterprise. The village was named for him by vote of the proprietors." I give the names of six: "Robert Alexander, D. D., A. P. Manley, M. D., Mr. Robert Chappell, Mr. Franklin Lewis, Rev. William M——<sup>2</sup> of the Cumberland Presbyterian church, John Rabb."

On the 23rd of September, 1838, a few of the above mentioned proprietors met, with Rev. John W. Kenney as their surveyor, and commenced to survey the village.

Rev. D. N. V. Sullivan taught the first school.

A clause in the deeds prohibited the sale of ardent spirits, and gambling.

In 1840, through the untiring efforts of Rev. Chauncey Richardson of the Methodist Episcopal church, a charter was obtained from the Texas government, and a donation of four leagues of land for the benefit of the college. The congress of Texas appointed Mr. Richardson president. He also acted as agent for the College and obtained by donation a large quantity of land. The institution was chartered with university privileges.

Through the kindness of Mr. E. W. Crawford of Rutgersville, I

<sup>1</sup> Wife of Rev. Chauncey Richardson mentioned further on. Now Mrs. — Van Bibber, and residing in New Orleans.

<sup>2</sup> Name rubbed out.

have been furnished with the following statistics of the College for its establishment and first term:

TRUSTEES.

Rev. Chauncey Richardson, President.

John Rabb, Treasurer.

Hon. Andrew Rabb.

Jonas Randall.

John H. King.

Joseph Nail.

James S. Lester,

Dr. A. P. Manly.

Wager S. Smith.

Dr. W. P. Smith.

Thomas D. Fisher.

HONORARY TRUSTEES.

Hon. James Webb.

William Menefee.

Francis Moore.

G. W. Barnett.

R. Alexander.

R. B. Jarmon.

FACULTY.

Chauncey Richardson, A. M., President.

Charles W. Thomas, A. B. Tutor.

Martha G. Richardson, Preceptress.

MEMBERS AND PATRONS OF THE COLLEGE.

*Preparatory Department.*<sup>3</sup>

Alfred Alway.

Duncan Murchison.

Sarah Alway, Rutgersville.

Hon. John Murchison, Fayette County.

C. L. Blair, Rutgersville.

Joseph Mendes,<sup>4</sup> Rutgersville.

Francis Ayres.

Edwin L. Moore, Rutgersville.

Theodore Ayres.

James J. Norton.

David Ayres, Center Hill.

Dr. A. P. Manley, Rutgersville.

Lionel Brown.

William A. W. Nail.

<sup>3</sup> Names marked with an asterisk are those of parents.

[<sup>4</sup> Or José María Mendez. This was a Mexican fifer boy captured at San Jacinto by Monroe Hill, whose name appears in the list above. Mendez was offered permission to return to Mexico if he chose, but he preferred to remain in Texas rather than be forced into the Mexican army again, which he feared would be the result if he went home. He lived with the family of Mr. Asa Hill, Monroe Hill's father. Afterwards he became a silversmith in Houston, where he died of yellow fever sometime late in the 40's. These facts are furnished by Mr. Monroe Hill.—G. P. G.]

Samuel Brown, Washington	Lewis M. Nail.
J. P. Bowles. [County.	P. M. Nail.
Henry S. Bowles.	Quincy S. Nail.
E. Bowles.	Clark B. Nail.
James H. Dennis.	Joseph Nail, Ruttersville.
William Evans.	Z. P. M. Rabb.
Hon. Musgrove Evans.	George W. Rabb.
Rufus Fisher.	John W. Rabb.
Thomas D. Fisher, Ruttersville.	John Rabb, Ruttersville.
Monroe Hill.	Charles Randall.
Asa C. Hill.	Jonas Randall, Ruttersville.
John C. Hill.	Enoch B. Simons
Asa Hill, Ruttersville.	Daniel Barrett.
Constantine Killough.	Jordan Sweeny.
Mr. — Killough, Ruttersville.	Mr. — Sweeny, Matagorda County.
James Matson.	James A. G. Smith.
Richard Matson.	Dr. William P. Smith, Ruttersville.
Captain Fuller, Washington.	George C. Tennehill. <sup>5</sup>
James L. Morrow.	J. N. McD. Thompson. <sup>6</sup>
John C. C. Moore.	Alexander Thompson, Milam County. <sup>7</sup>

*Female Department.*

Martha Ann Alway.	Sarah A. Hill.
Celia Alway.	Mary A. R. Hill.
Sarah Alway, Ruttersville.	Martha A. E. Hill.
Martha Davis.	Asa Hill, Ruttersville.
Rev. — Davis, Ruttersville.	Amanda Jarmon.
Mary A. Edwards.	Col. R. B. Jarmon, Fayette County.
Dr. M. Barrier, Ruttersville.	Jane H. Kerr.
Isabella H. Fisher.	William Kerr, Washington County.
Thomas D. Fisher, Ruttersville.	Mary J. A. Kerr.
Col. Lee Grey, Ruttersville.	George Kerr, Ruttersville.
Indiana Grey.	Eliza Moore.
Angelina H Gilbert.	Lovick L. Moore, Washington County.
Abram Gilbert.	A. M. F. Moore.
Mary H. Hall.	Edwin L. Moore, Ruttersville.
E. K. Hall, Columbia.	Melissa C. Rabb.
Mary Jane Hayden, Ruttersville.	John Rabb, Ruttersville.
N. Caroline T. King.	Martha Reagan.
John A. King, Ruttersville.	Mr. — Reagan, Ruttersville.

[<sup>5</sup> Mr. Hill thinks this name should be Tennell.—G. P. G.]

[<sup>6</sup> Cousin to Mrs. Monroe Hill. Mrs. Hill was a member of the Female Department., her name before marriage being Jane H. Kerr. Mr. Thompson was one of those Mier prisoners who drew black beans and were shot.—G. P. G.]

[<sup>7</sup> Surveyor of Austin's colony.—G. P. G.]

Elvira Nail.	Mary A. Simons.
Joseph Nail, Rutersville.	Daniel Barnett, Austin County.
Ann Sophia Richardson.	Susan C. Thompson.
Rev. C. Richardson, Rutersville.	Alexander Thompson, Milam County.
S. A. Hill.	Clarissa M. Tennehill.
L. Elizabeth Hill.	S. Ann Tennehill.
George Tennehill, <sup>a</sup> Rutersville.	

Below I give the terms of admission to the classical course. They appear to me rather astonishing, I must confess; but it was probably not expected that the sons of pioneer Indian fighters should rise to the dignity of this course for many years to come. From the force of circumstances most of them would have to enter the Preparatory Department, and the requirements for entrance into the classical course were set before them only as a mark of a higher calling. Those admitted to this course were expected to know "the English Language, Davies' Arithmetic, Davies' Algebra as far as Quadratic Equations, Ancient and Modern Geography, Latin and Greek Grammar, Caesar's Commentaries, Cicero's Select Orations, the Georgics and Aeneid of Virgil, Jacob's Greek Reader, or St. John's Gospel in Greek."

For the benefit of those who were unable to satisfy these requirements there existed the following provision: "Beginners in science and in literature will be admitted to the Preparatory Department, and also to the Female Department." This was the opening for most of those who were to profit by the school and to obtain from it all the instruction they would perhaps ever get.

In the second term the names of Rev. C. W. Thomas, A. B., Professor of Ancient Languages and Mathematics, and Mr. Thomas Bell, Tutor, appear in the list of the faculty, and there is an advance from the sixty-three students enrolled during the first term to one hundred.

Among the papers transcribed from the records of the College and furnished me is the list of the donors to its endowment fund. Gifts of land are as follows:

The Texas Congress.....	17,776 acres.
Rutersville, for site of College.....	52 "
Rutersville, for Female Department.....	24 "

[<sup>a</sup> See note 5, which applies also to the two names preceding this.—G. P. G.]

Then comes a list of donations obtained by the president subsequent to May 20, 1840, the aggregate being 24,516 acres.

In addition there is a list of *subscriptions in par money*, which I transcribe exactly as it was written.

Hon. Nathan Thomas, Member of Congress.....	\$50
S. S. B. Fields .....	50
Rev. D. R. Reid, Nov. 1840.....	25
A. W. Woolsey, due May 1841.....	200
P. H. Martin, Feb. 1841.....	50
Benjamin Phillips, Nov. 1840.....	25
H. Mathews, Jan. 1842.....	500
H. A. Adams, Jan. 1842.....	100
H. O. Campbell, June 1841.....	25
J. Campbell, " ".....	25
C. B. Shepherd, May ".....	20
James Cochran, " ".....	100
J. W. Harris, June ".....	25
L. W. Groce, " ".....	100
S. V. Samothe.....	50
Mr. Bracy, Sept. 1840.....	50
W. C. & A. H. Jones, June 1841.....	25
Oliver Jones, " ".....	25
J. W. Foster, " ".....	25
William Keesee, " ".....	25
John Grey, " ".....	25
N. W. Eastland, " ".....	40
W. Y. McFarland, Sept. 1841.....	25
S. Wright, Jan. 1842.....	25
J. L., Sept. 1841.....	20
H. Woodward.....	10
Wm. Menefee.....	100
M. Yanbudess, July 1841..... <sup>9</sup>	
W. P. Thorp, Oct. 1841.....	100
Wm. Price, " ".....	50
J. G. Wilkinson, Oct. 1841.....	100
J. C. Bridgeman, Apr.....	25
J. B. Alexander, Apr. 1841.....	25
F. W. Habert, " ".....	50
James Stephens.....	25
J. W. Kenney, 1840..... <sup>10</sup>	

Then follows a list of subscriptions in par money, payable in five annual installments, the first falling due January 1, 1842:

<sup>9</sup> Figures omitted.

<sup>10</sup> Figures omitted.

Wm. R. Alexander.....	\$500
David Ayres.....	500
C. de Bland.....	500
James R. Isbell.....	500
John Rabb.....	500
R. S. McCormack.....	500

There is given also a list of donors to the College library:

Robert Martin, Nashville, Tenn.....	3 vols.
J. Shackelford, Courtland, Ala.....	5 "
A. Kingly, Nashville, Tenn.....	35 "
M. Eacham, " ".....	10 "
Mr. Watkins, Courtland, Ala..... <sup>11</sup>	
Mr. Tice, Tuscumbia, Ala.....	5 "
H. A. Prout, " ".....	9 "
D. G. Burnet, Austin City, Texas.....	14 "
Governor Polk, Tenn.....	10 "
Mrs. Caldwell, Nashville, Tenn.....	2 "

One donor, "C. Richardson," gives to the College cabinet choice minerals and shells valued at \$600.

However much it may have been denied by those concerned in bringing about at a later time the union of the Military Institute of Galveston with the College at Rutgersville and the Monumental Committee of La Grange, the patronage and oversight of the Methodist Episcopal church shows itself throughout the early history of the College, and whatever success attended the beginnings of the institution was undoubtedly attributable to that energetic body. Of course, however, people of all denominations and of no denomination at all assisted; for it was one of the early efforts at honorable achievement in Fayette, in which all citizens of the county were interested.

The College was largely endowed with land, the gift of the State and of individuals, and there seemed never a fairer start for an educational venture. But, for want of patient waiting until time developed its resources, these very resources themselves melted away and left it too weak to become what it should have been—the alma mater of the youth of Fayette county—keeping at home the thousands that were eventually spent to build up distant schools. Even a nation in its beginnings can never take in at a glance the

<sup>11</sup> Number not given.

value of its own resources. This knowledge must be born of experience and nursed by patience and fortitude. Had the trustees at Rutgersville College encouraged these virtues in themselves, better results would have been obtained; but they did not, and much was consumed in a day which would have furnished ample provision for a great and progressive future. Though such education as met the common needs of the people was given to many, very many, who would otherwise have been without it, and though its refining influence was scattered among many homes, brightening them by its presence, yet to pay the expense land was given in part;<sup>12</sup> and though it was rated fairly as land was then going, the practice slowly but surely destroyed the hopes of the institution. What with the great scarcity of money, the Indian fighting, and the Mexican fighting, there came the idea that whatever was done must be done at once. This was the engrossing thought, and patience and the prospects of the College died together.

No doubt much of the land donated was given by the members of the Methodist Episcopal church, the activity of whose membership made it appear at first as if the institution were established in its interest.

For many years the College was under the control and supervision of Mr. William Halsey, Principal and Professor of Ancient and Modern Languages, assisted by Mr. Ulysses Chapman, A. M., Professor of Mathematics and Natural Science, Mrs. Mary Halsey being at the head of the Female Department. The commendation of Mr. Chapman in the quaint old document referred to at the outset is: "He is a regular classical scholar. He knows of no such words as 'I can't do it.' He can lay down his books and do anything that any other man in our village can do."

In 1856 Rutgersville College was consolidated with the Military Institute, previously located at Galveston, and the "Monumental Committee" of La Grange, and it now becomes necessary to describe briefly the objects and organization of the last. The bill for its incorporation was approved January 19, 1850, and it begins as follows: "Be it enacted by the Legislature of Texas, that Albert L. Vail, George W. Sinks, John W. Dancy, Wm. J. Russell, Isaac B. McFarland, Thomas W. Cox, John T. Cox, Hamilton Ledbetter, D. G. Gregory, A. P. Manly, Wm. G. Webb, Wm. Menefee, Wm. P. Smith, Charles S. Longcope, R. B. Jarmon, and Joseph Shaw, be,



and they are hereby constituted, a body politic and corporate, under the name and style of the 'Monumental Committee.'” This committee was incorporated for the purpose of raising funds to build a monument to the decimated Mier prisoners and the Dawson soldiers.<sup>13</sup> To accomplish this, a paper was to be established, the proceeds of which, after paying expenses, were to go to the purpose.<sup>14</sup> Donations also were to be solicited. Among the contributors were R. B. Hudnal, (\$5.00); Thomas Owen, Arley, Warwickshire, England, (\$5.00); and John A. Green (\$25.00).

It was an early thought to have a military school connected with this enterprise, but the monument was to be first erected. That, with the people, was something tangible, and those that contributed felt a sort of proprietorship in it. The military college was a dream that found its realization only in the failure of their own cherished idea. The feeling that afterwards swept the monumental fund from its proper and legitimate channel was based, no doubt, upon the original idea of a military school, but the end shows it was a mistake; for the monument was not raised, and the school proved ephemeral.

In 1856 an agreement was signed to lease to Col. C. G. Forshey the buildings and property of Rutersville College for the purpose of removing thither the Texas Military Institute from Galveston. It was further agreed that the board of trustees of the College should, if possible, obtain legislation ratifying the contract, consolidating the Institute with the College and the Monumental Committee, and repealing the provisions of the charter which gave the Methodist conference the privilege of supplying vacancies in the board. A new charter, obtained in August, accomplished the desired consolidation. But there resulted evident dissatisfaction in the minds of many, particularly the relatives of the dead whom the monument was to commemorate. They steadfastly refused to have the remains moved from the place where they were buried to Rutersville,<sup>15</sup> as contemplated, so that the monument, when built, should help to adorn that institution.

In defense of the change in the College, I find an article in “The

<sup>13</sup> See Scarff's *Comprehensive History of Texas*, Vol. I, pp. 705-8.

<sup>14</sup> See *THE QUARTERLY*, July, 1897, pp. 34-7.

<sup>15</sup> See note 13.

True Issue," (a paper that followed the "The Monument," established to aid the monumental fund) of March 27, 1858, written by Captain C. S. Longcope, one of the trustees, "defending the permanency and proper conduct and successful management of the institution of Rutgersville, known by the name of the Texas Monumental and Military Institute." I find also a communication to *The True Issue* from William P. Smith, one of the original Monumental Committee, saying that he had added to the monumental fund two thousand dollars,<sup>16</sup> and being convinced that there should be a combination of utility with beauty, and having advised with several gentlemen, he had drawn up and presented to the legislature through Mr. J. L. Hill an amended charter differing from the old one in the following particulars:

1. For the name "Monumental Committee" it substituted "Monumental University."

2. Instead of a committee of sixteen it required seventy, the major part composed of distinguished gentlemen residing in different sections of the State, out of whom a minority of seven, residing mostly in and about the town of La Grange, were to constitute a business quorum.

3. The funds under the management of this committee or board were to be appropriated for the purpose of erecting suitable buildings for the Texas Monumental University. The board was to have the privilege of educating in languages, science, and military tactics, indigent youths of the State, and especially the sons of the fallen heroes of the Texas Revolution.

This seems laudable, but the fact is that much had been subscribed by the relatives of the dead to whom the monument was to be erected, and the transfer without their consent appears like a breach of trust. It is singular, too, that one individual could exercise the right to draw up an amendment to the charter of a corporate body in which so many were joined and get it before the legislature without the concurrence of the others. This action was doubtless taken with the counsel and by the direction of the trustees, though it is not so stated; for those who thought the monument ought to be considered first had withdrawn, and had been replaced by those who were favorable to the change.

<sup>16</sup> One thousand was given by the Texas legislature.

Aside from the disappointment caused by the diversion of the monument fund from its original purpose, the people felt very kindly towards Colonel Forshey and his faculty, with the exception of some members of the Methodist church who, remembering their former labors in behalf of the College, could not give up the idea that it of right ought to belong to their denomination. But investigations were made, and it was fully proved by the testimony of Rev. John Haynie, himself a Methodist, and of others, that, however much the progress of the institution, and almost its existence, in its early days, was due to the energy of Methodist ministers and the liberality and patronage of Methodist people, the church as an organization had no legal right to the property. The success of the reorganized school seemed quite satisfactory, and it really had a look of permanency. The great popularity of Colonel Forshey's two assistants, Colonel Timmons and Major Thornton, both men of genius, helped it no little. Colonel Forshey in his annual report in 1859 says: "The success we have had—and it has been unspeakably gratifying—has been in spite of hostility. We have without any organized or associated patronage advanced the Institute in a little more than three years from a private school with seven pupils to the dignity of a college with more collegiate students now than any institution in the State, and certainly more than any of the same age, and we have graduated a class of our own material on the spot where sixteen years' effort of the previous organization had never been able to arrange collegiate classes."

Sixteen years of primary teaching had perhaps helped to prepare the way. Let us not despise the day of small things.

The short life of the reorganized institution was attributable in great measure to the war of Secession. Its students approaching graduation heard the shrill clarion with uplifted heads and prepared to depart. Though the last commencement address—or near the last—by the Hon. Ashbel Smith was eloquent for the Union, it fell on ears and hearts instinct with the desire for war, and its lesson bore no fruit.

SKETCH OF THE DEVELOPMENT OF THE JUDICIAL  
SYSTEM OF TEXAS. II.

JOHN C. TOWNES.

Since the publication of part I. of this sketch Mr. L. G. Bugbee, of the School of History of the University of Texas, has kindly called my attention to Decree No. 136, of date September 1, 1830, of the laws and decrees of Coahuila and Texas,<sup>1</sup> which relates to trial by jury. The substance of this decree is as follows: The ayuntamiento in each district capital was to select yearly from among the citizens of the district from twenty-one to eighty-four jurors, who should possess the same qualifications as members of the ayuntamiento. The persons so selected were to be the jurors for one year. The preliminary examination of criminal offenses was to be conducted as heretofore by the primary courts of justice, but whenever the evidence introduced satisfied the primary judge that the crime was proved, he was to desist from further investigation of the case, and send the prisoner and the proceedings had before him, to some alcalde of the capital of the district. The proceedings were to be continued before this alcalde who should at once require the prisoner to choose his counsel, and immediately thereafter the trial should begin. The prisoner then selected from the list of jurors seven to sit in his case. The prosecution could make objection to two jurors, provided this was done within twenty-four hours after they were chosen. The places thus made vacant were to be filled by selection by the prisoner from the other jurors. The seven jurors were then to be notified by the alcalde and were to meet within four days and were to be sworn to try the case. From these jurors a secretary and a fiscal were to be selected. The fiscal thus selected was to make an examination of the proceedings up to that time and form a "recapitulation" thereof, and express his opinion as to the guilt or innocence of the prisoner. For this he was allowed eight days, and immediately thereafter the jury was to meet again publicly, and the

<sup>1</sup>Laws and Decrees of Coahuila and Texas, p. 151.

proceedings and recapitulation were to be read in the presence of the prisoner and his counsel, and the record was to be delivered to them, and upon the 6th day after such delivery the jury was to re-assemble and proceed with the investigation, having the right to examine the prisoner and his counsel. The case was then to be discussed by the jury until all of them signified that they were prepared to vote. Each juror was then to vote by ballot, signifying his judgment as to the guilt or innocence of the prisoner, and if he believed him guilty specifying the punishment to be inflicted. If a majority concurred in the innocence of the prisoner he was acquitted; if a majority concurred in his guilt and as to the punishment, he was adjudged guilty, and the punishment was fixed as specified in the ballots. If a majority found him guilty, but differed as to the punishment, the question of punishment was reconsidered until a majority should agree on it. If the prisoner were acquitted this ended the proceedings; if he were found guilty judgment could not be pronounced in that tribunal, but all the proceedings were passed to the first hall of the tribunal of justice, which was required to pass upon the question of punishment, and if the punishment as fixed by the jury was moderated or approved, judgment to that effect was rendered by that court, and from this no appeal could be taken. If, however, this tribunal should increase the punishment as fixed by the jury, an appeal lay to the second hall of the tribunal of justice. If this second appellate court concurred in the increase of the punishment this should be final. In case the punishment assessed were capital an appeal lay to the tribunal of justice, composed of all three halls of the supreme court.

This law had no application to civil cases, and is so essentially different from all common law ideas of juries in criminal cases that it emphasizes very greatly the predominant influence of civil law in our jurisprudence at that time.

We come now to the consideration of the subject matter of the second paper, that is, the modifications made by the Constitution and statutes of the state in the judicial system established by the Republic.

Were the question an open one it would be most interesting to investigate and ascertain from original data just when it was designed by the two governments interested, that the Republic of

Texas should cease to exist and the state of Texas should come into being; but it is not open. The cases cited in the former article show that by the decision of the supreme court of the United States, subsequently acquiesced in by all the departments of the state government, "the admission of Texas into the Union took date from the 29 of December, 1845, the time of its admission by congress and the laws of the Union extended over it from that time."

It does not, however, follow that the state government contemplated by the constitution of 1845 went into practical operation on that day. On the contrary, the constitution expressly provided that the existing government and its administration by the existing officers should continue until actual organization of the state government could be effected. The first state legislature assembled Feb. 16th, 1846, and on that day President Jones retired and Governor Henderson was inaugurated, and the judicial article of the constitution of 1845 became the basis of the Texas judicial system. The governor and the legislature at once proceeded to select the judges for the various courts, who were to be chosen in that manner.

The system thus established consisted of a supreme court, district courts, county courts, and justices' courts. The jurisdiction of these courts in some instances differed materially from that now exercised by tribunals of same designations.

The jurisdiction of the supreme court remained practically as under the Republic. It had appellate jurisdiction only, and was the court of last resort in all cases both civil and criminal.

The most radical change as to it was with reference to the judges composing the court. It was no longer to consist of a chief justice and several district judges sitting in banc, but of a chief justice and two associate justices appointed by the governor with approval of the senate, who had no official duties except as members of that tribunal. This change was necessary because of the increase in population and business. The interests of the state required a very considerable increase in the number of district judges and also longer service by them in discharge of their duties in their several districts. The number of cases was also increasing in the supreme court so as to necessitate more frequent and longer sessions by it. It was therefore impracticable for the same persons to fill positions on both courts.

## *Development of the Texas Judicial System.* 137

The powers and jurisdiction of the district courts is fixed in section 10 of the judiciary article as follows:

The district court shall have original jurisdiction of all criminal cases, of all suits in behalf of the State to recover penalties, forfeitures, and escheats, and of all cases of divorce, and of all suits, complaints, and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to one hundred dollars, exclusive of interest; and the said courts, or judges thereof, shall have power to issue all writs necessary to enforce their own jurisdiction and to give them a general superintendence and control over inferior jurisdictions. And in the trial of all criminal cases, the jury trying the same shall find and assess the amount of punishment to be inflicted or fine imposed; except in capital cases, and where the punishment or fine imposed shall be specifically imposed by law.

In this section we find the first constitutional reference to any distinction between law and equity. Up to this time this peculiarity of the common law had been continuously ignored, except in section 12, act of February 5, 1840, heretofore quoted, and in that the recognition was partial and designed to regulate the exercise of both jurisdictions by the same court rather than to adopt and enforce the differences between the two.

This first constitutional reference to this distinction is not to adopt or perpetuate it, but to deny its existence and prevent any attempt at its recognition either by the legislature or courts of the state. A similar provision has been made in every constitution of the state since adopted.

As we have seen the common law of England was adopted as the general rule of decision in Texas by act of January 20, 1840, and continuously from that date the Texans have been an English speaking people having the common law as the basis of their jurisprudence, but yet denying the arbitrary distinction made by that system between law and equity and since 1845 have by constitutional provision forbidden the legislature to incorporate such distinction into its laws. From January 20, 1840, to November, 1846, the date of the adoption by the State of New York of a new constitution abolishing this distinction it was the only government of which this was true.

The first legislature of the state of Texas made speedy and full provision for the organization of the judicial department of the government as contemplated by the constitution. On May 11, 1846,

it adopted an act to organize the district courts and define their powers and jurisdictions.<sup>2</sup> Sections 2, 3, 4, and 7 of this act are as follows:

Sec. 2. Be it further enacted, That the judges of the district courts shall by virtue of their offices, be conservators of the peace, throughout the state, and the district courts shall have original jurisdiction of all criminal cases, of all suits in behalf of the state, to recover penalties, forfeitures and escheats, and of all suits against the State, which are or may be allowed by law, and shall have power to hear and determine all prosecutions in the name of the State, by indictment, information or presentment for treason, murder or other felonies, crimes and misdemeanors, committed within their respective jurisdictions, except such as may be exclusively cognizable before justices of the peace or other courts of the State, and shall, in criminal cases, have and exercise all the powers incident and belonging to courts of oyer and terminer, and general jail delivery; also of all suits for the recovery of land, of all cases of divorce and alimony, and of all suits, complaints and pleas whatever, without regard to any distinction whatever between law and equity, when the matter in controversy shall be valued at or amount to one hundred dollars or more, exclusive of interest, and generally to do and perform all other acts pertaining to courts of general jurisdiction.

Sec. 3. Be it further enacted, That the district courts shall have and exercise appellate jurisdiction and general control over such inferior tribunals as have been or may be established in each county, for appointing guardians, granting letters testamentary, and of administration for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates and original jurisdiction in probate matters, only in cases where the judge or clerk of probate is interested.

Sec. 4. Be it further enacted, That the judges of the district courts, and each of them, either in vacation or term time, shall have authority to grant on petition to them therefor, writs of habeas corpus, mandamus, injunction, sequestration, error and supersedeas, and all other remedial writs, known to the law, returnable according to law: provided, That no mandamus shall be granted on an *ex parte* hearing, and any peremptory mandamus granted without notice, shall be deemed void: And further provided, that all writs of mandamus, sued out against the heads of any of the departments or bureaux of government, shall be returnable before the district court of the county in which the seat of government may be.

Sec. 7. Be it further enacted, That the district judges, when the appropriate relief is prayed for, may grant all such orders, writs

<sup>2</sup> Laws of the First Legislature, 200.



or other process necessary to obtain such relief, and may also, so frame the judgments of the court as to afford all the relief which may be required by the nature of the case, and which is granted by courts of law or equity.

Justices' courts were established and given jurisdiction in civil matters involving one hundred dollars or less, authority to try which was not conferred exclusively on the district court. These courts also had jurisdiction of a few misdemeanors mainly breaches of the peace and minor offenses against the person in which the punishment could not exceed a fine of \$50. The power of the justices of the peace as committing magistrates was quite extensive.<sup>3</sup>

A probate court, consisting of one judge, was established in each county, upon which was conferred all powers ordinarily exercised by courts of that class.<sup>4</sup>

Under this constitution there was no county court with jurisdiction to try cases. A tribunal designated "the county court", composed of one chief justice and four commissioners, was created in each county. Its jurisdiction extended to all matters of county business and finances. It had no power to try causes between individuals.<sup>5</sup>

In the act organizing justices' courts (Sec. 20) the legislature declared that from final judgments of the justices' courts appeal should lie to the district courts; and in an act hereafter referred to, regulating practice in the latter, ample provision was made for the exercise of such appellate jurisdiction by them. Under the statutory enactments for several years appeals were actually taken from the justices' courts to the district courts and the cases were retained and tried there. In 1849, in the case of *Titus v. Latimer*<sup>6</sup> the point was made that as the district court was created by the constitution and its jurisdiction defined therein, the legislature had no power to change such jurisdiction, either by adding to or taking from; and, as appellate jurisdiction in cases from the justices' court was not given to the district court by the constitution, the statutes attempting to confer it were void. The court was divided

<sup>3</sup> Laws of the First Legislature, 298 et seq.

<sup>4</sup> Laws of the First Legislature, 308 et seq.

<sup>5</sup> Laws of the First Legislature, p. 333.

<sup>6</sup> 5 Texas, 433.

in its opinion on the question, but the majority, Hemphill, C. J., and Lipscomb, A. J., sustained the point, Wheeler, A. J., dissenting. The opinion of the court was delivered by Judge Lipscomb. After stating the case, he says:

The importance of the question is sensibly felt and fully and frankly acknowledged; and it is a matter of serious regret that it should be suddenly sprung upon the court without the benefit of having it discussed at the bar. It is now nearly four years since the Legislature, at its first session, proceeded to organize Justices' Courts and define their jurisdiction, and, among other things, gave the right of appeal, as a matter of course, from their decisions to the District Courts. The same Legislature, at the same session, passed an act organizing the District Courts, and another regulating judicial proceedings in the District Courts. In the last, the manner in which appeals from justices of the peace are to be tried is defined and expressly provided for. In all the intervening time since those acts were passed they have been acted on and judicially recognized as valid without having ever before been questioned. If, however, they are repugnant to the constitution and could not give jurisdiction, neither the lapse of time nor the practice of the courts can vindicate the exercise of such jurisdiction.

Justices of the peace and other inferior tribunals are recognized by the Constitution; the extent of their jurisdiction, however, is left wholly to the Legislature. But the District Court and the Supreme Court, both as to their institution and jurisdiction, are essentially the creatures of the Constitution. On those courts the Legislature can neither confer or take away jurisdiction. If the jurisdiction given by the Constitution cannot be exercised because the mode has not been expressly provided for in the fundamental law of their creation, it would be competent for the Legislature to regulate the manner in which it should be exercised. But if the mode had been expressed contemporaneously, and by the same authority that created the jurisdiction, it would not be competent for the Legislature to direct a different mode. The Supreme Court is exclusively a court of appellate jurisdiction. The Constitution has conferred on it no original jurisdiction, nor can the Legislature confer any such, because it has been created by the Constitution an appellate tribunal only. The District Court is a court of original jurisdiction, and this original jurisdiction is not derived from nor dependent on the Legislature. All that can be done by the Legislature is to regulate the manner in which its jurisdiction shall be exercised. If the Constitution has not given it appellate powers it is not competent for the Legislature to do so. There is a very obvious distinction, to my mind, between controlling an inferior jurisdiction and the exercise of an appellate power: the former can be exerted to prevent action; the latter requires the act to be done before it can be appealed from.

Hence, when the 10th section of the IVth article of the Constitution confers the powers on the District Court and the judges thereof to 'issue all writs necessary to enforce their own jurisdiction and to give them a general superintendence and control over inferior jurisdictions,' it does not, from necessity or by reasonable inference, give them appellate jurisdiction. If it was intended to withhold general appellate jurisdiction, and not to give a control over inferior jurisdiction, it would have been difficult to have expressed that object in more appropriate terms than have been used. A control of the acts of those tribunals is expressly given by the issuance of writs very familiar to courts of general original jurisdiction. The writs of *certiorari*, *mandamus*, *quo warranto*, injunction and prohibition, would afford ready means of exercising control. Had it been intended that, in addition to the use of these writs, a general appellate jurisdiction should be exercised, it is certainly most probable that it would have been so expressed in the 10th section, as it is in the 15th section, in giving jurisdiction over the Probate Court.

Believing that the power to give jurisdiction by the act of the Legislature cannot be derived from the Constitution, there is no error in the decision of the court below in dismissing the appeal. Judgment affirmed.

Thus early in the history of our State were adopted and applied rules of strict construction of constitutional grants of power to the several courts created by organic law. These rules were most rigidly and consistently enforced in interpreting all our constitutions up to the amendments of 1891, and notwithstanding the evident intent to avoid them manifested in those amendments, their influence continues to be felt in some of the courts now existing.

The legislature at this first session also gave special attention to matters of practice in the courts, and passed an act, approved May 13, 1846, to regulate proceedings in the district courts, which comprised 158 sections, and covered the whole field of procedure in said courts, enumerating and repealing by name every former provision relating to practice in civil suits, but not repealing the act adopting the common law as to evidence and juries except so far as in conflict with it.<sup>7</sup>

The requirements of this act as to pleading are as follows:

Sec. 3. Be it further enacted, That all civil suits in the district court shall be commenced by petition filed in the office of the district court.

Sec. 5. Be it further enacted, That the petition may be filed by

<sup>7</sup> Laws of the First Legislature, 363, Hartley's Digest.

the plaintiff or attorney and shall set forth clearly the names of the parties and their residences, if known, with a full and clear statement of the cause of action and such other allegations pertinent to the case as he may deem necessary to sustain the suit, and also a full statement of the nature of the relief requested of the court.

Sec. 29. Be it further enacted, That the defendant in his answer may plead as many several matters whether of law or fact as he shall think necessary for his defense and which may be pertinent to the case: provided, that he shall file them at the same time and in due order of pleading.

Sec. 32. Be it further enacted, That all pleas filed shall be taken up and disposed of by the court in due order of pleading under the direction of the court.

That the full force of this law may be appreciated it is well to consider the construction placed by our supreme court upon the prior acts of congress with reference to procedure, and particularly upon the words "petition and answer" as occurring therein. The case of *Underwood v. Parrott*<sup>8</sup> was an action brought in the district court, apparently before the adoption of the constitution of 1845, though the decision of the supreme court was not rendered until the December term 1847. In this case Judge Wheeler speaking for the court says:

The act of 1840, "to regulate proceedings in civil suits," 4 Stat. 88, declares that, "the adoption of the common law shall not be so construed as to adopt the common law system of pleading but the proceedings in all civil suits shall, as heretofore, be conducted by petition and answer."

This provision was evidently intended not to prescribe the rules, but to designate the system of pleading to be observed in our courts. The attention of the legislature was directed to the fact, that different systems of conducting the allegations of the parties prevailed in different countries and in different jurisdictions in the same country. They had adopted as the body of our municipal law the common law of England, but they were averse to the system of pleading observed in the forums of that country; and recurring to the fact that a different system prevailed here with which the courts and bar was supposed to be familiar; and which was supposed to be more simple and equitable, and better adapted than the English system to attain the true and ostensible object of all systems of pleading—a just decision upon the merits of the matter in controversy—they determined to retain the existing system. Hence the antithesis which the last member of the sentence presents to the first; the words "petition and answer" being used in opposition to

<sup>8</sup> 2 Texas, 178.

“the common law system of pleading,” not to signify the stages of pleading to which these words give names, but to designate the *system* to which they belong. And, doubtless, to secure one uniform system of conducting the allegations of the parties, as well as to retain for that purpose the then existing system, they declare that the proceedings “in all civil suits”, whether they would have appertained to the common law or chancery jurisdiction in England, “shall as heretofore, be conducted by petition and answer.” These words then were not intended as a restriction or limitation of the pleadings to the answer, but as the designation of a system of pleadings—that being the subject present to the mind of the legislature, who were not treating of a declaration or plea, or of a petition or answer, but of the remedial systems in which those terms are employed, and which they describe; and they used them not to denote a prescribed formulary, but as indicative of their intention to retain the then existing system in opposition to the common law and chancery systems of pleadings in England. They retained the existing system without alteration, “to be conducted,” in their own language, “as heretofore.”

The inquiry then resolves itself into this: was a replication recognized by the laws anterior to the cited provision? By reference to the laws of the State of Coahuila and Texas, decree 277, sec. 6, art. 101, p. 266 of the laws and decrees, it will be found that the former laws upon the subject did permit the parties to employ the *republica* and *duplica*, answering to the replication and rejoinder of the English system; but to these they restricted the pleadings. And although the body of the former laws was repealed at the period of the adoption of the common law, 4 Stat. pp. 3, 4, yet the same legislature retained the system of pleading in opposition to that of the common law. Id. 88, sec. 1. That it is allowable, therefore, to carry the pleadings beyond the answer, I cannot doubt. In a case like the present, to reply the facts intended to be relied on in evidence to repel the defense disclosed by the answer, would seem most consonant to principle and convenient in practice. If the party must apprise the court orally of the facts intended to be relied on before he can insist upon the introduction of his evidence, why not put them in writing upon the record, not only for the information of the court, but to apprise the opposite party of the proofs he must be prepared to meet. This would seem more consistent with fairness and justice than to permit a party to assume mentally the basis of his proofs, and disguise and conceal them for the purpose of surprise and undue advantage. It would prevent confusion and embarrassment, surprise and injustice in the district courts, and would present the case in a far more intelligible form for revision here. It would disencumber the record of a mass of matter embodied in bills of exceptions and statements of facts; for it is only by these, in the

absence of pleadings, that the matters arising subsequent to the answer can be presented here for revision.

At the same session of the supreme court, the case of *Coles v. Kelsey* was decided, Justice Lipscomb rendering the opinion.<sup>9</sup> In it he uses this language:

I do not believe, however, that on this subject we can with safety rely on common law rules of pleading, as our system of bringing suits by petition bears no analogy to the common law practice. But there is a most striking similarity in our forms to the English bill and answer in chancery, so much so as to leave no doubt of their kindred origin. They are both derived from the Roman law, out of which grew up the civil law, which now prevails all over continental Europe with various modifications; ours came to us through the laws of Spain. Judge Story says that equity pleadings were borrowed from the civil law, or from the canon law, which is a derivative from the civil law, or from both. Hence, at almost every step, we may now trace coincidences in the pleading and practice in a Roman suit. Story's *Equity Pl.*, sec. 14. The same author, section 23, says "an original bill praying for relief is, as we have seen, founded upon some right claimed for wrong done by the defendant, in order to enable the court to understand the case, and to administer the proper remedial justice, as well as to apprise the opposite party of the nature of the claim and of the redress asked, and to enable him to make the proper defense thereto, it would seem indispensable that the bill should contain a clear and exact statement of all the material facts."

This is a pretty accurate description of what a petition ought to embrace in our courts; in truth, to set aside a few set phrases, which are mere matter of form, there is no difference in their structure. There is, however, another reason that should recommend the chancery practice to our courts as rules of pleading in preference to that of the common law courts. It will be seen that the legislature has expressly directed that suits should be brought by petition, i. e., the act to regulate judicial proceedings in civil suits, section 1: "That the adoption of the common law shall not be construed to adopt the common law system of pleading, but the proceedings in all civil suits shall, as heretofore, be conducted by petition and answer." (See *Acts Congress 1840*, p. 88.) Thus in express terms it continues the former practice that had grown up under the civil law. And the 4th article, judicial department, section 10, of the constitution of the state, in granting jurisdiction to the district courts, directs that 'it is to be exercised without regard to any distinction between law and equity;' this mixed jurisdiction must doubtless still more as-

<sup>9</sup> 2 *Texas*, 542.

simulate our proceeding to the pleadings in chancery, as every cause of action must be asserted by the resort to the petition, to be modified to suit each particular case. I do not mean to be understood as maintaining that we have the chancery rules of pleading as a body, I only mean that they will be found more analagous to our system and more to be relied on, than those of the common law.

These cases show clearly that by "petition and answer" in the early laws of Texas is not meant the written instruments so familiar to the Texas practitioner under those names but a system of pleading, unique in its character, and without any exactly corresponding counterpart.

In the course of the many changes in our law—organic and statutory—this blended jurisdiction of law and equity in the same court and this system of pleading by petition and answer have remained unaltered.

The difference between this Texas method of procedure and the common law is too plain to need pointing out. The difference between this and the ordinary code system is also apparent. The Texas plan allows to both the parties and to the court the greatest latitude which is consistent with safety, and yet encourages the parties to make known to the court the very facts upon which they respectively rely, and puts a premium upon clear, concise and logical statement of these facts. It does not require the attorney for either party to determine in advance at the peril of his client whether his cause of action be technically legal or equitable, or in what form of action he shall proceed, or to select one issue upon which to risk the whole case; but permits him to present to the court every phase of the controversy and to ascertain whether or not, from any point of view, consistent with truth, his client is entitled to relief.

The constitution of 1845 was amended in 1850 so as to make the judicial officers elective; with this exception it remained unaltered until the convention of 1861, when it was modified so as to conform to the changed conditions arising from secession. As thus modified it constituted the state constitution during the existence of the Confederate government.

In 1866 another convention met in Austin and proposed certain amendments to the constitution, making it conform this time to the change growing out of the defeat of the Confederacy.

These amendments were voted on by the people on the fourth Monday in June, 1866, and were adopted, and the officers therein

contemplated were elected and entered upon the discharge of their duties. The congress of the United States, however, refused to admit Texas into the Union under this constitution, and the government formed under it was dissolved and a reconstruction government instituted and maintained under acts of congress. By this power a convention was called to frame another constitution to be submitted to the people and then to the Federal congress. This convention met in Austin on June 1, 1868, and adjourned Feb. 6, 1869. The constitution passed by it in its "Election Declaration" provided for its submission to the people on the first Monday in July, 1869, but the powers at Washington did not concur in this date. The president by proclamation of date July 15, 1869, ordered its submission on Tuesday, November 30, 1869. The time was again changed by the military commander, and the election in fact took place on Nov. 30, and Dec. 1, 2, and 3, 1869.<sup>10</sup> The constitution was adopted, and, at the same time, the State officers and others contemplated therein were elected. The legislature met Feb. 25, 1870, and adopted the thirteenth, fourteenth, and fifteenth amendments to the constitution of the United States. By act of congress approved and taking effect March 30, 1870, Texas was restored to full fellowship in the United States.

The judicial system under this constitution was as follows:

Section 1. The Judicial power of this State shall be vested in one Supreme Court, in District Courts, and in such inferior courts and magistrates as may be created by this Constitution, or by the Legislature under its authority. The Legislature may establish criminal courts in the principal cities within the State, with such criminal jurisdiction, co-extensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law; and the Judge thereof may preside over the courts of one or more cities, as the Legislature may direct.

The supreme court consisted of three judges and had appellate jurisdiction only. In civil cases, this was coextensive with the limits of the State. In criminal cases, no appeal was allowed to the court, unless one of the judges, upon inspection of the record, believed that some *error of law* had been committed in the trial. The district courts had all the jurisdiction now exercised by both district and county courts. The judges of the supreme and district courts were appointed by the governor.

<sup>10</sup> 2 Pasch. Laws, note 1227.



At this period in our history it seems to have been a mooted question whether rendering jury service was to be looked upon as a right to be guaranteed to the citizen or a duty imposed on the juror in the interest of the public. The framers of this constitution inclined to the former view, at least as to certain classes of citizens and hence we find it ordaining in sec. 45, art. 12, that: "All the qualified voters of each county shall also be qualified jurors of such county." As the constitution itself fixed qualifications of voters, the legislature, even if disposed, was powerless to prescribe any qualifications for jury service. Under conditions as then existing not much relief could be reasonably hoped from the legislature. In 1871 a law was passed with reference to juries which while doubtless not specifically so intended, was admirably adapted to placing incompetent and bad men in the jury box. The names of all the qualified voters in each county were to be placed on a list by the county court. No intelligent selection was to be made, nor indeed, any selection of any kind, but the name of every citizen possessing the constitutional qualifications as a voter was required to be entered on this list. Then each name so entered was to be written on a separate slip of paper and these slips placed in a box, and before the adjournment of each term of the district court, the grand and petit jurors for the next term were to be obtained from these by drawing from this box the slips of paper containing the name, each name so drawn being entered on the list. The lists so made were to be entered of record on the minutes of the court, thus giving every one immediate information as to who the jurors were. Clearly the leading idea of the law-makers in the enactment of this statute was to prevent discrimination against any citizen or class of citizens in the performance of jury service. The misfortune was that while it cut off opportunity for unjust and unlawful discrimination, it was equally effective in shutting off discrimination based upon just and lawful grounds. Under it not only were the names of the incompetent and corrupt men on the slips as likely to be selected as any others, but questions of moral character could not be considered at all unless the party had been convicted of a felony, and had thus disqualified himself from voting. The practical working of the law was bad, but no relief of any consequence came until the days of reconstruction were passed, and the adoption of the constitution of 1876 which, on this subject completely changed the above policy. The

framers of this constitution instead of repeating section 45 as quoted above, substituted this mandate "the Legislature shall prescribe by law the qualifications of grand and petit jurors". In August, 1876, assembled the first session of the legislature under that constitution. In obedience to this requirement it passed a jury law which was a marked improvement on its predecessors. The qualifications of a juror were specified. He was required to be a voter, a freeholder within the state, or a householder within the county, of sound mind and good moral character, must not have been convicted of a felony, must not be under a legal accusation of theft or felony, and in counties where voters were numerous, inability to read and write or previous service as a juror for a designated period within six months, before his selection, were made additional disqualifications. The act also provided for the selection by the district and county judges, respectively, of three properly qualified citizens of the county, residents in different portions, as jury commissioners. These persons were to be summoned before the judge immediately upon their appointment. They were sworn as officers and charged by the court as to their duty and were required to select only men who were known to them and who, upon careful consideration, were, in their judgment, qualified in character and intelligence to render efficient service as jurors. The lists of the parties selected were sealed up and delivered to the clerk in open court, oath was taken by the clerk and the commissioners not to divulge the names of the parties selected nor permit the opening of the lists until just before the beginning of the court. By these means each person who was to render jury service was passed upon by three disinterested men, selected by the judge, because of their special fitness, and the names of the persons so selected could not be ascertained until just before the service was to be rendered. Even a casual comparison of this law with that superseded by it shows the very great improvement made by it.

By joint resolution of June 4, 1873, an amendment to the judiciary articles of the constitution was submitted. This increased the number of supreme judges to five, and did away with the provisions denying the right of appeal in criminal cases unless some supreme judge should think an error of law had been committed. It was adopted on December 2, 1873.

This constitution and its amendments were in turn superseded by that under which the government is now being administered, known as the constitution of 1876. This was formulated by a convention which sat in 1875 and was submitted to the people and adopted on February 15, 1876, and by its own terms became operative on April 18, thereafter.

The judicial system created by this instrument (in its original form) comprised two courts of last resort, namely, the supreme court and court of appeals. The first consisted of three judges and had appellate jurisdiction of all civil cases tried in the district courts, but no jurisdiction in criminal cases or in appeals from the county court. The second consisted of three judges and had appellate jurisdiction in all appeals in all criminal cases from the district, and of all appeals from the county court, in both civil and criminal matters. There were four classes of courts of original jurisdiction, namely, district, county, county commissioners', and justices'. The jurisdiction of all of these was, in many respects, the same as the courts of the same designations under the present law.

This constitution made all judicial officers elective.

With the development of the State, and the growth of its population and business, the volume of litigation increased so much that it was found impossible for the supreme court to dispose of the cases brought before it. It was apparent that relief in some form must be provided for the unreasonable delay of justice, which in many cases amounted to a denial of all practical relief. Resort was had to a commission of appeals, consisting of three lawyers appointed by the governor, who were to sit as a commission, and to whom were to be referred causes pending before the supreme court, and civil cases pending in the court of appeals, in which the parties should agree to such transfer. The decision of these cases by the commission was to be final without examination or approval by the supreme court. The act creating this tribunal was approved July 9, 1879.<sup>11</sup>

Serious questions were raised as to the constitutionality of this act, but the majority of the supreme court construed it as creating a board of arbitrators and not a court and sustained the law.<sup>12</sup> By its own terms this act was to expire in two years. The next session

<sup>11</sup> Acts of the Special Session, Sixteenth Legislature, p. 30.

<sup>12</sup> Henderson v. Beaton, 52 Texas, 29.

of the legislature offered an amendment to the judiciary article of the constitution, which, among other changes, proposed to increase the number of the supreme court to seven judges. The adoption of this amendment being doubtful, the legislature, by act of July 9, 1881, provided for a continuance of the commission, making, however, material changes in the law. The reference of cases was no longer confined to those agreed on by the parties, but the supreme court and the court of appeals were authorized to refer cases to it, without such consent; the power to finally determine cases was taken away and the decisions of the commissioners were required to be submitted to the supreme court and were not to be valid unless approved by it; so when adopted the opinions were to be published officially, and the judgments were to be rendered by the supreme court in conformity with the decisions. This act was also attacked as unconstitutional, but was again sustained; this time on the theory that, while the voluntary feature of the former law, upon which it had been sustained, was eliminated, yet the denial of the right of final determination of questions by the commission, and requiring all decisions to be approved by the supreme court, made the law valid.<sup>13</sup> The proposed amendment to the constitution was voted on in September, 1881, and defeated. The commission of appeals was continued from time to time until by act of April 8, 1891, two sections of three judges each, were created. It soon became apparent that it required a very large share of the time and attention of the supreme court to examine and pass upon the work of the two commissions and that the continuance of that policy by increasing the number of commissions would soon result in practically depriving the supreme court of any opportunity to consider and decide cases upon its own investigation. Some change seemed imperative. The legislature submitted amendments to the judiciary article of the constitution, which were voted on and adopted in September, 1891. These are the present constitutional provisions on this subject.

The changes wrought by these amendments are great. The present system consists of one supreme court, having civil jurisdiction only, and whose duty it is to revise decisions of the courts of civil appeals in enumerated classes of cases, and to hear a few classes of original suits against the heads of departments and State officers; a court of criminal appeals, having appellate jurisdiction of

<sup>13</sup> Stone v. Brown, 54 Texas, 330.

all criminal cases tried in the district and the county courts, but having no civil jurisdiction whatever; courts of civil appeals, having appellate jurisdiction of all cases tried in the district and county courts, and whose decisions in many classes of cases are final, and in others are subject to review and correction by the supreme court; district courts, having jurisdiction over the larger share of civil litigation of importance, and of criminal cases of the grade of felony, and of all suits and complaints, jurisdiction over which is not expressly conferred on some other tribunal; county courts, having jurisdiction of civil matters of less importance than those committed to the district court, and of all matters of probate, and of misdemeanor cases; justices' courts, having jurisdiction over all civil litigation involving less than two hundred dollars and not committed to some other court, and criminal jurisdiction of misdemeanors where the penalty does not exceed a fine of two hundred dollars; and a county commissioners' court, having jurisdiction over all county business matters.

The most material of these changes are: to deprive the supreme court of immediate jurisdiction in cases appealed from courts of original jurisdiction, and confine it to the hearing of designated kinds of cases coming from the courts of civil appeals, and to give to it original jurisdiction in certain kinds of cases against heads of departments of the State government, when the legislature should so provide; to create a court of last resort in criminal cases without any civil jurisdiction; to create courts of civil appeals, to which all appeals from district and county courts in civil cases lie; and to give to the district court original jurisdiction of all suits that are not within the expressed jurisdiction of some other court. Some of these changes, particularly the creation of the courts of civil appeals with final jurisdiction over so many cases, have been somewhat severely criticised, but in actual experience the plan seems to be working well. The courts have been enabled to decide cases submitted within a reasonable time thereafter, so that now it is practicable to bring suit and have it finally determined in time to insure beneficial results from the litigation for the party who shall prove successful.

Whatever may be its defects, its practical working is better than any plan heretofore adopted, and he who desires to change it, must come prepared with a substitute which gives promise of better results.

ENDURING LAWS OF THE REPUBLIC OF TEXAS. II.<sup>1</sup>

C. W. RAINES.

[In the preparation of this paper I have consulted the Journal of the Consultation, 1835, the Journal of the Convention, 1836, the Journals and Laws of the Congresses mentioned, and the archives in the Department of State, Austin.—C. W. R.]

The law for the present location of the seat of government in Texas is the first subject of the present paper; but before setting it out in full I shall enumerate, as a matter of interest, all the preceding capitals of American Texas with the circumstances which led to their selection as such.

Of the three departments into which Texas under the Mexican regime was divided, Bexar was practically all Mexican in race and sentiment; Nacogdoches had a large Mexican leaven; but Brazos was heart and head American. It was this department embracing Austin's colony that threw down the gauntlet of defiance to the usurping Santa Anna in 1835 and called for a consultation of all Texas at San Felipe de Austin.

The Brazos influence easily dominated the consultation, as Bexar failed to have any delegates therein, and it abolished the departmental system, making Texas a central republic, one and indivisible. Santa Anna was denounced for warring against the constitution of 1824, and a provisional government was established for Texas at large and San Felipe de Austin, the capital of Austin's colony, and the capital of the department of Brazos as well, became *de facto et de jure* the first capital of American Texas.

In despair of the Federal system in Mexico, the people of Texas through their representatives met in 1836, on the call of the provisional government, in Washington on the Brazos. Not a consultation was this, but a convention or constituent assembly in which all the powers of sovereignty were claimed and exercised in the declaration of independence and the formation of a constitution and the inauguration of a full corps of executive officers. After a

<sup>1</sup> See THE QUARTERLY for October, 1897.

stormy session of seventeen days beginning March 1, the Convention dissolved before the advance of Santa Anna's legions.

President Burnet for convenience selected for the seat of government Harrisburg on Buffalo Bayou, to which place he promptly repaired with the archives and part of his cabinet.

The deflection up the Brazos of the retreating Texan army left Harrisburg open to the enemy, and Santa Anna with 750 men made a dash on the capital. Arriving at 11 p. m. April 13th, the Mexican dictator learned that President Burnet and other officials had taken the archives and fled down the Bayou that afternoon in a steamboat. No official documents issued from the ephemeral capital, Harrisburg, save a few executive orders and proclamations.

It becomes difficult now to fix the exact *situs* of the Texan capital though the perambulations of the president may mark it with approximate correctness.

Despairing of Santa Anna's being arrested by a battle of Houston's fighting, Burnet with part of his cabinet abandoned the main land of Texas and taking refuge on Galveston island offered to share with the General the comforts of that sand-bank retreat if he deemed it still imprudent to give battle. But the long delayed fight for Texas as last came off at San Jacinto, effectually checkmating the further Mexican advance. Then the sovereignty of the Republic as represented in the person of the president was soon transferred from the sea-coast to the battlefield. Meanwhile the captive dictator by the arts of diplomacy retrieved in a measure the Mexican fortunes in effecting an arrangement with his conqueror for the unmolested retirement of the Mexican army across the Rio Grande. To this arrangement between Houston and Santa Anna President Burnet assented; and to fully consummate the proposed treaty the sovereign heads of Mexico and Texas hastened away on the historic steamer Yellowstone to Velasco, then the great seaport of the Republic.

In this capital (for the president and archives were here) was concluded and signed in person the agreement between Santa Anna and Burnet, known as the treaty of Velasco. The ill will towards the butcher of the Alamo and Goliad was so intense that his liberation under the provisions of the treaty was defeated by a popular commotion, which growing in virulence menaced the stability of the Texan government.

Wearied with the clamor of faction, President Burnet ordered in July the first general election under the constitution, and the officers elected met under his call in October at Columbia and organized the permanent government of the Republic.

Meanwhile the enterprising Messrs. Allen were laying out a new town called Houston at the head of navigation on Buffalo Bayou. What influences may have been brought to bear upon the government are not now known. It is certain, however, that the seat of government was, on December 15, 1836, ordered removed from Columbia on the Brazos to the town named in honor of the new President, where it was to remain from April 10, 1837, till the meeting of congress in 1840. And the president was authorized to cause to be erected the necessary buildings for the accommodation of the congress and of the different departments of the government at the place selected; provided the sum or sums so expended should not exceed \$15,000. So the capital of Texas remained only about three months at Columbia, where the government of the Republic first went fully into operation.

The following account of the proceedings is given in the Senate Journal of the first Congress:

“The two houses in joint session in the Representative chamber proceeded to vote *viva voce* for the location of the seat of government.

	FIRST BALLOT	SECOND BALLOT	THIRD BALLOT	FOURTH BALLOT
Nacogdoches . . . . .	4 votes	.....	1 vote	.....
Hidalgo . . . . .	1 vote	1 vote	.....	.....
Matagorda . . . . .	8 votes	7 votes	7 votes	4 votes
Houston . . . . .	11 votes	17 votes	19 votes	21 votes
Washington . . . . .	7 votes	12 votes	13 votes	14 votes
Velasco . . . . .	3 votes	.....	.....	.....
Refugio . . . . .	1 vote	.....	.....	.....
Goliad . . . . .	1 vote	.....	.....	.....
Bexar . . . . .	3 votes	1 vote	.....	.....
San Patricio . . . . .	1 vote	.....	.....	.....
Fort Bend . . . . .	.....	1 vote	.....	.....
Columbia . . . . .	.....	.....	.....	1 vote

Twenty-one being a majority of the whole number polled, the town of Houston was declared by the speaker of the house of rep-



representatives to be duly chosen as the place at which the two houses of congress had fixed the seat of government till 1840.

The congress met in the unfinished capitol building at the town of Houston on the 1st of May, 1837. It seems to have been thought that, because the law placed at the disposal of President Houston the sum of \$15,000 for the needed public buildings, the government would erect its own capitol. On the contrary, a rental of \$5,000 per annum was paid by the Republic to the Messrs. Allen for their building. Whether from this or from some other cause I do not know, opposition to the new capital soon began to show itself, and in a little more than a twelvemonth after there was a spirited contest for the honor temporarily conferred on Houston among Black's Place, Bastrop, San Felipe, Nacogdoches, Comanche, Mound League, and Eblin's League<sup>1</sup> as rival sites. The last was chosen by the second congress as the permanent seat of government for the Republic. The joint resolution to this effect perhaps fell through for want of the president's approval, as it does not appear among the printed laws of the Republic.

It was not until the session of the third congress that the question of a permanent capital was definitely settled. On the 19th of January, 1839, President Lamar approved the act herein described as one of the enduring laws of the Republic. It was entitled "An act for the permanent location of the seat of government," and reads thus:

Section 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled:

That there shall be and are hereby created five commissioners, to be elected two by the Senate and three by the House of Representatives, whose duty shall be to select a site for the location of the seat of government, and that said site shall be selected at some point between the rivers Trinidad and Colorado and above the old San Antonio road.

Sec. 2. *Be it further enacted,* That the name of the said site shall be the City of Austin.

Sec. 3. *Be it further enacted,* That said commissioners or a majority of them be, and they are hereby required, to select not less than one nor more than four leagues of land for said site, and if the same cannot be obtained upon the public domain or by individual donation, then and in that case the said commissioners shall purchase the

<sup>1</sup> In Fayette county on the east side of the Colorado below La Bahia crossing.

aforesaid quantity of land from any person or persons owning the same: *Provided*, that the price of the land so purchased shall not exceed three dollars per acre: *And further provided*, That not more than one league shall be purchased at such a price as three dollars per acre.

Should the site, however, be on individual property and the commissioners be unable to purchase it according to the authorized terms, they should proceed to acquire it under the law of condemnation as expressed in the act.

The salary of the commissioners while at work was to be eight dollars per day, but before beginning their labors they were to enter into bond with good security of one hundred thousand dollars each to be approved by the president, payable to him and his successors in office, conditioned on the faithful performance of the duties of their office, and take an oath to "faithfully and honestly" perform those duties.

Section 9 of the act required, "That immediately after the president receives the report of the commissioners, it shall be his duty to appoint an agent, whose duty it shall be to employ a surveyor at the expense of the government and have surveyed six hundred and forty acres of land on the site chosen by the commissioners into town lots under the direction of the president, which shall be by said agent advertised for sale for ninety days in all the public gazettes of the Republic, and also in the New Orleans Bulletin and Picayune, etc.

Section 12 made it the duty of the agent before the sale of said lots to set apart a sufficient number of the most eligible for a capitol, arsenal magazine, university, academy, churches, common schools, hospital, penitentiary, and for all other necessary public buildings and purposes. An act supplementary to the above and approved January 23, 1839, authorized the president to "have at the capital selected such buildings as he may deem necessary for the accommodation of the fourth annual congress of the Republic, together with the president and cabinet and other officers of the government," and further made it the duty of the president, together with his cabinet officers, to proceed to the capital with the archives of the government previous to the first day of October, 1839. For the purposes of this supplemental act the sum of \$20,000 was placed at the disposal of the president.

The commissioners selected by the Senate were A. C. Horton and I. W. Burton, and those selected by the House of Representatives were William Menefee, Isaac Campbell, and Louis Cooke. Edwin Waller was the surveyor. These gentlemen entered upon their duties with all convenient dispatch in the designated territory. According to their report<sup>2</sup> of April 1, 1839, to the president, the site of the hamlet of Waterloo, on the left bank of the Colorado, was selected as the proper place for the permanent seat of government, and a tract of land consisting of one league and two-thirds of a league and two labors, or about 7000 acres, was purchased at the maximum price of three dollars per acre.

The report is lengthy and somewhat verbose and grandiloquent in expression. The fertility of the soil, the beauty of the situation, the salubrity of the climate, and the grand mountain scenery are all noted by the enraptured commissioners, and, while stating that the chosen site for the capital is directly on the great trail of Mexicans and Indians from East Texas to Matamoras and at its intersection with the main route for trade between the Gulf of Mexico and Santa Fe, they fail not to enlarge on the prospects of building upon this spot a great national city.

Later on, an area of one mile square extending from the river into the open prairie was surveyed by General Edwin Waller and laid out in lots for the prospective city of Austin, and the public buildings were erected on contract in due time. In October the president and cabinet approaching the new capital were welcomed by a crowd of citizens headed by Ed Burleson and Albert Sidney Johnston and escorted into the city. The distinguished officials were royally entertained at Bullock's Hotel, where were gathered the beauty and chivalry of the Republic. "The elegant dinner," (we are told), "provided under the immediate supervision of Madame Bullock reflected great credit on that lady's taste and superior judgment, displayed in the arrangement of the table and the delicacies which graced the festive board."<sup>3</sup>

The fourth congress convened at the new capital on November 11, 1839.

The present city hall on the northeast corner of Eighth and Colo-

<sup>2</sup> Box No. 33, vault No. 2, archives Department of State, Austin.

<sup>3</sup> Austin City Gazette, Oct. 30, 1839.

rado streets, stands on the site of the first capitol building erected under contract for the Republic. It was a one-story frame structure of two large rooms separated by a wide corridor with offices in the rear for committees. From the gallery on the entire front of the building there was an unobstructed view to Congress Avenue, then, as now, the main thoroughfare of the city.

The Executive Mansion, where St. Mary's Academy now stands, was a neat two-story frame building painted white. It appears to have been the most stylish of the public buildings of the period; though occupied by only two presidents, for a short while by Lamar and for a still briefer period by Houston. The other government edifices were generally log cabins scattered along Congress Avenue.

With the succeeding administration came trouble to the town of Austin in an attempt of the seventh congress to remove the capital further back within the settlements. Disquieting rumors of a Mexican invasion perhaps causing this action against Austin, hastened, without doubt, the adjournment of congress. The Vasquez raid early in March, 1842, of seven hundred Mexican guerrillas on San Antonio furnished the pretext for executive interference. Under the clause of the constitution which provided for the removal of the archives from the seat of government in cases of emergency in time of war, the president issued his order of March 13 from Galveston for the return of the archives to the city of Houston for security. A few weeks after the more serious raid of Woll in September, the archives by executive order were sent off to Washington. Thus after divers and sundry dire perambulations on land and water over the Republic the archives first swelling and then sinking in volume, completed the circle in getting back to the capital so unceremoniously abandoned six years before.

The dreaded gucrillas not taking San Antonio any more, the archives had no further cause for removal till annexation, and remained at Washington. In default of better accommodations here the houses of congress were forced to use the upper apartments of two grog-shops for their sessions during the closing days of the Republic.

As to the legality of the first removal of the archives from the seat of government, I will content myself with observing that the constitution warranted a removal in case of emergency; but it was not generally believed even then that the report of seven or eight

hundred Mexican raiders in exciting fight eighty miles distant made the emergency contemplated. Nor is it my purpose to discuss in this paper the merits of the unseemly squabble over this removal between the archive committee and President Houston. However, it may be of interest to note that the discomfiture by the people at Austin of the military company sent out by the president to surreptitiously complete the removal of the archives, closed the forcible and unlawful efforts to change the seat of government.

But few even of those who justified the first removal of the archives would now defend the continued opposition of the two last presidents to the restoration to their proper place of custody at the legal capital.

Annexation, making ridiculous the further plea of the danger of Mexican raids, restored the lost prestige of Austin. The convention provided, in the constitution adopted, that Austin should remain the seat of government for the state till 1850, when the permanent capital should be determined by popular vote. In the election of that year to determine the question, Austin easily distanced all her competitors, receiving 7674 votes, while 1854 were cast for Palestine, 1143 for Tehuacana and a scattering vote for Washington, Huntsville, and other places. It required a majority of all the votes polled to elect, and Austin was chosen by about 1000 majority of the whole vote counted. The election, however, did not definitely settle the matter, as it was provided by law that the question should be submitted to the result of another election twenty years later. The State being at that time in the throes of reconstruction the question was not again submitted to the choice of the people till at the general election of 1872. The result showed for Houston, 35,188 votes; Waco, 12,776; and Austin, 63,297, or a clear majority of the whole vote. The city of Austin was accordingly declared to be, by popular choice twice expressed in a legal manner, the permanent seat of government of the State of Texas.

Since then there has been no serious attempt to disturb the verdict of the people on this matter now considered settled. Finally, the wisdom of the framers of the act in 1839 for the permanent location of the seat of government being so amply vindicated up to this time, the act itself is rightly classed among the enduring laws of the Republic.

On January 14, 1839, was approved by President Lamar "An act amending an act entitled an act adopting a National Seal and Standard for the Republic of Texas." The original act approved in 1836 was but a substantial embodiment of President Burnet's order from Harrisburg prescribing the national standard. The substance of the act is in the subjoined portion:

Section 3. Be it further enacted that from and after the passage of this Act the national flag of Texas shall consist of a blue perpendicular stripe of the width of one-third of the whole length of the flag with a white star of five points in the center thereof; and two horizontal stripes of equal breadth, the upper stripe white, the lower red, of the length of two-thirds of the whole length of the flag; anything in the act to which this is an amendment to the contrary notwithstanding.

This is the present Lone Star Flag of Texas. Though coming after the triumphs of Bexar and San Jacinto, it sprang at once into great popularity. In all the subsequent battles of the Republic around Bexar and on the border from Santa Fe to Mier, the Lone Star Flag represented the sovereignty of Texas. It was not till February, 1846, that it was hauled down from the flag-staff of the old wooden capital of the Republic by Texan hands to give place to the Stars and Stripes. A flag though but a piece of bunting is an emblem of nationality; and the flag logically disappears with the death of a nation, as in the case of Poland, or with the blasted efforts for national life, as in the case of Hungary and of the Confederate States. The subsequent display of their defunct flags by those beaten communities might be a cause of offense to their conquerors.

Not so, however, with Texas. The demise of the Republic, or rather the merger of its sovereignty into that of the Union, was wholly voluntary; annexation itself being the joint act of two friendly sovereignties. Their flags never joined issue in battle. So the Lone Star Flag waving on stated occasion over the dome of our magnificent capitol, is no menace to the Union. This flag is simply a reminiscence, typifying the glories of the old Republic and the display of its bright folds in the sun never fails to awaken enthusiasm in all true Texans.

From the foregoing would it not follow that the law creating the flag became obsolete on the demise of the Republic? Perhaps so, technically speaking; but in a larger and better sense, the law had

become *functus officio*, its object having been effected, and had become on the disappearance of the nation incapable of reform or repeal. Or transferred from perishing paper to the fleshly tablets of the heart, the law makes the Lone Star flag immortal, because the Texans will have it so. But aside from sentiment, does not the flag foster nationality? Undoubtedly, but as already remarked, as a cherished reminiscence only with but the innocent tendency to hold our territorial integrity inviolate.

And this in turn tends to settle the seat of government. It is inconceivable that the City of Austin, bearing the honored name of the father of the Texan colony, situate approximately to the center of territory and population of the State and possessing one of the costliest capitols in the Union could ever cease to be the seat of government of Texas; so long as the sentiment of nationality is unimpaired with the indivisible glories of Bexar and San Jacinto and the unspeakable sacrifices of the Alamo and Goliad alike indivisible.

Whatever may befall Texas, the Lone Star flag will forever live in song and story. To have devised such a flag was a greater honor to Oliver Jones, its author, than any other act of the long and useful life of this noble type of Austin's "Old Three Hundred."

Of the permanence of the laws herein noted, no better reminder could be had than this flag floating over the capitol at Austin on the national holidays of the old Republic.

NOTES ON THE HISTORY OF LA BAHÍA DEL ESPÍRITU  
SANTO.

BETHEL COOPWOOD.

Official notes, entries, and reports made when the events occurred, being the lighted torch of actual observation and practical experience, enabling subsequent writers to correct or avoid popular errors, this article is intended to call attention to some Spanish data of this kind, with notice of the places where same may be found, without reflection upon anything heretofore written on the subject by authors of Texas history.

Under orders from Francisco Garay, then governor of Jamaica, in 1518-1519, Alonso Alvarez de Pineda ran the whole gulf coast from the southern cape of Florida to the mouth of the Pánuco river, and made a chart of it, showing thereon a bay he called "la Bahía del Espíritu Santo," and noting some of the most prominent points in its surrounding topography; and it is probable that Pánfilo Narvaez had a copy of this chart when he sailed from Florida in 1527; for Alvar Nuñez Cabeça de Vaca says of the bay where he and Lope de Oviedo first heard of their three countrymen being with another tribe: "By what appeared to us from it and what we saw, it is the one called de Espíritu Santo," showing that he knew already that there was a bay on that coast called by such a name.

In 1561, by virtue of a royal cedula, Angel de Villafañe and Jorge Seron ran the same coast and made a descriptive chart of it, the original of which exists in the archives of Mexico. It also shows the same bay in about the same manner Pineda's does; and in view of it many consultations of the Consejo de Indias, information given by the viceroy and cedulae of the king were conceived in relation to the gulf coast.

Whether La Salle had copies of or extracts from these charts, which had been in the public archives of Spain and Mexico for over 120 years before he sailed for the mouth of the Mississippi, and knew its bearing from such sources, but was deceived by the effect of the gulf currents on his ships, of which he was ignorant, may



not be certainly known now. But it is true he landed far to the westward of his aim; a circumstance having a direct connection with the history of *la Bahía del Espíritu Santo*.

Having landed and selected the site of his Fort St. Louis, La Salle sent out Jean Henrie to explore the country to the westward; and this man's experience and conduct form an important link in the chain of circumstances identifying Fort St. Louis with the "Presidio de la Bahía del Espíritu Santo." After considerable exploration and the formation of an alliance with an Indian tribe, he was captured by Spanish scouts from Monclova and taken to Monterey and thence to the City of Mexico, and there made a detailed statement of all he knew of La Salle's expedition. And so minute was his description of the place where the French landed and of the site of the fort, that from the descriptive charts of the coast then in the archives, the viceroy readily determined it was on *Espíritu Santo* bay; and he immediately sent orders to Alonso de Leon, then governor of Coahuila, to march to Texas with what troops he already had and such as he could readily equip, to take from the French the lands they might have appropriated in the province and drive them out, or exterminate them, in order to secure the dominion and possession of New Spain in that region. And by means of such description de Leon was enabled to march directly to the French fort, where he arrived April 22, 1689, and found it already destroyed and the Frenchmen massacred, as he stated in his letter of May 16, 1689, to the viceroy, in which he asked for prisoners and permission to construct presidios to preserve the conquest of the country.

Some of the Frenchmen having escaped the massacre, obtained the compassion of a tribe of Indians near there, and were living with them when the Spaniards arrived. Two of these sought the protection of the Spaniards to get out from among the Indians, and were received with benevolence by Alonso de Leon and sent to the City of Mexico, where they gave the government detailed accounts of the sad events that happened to the French expedition in which they had figured.

With such sources of information, after having stood upon the ruins, de Leon certainly knew the site of Fort St. Louis, and there being no reason why he should misrepresent it, his report of its locality may be believed. His standing as an officer of the royal

army and as the king's deputy in the province of Coahuila depended upon the truth of his statements in his report, and he cannot be presumed to have dealt in falsehood in regard to such matters.

The viceroy having granted the request of the letter of May 16, 1689, Alonso de Leon made another campaign to Texas in 1690 with 150 soldiers and a number of priests and other people to establish towns, presidios, and missions deemed convenient for the defense of the country and the conservation of the Spanish dominion therein. And among others founded, was the presidio and mission of la Bahía del Espíritu Santo upon the ruins of the French Fort St. Louis, which continued to be occupied until the French invasion caused the few colonists, priests, and converted Indians of this, as well as those of the other missions, to retreat to San Antonio de Bexar.

Then, under orders from the viceroy, the Marquis de San Miguel de Aguayo, who had succeeded Alonso de Leon as governor of Coahuila, with 500 cavalry and six pieces of artillery, marched against the invading Frenchmen, to drive them back to their ancient possessions and leave the limits well defined, so that they might be respected by the authorities of New Spain and those of Louisiana.

In Bexar, the priests and the families of citizens who had abandoned the frontiers, united with the expedition of the marquis.

After successfully marching to the borders of Red River without encountering any resistance from the French, the Marquis received a royal cedula containing, among other things, the following instructions: "That inasmuch as a treaty of peace had been agreed upon in the Spanish and French cabinets, the war against the Gallo-Americans should not be further prosecuted on the frontiers of Mobile; that he should only secure the recovery of the province of Texas, settle it in the best manner possible, and fortify it, especially at la Bahía del Espíritu Santo:" showing that the King of Spain then knew of the establishment of that name.

Under these instructions, the marquis withdrew his troops from their threatening position before the French, and engaged in the restoration of the presidios and missions they had demolished; and among others, he ordered to be fortified in the best manner then possible, the presidio of San Antonio de Bexar and that of la Bahía del Espíritu Santo; the latter, as he says, having been erected at the same place where Roberto de la Sala built the presidio of San

Luis which had been demolished by the Indians. So wherever La Salle's Fort St. Louis stood, there the presidio of la Bahía del Espíritu Santo was first founded; and if known events that followed identify the spot, the careful historian may point it out.

After Escandon was commissioned to carry on the conquest and settlement of Nuevo Santander, he sent a captain with soldiers and settlers to take possession of la Bahía del Espíritu Santo, claiming it as within his territory, and held it until ordered to remove his people to the south side of San Antonio river, then declared the boundary. This order was obeyed by Captain Basterra's removing the troops, settlers, missionary priests, and converted Indians, together with everything movable, including the bell, door, and name of the place, and placing the establishment on the south side of the San Antonio river opposite the site selected for the new town of Balmaçada at Santa Dorotéa.

The royal engineer, Don Augustin Lopez de la Cámara Alta, made a map of Nuevo Santander, including in the northeastern portion of it the ancient site of the "Presidio y Mision de la Bahía del Espíritu Santo," showing it on the right margin of the "Río de Guadalupe," and placing the site of Santa Dorotéa on the left margin of the "Río de San Antonio," also showing the Espíritu Santo bay into which the two rivers emptied. It also contains a tracing of the route of the troops in going to the presidio and mission on the Guadalupe. It was filed in the archives at Mexico, in connection with the report of Don José Tienda de Cuervo, royal inspector general, in 1757, and is still intact in volume 29 of the historical branch of the general archives.

In volume 55 of the same archives there is a report made by Escandon with a tabulated statement of the towns, etc., he had established, containing these words: "Villa de Balmaçada en Santa Dorotéa. \* \* \* A este paraje se removió el Presidio y Mision de la Bahía del Espíritu Santo." (Town of Balmaçada at Santa Dorotéa. \* \* \* To this place the presidio and mission of la Bahía del Espíritu Santo were removed.)

In one of his reports to the viceroy, Escandon recommended the reduction of the salaries of the captains of some of the new towns, among them "el presidio del Espíritu Santo," at which place he also proposed to establish a new town. And he also shows that after founding the town of Reynosa, he sent orders to the captain of the

troops of Espíritu Santo, Juan Orobio y Bastera, to found the projected town on the Nueces river with the families that had gone out from Nuevo Leon.

In an application for a grant of land, made by Captain José Vasquez Borrego in 1750, in mentioning the settlements and their courses and distances from the land he asked for, he mentions "la Bahía del Espíritu Santo, now removed to Santa Dorotéa," showing that he then knew of this removal. And a testimonio of this application is in the proceedings or expediente of the title among the ancient Spanish archives of Laredo, Texas.

After the removal it continued to be a presidio within Nuevo Santander until the boundary was changed to the Nueces river by a decree first adopted in 1805.

By the royal decree of September 10, 1772, the presidio of la Bahía del Espíritu Santo was made a "plaza fuerte" among the number composing the cordon of such it established from the Gulf of California to the Mexican Gulf, and it continued to be such as long as Spain held dominion over the country.

While a full account of how Bernardo Gutierrez de Lara came to be in the presidio of la Bahía with a force of about 700 men would be too great a digression here, still it would form a most interesting chapter in the life of that Mexican patriot, or in a history of the campaign inaugurated by him and lost by Toledo in Texas.

Having raised at his own expense about 500 men, principally from Kentucky, Tennessee, Mississippi, and Louisiana, including some Frenchmen and Spaniards, and among the Americans, as officers, such men as Magee, Kemper, Lockett, Perry, and Ross, brave men with some knowledge of the art of war as then practised, Gutierrez de Lara proceeded to Nacogdoches, where the troops of that place and those of Adaes joined him; and by means of his proclamation published there he was enabled to increase his forces to 700 brave and determined men, thoroughly skilled in the use of fire-arms. And having spent some time there in organizing his forces and distributing arms, ammunition, etc., he took up the line of march toward Bexar; but as soon as he crossed the Colorado river, he rapidly marched upon the presidio of la Bahía del Espíritu Santo, then garrisoned by a company of royal troops raised in Texas; because he knew the place was fortified and would afford an advantageous base for his succeeding operations, within ten leagues of the

port of Copano, through which he could receive assistance from New Orleans by water. And on his arrival at this presidio in the early part of November, 1812, he was joined by most of the garrison, only a few having fled; and so he became master of the place without resistance. As he knew royal troops in considerable numbers had been massed in Bexar, he immediately added some betterments to the fortifications, built parietines across the ends of the streets, and gathered in all the subsistence possible to enable him to stand a siege.

On the seventh of the same month, 2000 royal troops, commanded by Manuel Salcedo and Simon Herrera, the first governor of Texas, and the second governor of Nuevo Leon, arrived and immediately began the siege. A considerable battle was fought on the fifteenth; and from that time for three months a close siege, with all of its privations and casualties, was maintained; and in the continuous sorties and assaults the besieged lost many of their most valuable men, among them Colonel Magee, while the loss of the royalists was much greater in men, horses, and pack mules. At last, on the 9th of February, 1813, Salcedo made an assault on the fort with increased energy and daring, in which some of his troops reached the street walls with their scaling ladders, causing the besieged to put up a white flag for a parley, which Salcedo and Herrera accepted, withdrawing their forces beyond the range of the guns of the fort—an act fraught with fatal consequences for them.

At the beginning of the parley, Salcedo demanded five of the principal officers of the besieged forces, to be placed by him at the mercy of the viceroy, which was sternly repelled by Gutierrez and his officers, with the declaration that the whole force, as well Mexicans as foreigners, should be allowed to retire with all belonging to them to wherever it might suit them; else they would defend themselves to the ultimate extremity. This being refused by Salcedo, and the negotiations thereby ended, the bells of the little church in the fort suddenly began to ring rapidly and violently to animate the besieged to renew their combat; and though Salcedo came again to the assault, he was completely repulsed on all sides, with heavy losses.

This glorious success on the part of the besieged sent terror into the hearts of the royalists, causing them to clamor for a retreat to

Bexar, which they finally began at night thirteen days thereafter. And the panic increased amid the darkness of the night, causing disorder in the ranks, from which Salcedo lost a third of his forces, some of them going over to the enemy and the balance deserting to their homes. Gutierrez sent a detachment in pursuit of the retreating royalists, which soon succeeded in capturing much of their equipment and many of their horses and pack mules, all of which the captors took into the fort, without any attempt on part of the retreating forces to rescue them. Animated by his success and the increase of forces, Gutierrez renewed the pursuit, and on March 29th, after the failure of Salcedo's attempt to ambush him, succeeded in capturing the whole retreating force, and afterward caused the two governors and twelve Spanish officers to be executed on the Salado creek.

But this digression has been extended far enough, without pursuing it to the fatal end of the campaign in Toledo's defeat by Arredondo on the Gallinas creek.

On the arrival of twelve of the survivors of this defeat at la Bahía del Espíritu Santo with the news of Arredondo's complete success instead of receiving protection, they were put to death by the men left there by Gutierrez, who declared in favor of the royalists, after enacting this least, but most detestable, massacre among the number that occurred in this presidio.

Arredondo soon sent Captain Luciano Garcia to reorganize the company formerly garrisoning the presidio and complete the number of men and horses required by the regulation of 1772.

In May, 1817, Colonel Perry and Major Gordon, who had gone with General Mina from Galveston island, then called Isle of Galves, to Soto la Marina, and there leaving him, had coasted back to Copano bay in their brig, which they left there in a small creek, marched thence with their company of fifty men upon, and laid siege to, la Bahía del Espíritu Santo; the garrison having shut themselves up in the presidio. But while in the most critical part of the assault, they were surprised in their rear by 200 soldiers from Bexar; and in the obstinate battle that ensued, they and all their men were massacred, not one surviving to tell the sad story.

From that time this place of massacres remained a plaza fuerte till the independence of Mexico, and a presidio under the republic

until it was declared to be a town with the name of Goliad, by act of the congress of Coahuila and Texas, passed February 4, 1829.<sup>1</sup>

The last and most noted massacre at la Bahía del Espíritu Santo was that of Fannin's command in 1836, the brutalities and horrors of which have been portrayed in the works of modern writers of Texas history.

After the independence of Texas, the settlements at Goliad were made on the north side of the river and soon became the principal town; and now the old building of the mission of la Bahía del Espíritu Santo stands there on the south bank of the San Antonio river, where the passing traveler may see it without conjecturing the origin of its name or its connection with the history of Texas, coming down from 1519, when Pineda first described and named the bay into which the waters of the Guadalupe and San Antonio rivers flow.

<sup>1</sup> Decree No. 73, Laws and Decrees of Coahuila and Texas, p. 112.

## EARLY EXPERIENCES IN TEXAS. II.

ROSA KLEBERG.

[The following is a continuation of the narrative published in *THE QUARTERLY* for April, 1898, and has been written on the same general plan. —RUDOLPH KLEBERG, JR.]

Upon returning home, everybody went peacefully to work once more. There was scarcely any crime; but times were very hard. Nearly all the cattle in the country had either been stolen by the Mexicans or were strayed and could not be found. A pig and one lame old ox constituted our entire live stock. Our house had been partly consumed by fire, and our crop of corn and cotton was, of course, totally destroyed. Our company went into partnership with Bosticks and planted a field. The work of splitting rails and building fences was very hard, since all of us had chills and fevers.

There was no ready money in the country; at any rate, we had none of it; and, what was worse, were in want of provisions. I sold some fine linen table cloth which I had brought from Germany for rice and flour. Six pounds of flour or rice could be obtained for one dollar. We could not afford to buy meal, we had no corn, and had to substitute hard curd for bread. It was with great difficulty that the farmers obtained seed-corn. My husband travelled two days and a night to buy seed-corn from a farmer living on the Colorado who had succeeded in saving his corn by putting it in an underground cistern. It was here that all our neighbors got their corn, paying \$5.00 per bushel. My husband bought a big work-horse for a labor of land.

The first store that did business after the war stood near the present site of Bellville. San Felipe was rebuilt soon afterwards.

In 1837, my husband was made associate commissioner of the Board of Land Commissioners, and in 1838 he was made president of that body by J. P. Borden, Superintendent of the Land Office. Upon his return from Houston he poured a number of bright silver dollars into my lap. This was the first money I had seen since the outbreak of the war. Later he was commissioned justice of the



peace by President Lamar, when he reunited in marriage great numbers of people who had been married under the Mexican government. By President Houston he was appointed chief justice of Austin county, and had his office at San Felipe. There was considerable legal business at this early time; and, while in the main things were pretty quiet, yet when litigation began in earnest, quarrels and shooting-scrapes were of frequent occurrence. One farmer, having been sued for marking his neighbor's pigs, killed his accuser. Everybody carried his rifle wherever he went, even if it was only to hunt his horses. At elections every one was supplied with fire-arms.

My husband used to tell many amusing anecdotes of the time when he was justice. The principal lawyers at this time in San Felipe were General Portes, R. M. Williamson (Three-Legged Willie), Rivers, and Col. Shepard, the father of Judge Seth Shepard. At the house where they boarded they were much annoyed by their landlady's partiality. It seemed to them that she reserved all the delicacies for her own table, and fed them on but ordinary fare. Williamson one day determined to put a stop to this. Keeping on his big coat, and spreading it out as far as possible, he placed himself in front of the ladies and entertained them in the pleasantest way, while Rivers and Portes exchanged the dishes.

A trifling fellow was in the habit of coming to San Felipe, getting on a spree for a week at a time, making himself a general nuisance, and leaving his family, who lived at some distance in the country, to shift as best they could. One day a "kangaroo" court was organized. General Portes, acting as sheriff, arrested the fellow, while Williamson performed the duties of prosecuting attorney. The latter made one of his characteristic orations while General Portes was engaged in whetting a big machete in the most menacing manner. About this time the fellow's horse was brought up, completely saddled; his counsel gave him a significant wink, and the defendant jumped on him and never returned to San Felipe.

The main road from Houston to Austin passed right in front of our house. There was constant travel, and immigrants passed almost daily. Every one who had a team and had spare time did some "teamstering," for this occupation brought the quickest ready money. Oxen were used for this purpose almost exclusively, a wagon sometimes having as many as five yokes. My husband also engaged in raising tobacco and making cigars, which he sold in

Houston at high prices; and people came from all around to his house to buy it. There was then no duty upon this article.

I can remember very well how the German colonists who settled New Brannfels and Fredericksburg passed our home. About one or two families came by each day. They had a hard time. Many fell sick on the road and died. Prince Solms-Braunfels came to our house one day and wanted me to make coffee for him. He was attended by a number of persons on horseback, and was dressed like a German officer. He impressed me as a conceited fool. He was unwilling to eat at the same table with other people—a manner of conduct which, I fancy, did not serve to raise him in the estimation of the American farmers. Messrs. Von Gleichen and Von Meusebach, who were connected with the colony, and stopped in our house, were very pleasant gentlemen, indeed. They asked me whether it were not desirable that cultivated German families should come. I replied that they would have a hard time.

Most people camped. Only single men, who came to prospect—there were a great many of them, however—stayed at the taverns and boarding houses.

Of German farmers in our neighborhood there were very few. There was the settlement of Oldenburgers,<sup>1</sup> who had come with us, on Cummins Creek; Mr. Ernst's and Mr. Fortrandt's farms at Industry; and Mr. Charles Amsler, a Swiss, who had come with our relatives six months before us, lived within a few miles. Messrs. Lindheimer, Hollien, Lebermann, and Nuthen were with Col. Morgan's company in Galveston, having come from New Orleans. Later Lindheimer came to Cat Spring and lived with us for quite a while. Being a naturalist, he made a specialty of botany, in which science he did the pioneer work in Texas. He sent his specimens to Berlin, and many of the new plants he found received his name. He lived in a miserable little hut, which was crammed full of specimens

<sup>1</sup>The Oldenburgers on Cummins Creek who had come with the Roeder family according to the memoranda of Robt. Kleberg, Sr., were:

R. D. Stolje and wife, (probably Stoehlke)

— Reinerman and wife

— Bartels

— Damke

William Vrels (at the storming of San Antonio)

John Hennike

George Herder (in the battle of San Jacinto)

of animals and plants. On his little Mexican cart he would sally forth on excursions into the wilds of the Brazos bottom, returning with a wealth of new and strange forms of plants and animals.<sup>2</sup> He was a fine gentleman and a splendid scholar. In his later years he published the *New Braunfelser Zeitung*.

I also remember that Pastor Ehrenberg, who escaped from the massacre at Goliad and fought with great valor in the battle of San Jacinto, came to our house and baptized my children.

Of course, I came into contact with the outside world very little. I was busy with my household, and had a great deal of work on my hands; but I attended a few social gatherings. I have already mentioned the little dance in our house in Harrisburg, and I ought to have mentioned in that connection the great ball given by the people of Harrisburg on the occasion of the capture of the old fort at Anahuac in 1835. In the early forties, I remember attending a big dance and barbecue at San Felipe on the anniversary of the battle of San Jacinto. People came from a radius of forty miles. In the open air were two big tables, one covered with barbecued meat and the other laden with cake. The dance was held in the big hall of the court house, which accommodated about one hundred couples. Reels and squares were the favorite dances, and I was much impressed by the loud prompting, which is not customary in Germany.

Col. Pettus and Capt. John York, who had moved to De Witt county two years before, persuaded us to go west, where we settled in 1847. The country was very thinly settled, and was not entirely free from Indians. Capt. York and several others were killed in a fight on the Escondida, in which my husband participated. Our neighbors were Pettus, York, Scott, Bell, and my brother, Albrecht von Roeder. They were a fine lot of people—brave, reliable, and true. This community built the first school house on the twelve-mile Coletto, where Rigley, an Englishman, was the first teacher. There was no postal system to speak of, and letters were carried by private parties as opportunity afforded.

Our home was the meeting place of many young, educated Germans, who, driven out by the revolutions of 1848, hoped to find in Texas the land of freedom. Germans of all classes began to come a little later, and thus the stream continued until the Civil war.

<sup>2</sup>One has only to turn the pages of Coulter's *Botany of Western Texas* to satisfy one's mind as to the magnitude of his work.—R. K., Jr.

## NOTES AND FRAGMENTS.

EARLY TEXAS NOMENCLATURE.—In casting about for fresh material from which to construct a chapter for *THE QUARTERLY*, it occurred to me that a review of the local names attaching to some of the old colonists, together with their significance, might prove interesting.

Though the number of men was so small, there were many whose surnames were the same, and, as they were all more or less known throughout the colonies, various prefixes were adopted to individualize them. These prefixes were the results of accident, incident, or the occupation of the party to whom they applied.

There was, for instance, "Popcorn" Robinson, who was the first settler on the site later occupied by Brazoria. The early arrivals mostly landed at the mouth of the Brazos, and, leaving their families and effects there, struck out into the interior in search of locations. Such a party, starting out up the river, struck camp on the site of the future town. Being pleased with the place, one of the party declared his intention of locating it, and as a preliminary step took from his wallet a handful of popcorn, which he proceeded to plant. The spot, however, proved to be on Austin's reserved land, but that didn't interfere with the claims of the corn. It maintained its ground, at least to the extent of giving name to the place, which became known as the "Popcorn Patch" until it was laid out for a town and rechristened Brazoria. William Robinson purchasing and settling on the "Popcorn patch," the name was extended to him. His family consisted of a wife and a daughter, who married one George Mosely. They probably have descendants in Texas.

The Brown family had the largest representation, with the Williamses a close second. Everybody has heard of "Waco" Brown, but it may not be so well known that his distinctive appellation was the result of an enforced sojourn among the Waco Indians. Then there was "Mustang" Brown, whose occupation was the catching of wild horses; with him in the business was associated one Hopkins, who also shared his title. "Sheep" Brown, living on the Brazos,

above San Felipe, owed his distinguishing prefix to a large flock of sheep, the first in the colonies. "Dog" Brown gained his unenviable notoriety by appropriating another fellow's dog. "Cabris" Brown having in like manner become possessed of a cabristo, or, as the Americans pronounced it, "cabris"—a hair rope,—figuratively speaking expiated his sin at the end of a rope. Then there were Billy Brown and "Buckskin" Billy, and "Little Buckskin" Billy Brown.

Robert Williams, who lived out on the San Bernard, being a man of property, with servants and "store" clothes, was distinguished from the various other members of the Williams tribe by the sobriquet of "Gentleman Bob." "Varmint" Williams, a member of Dewitt's colony, was a collector of wild animals for menageries. His son Napoleon was the only one of the family that I knew. "Pot" Williams, the first constable in San Felipe, becoming engaged in a heated controversy with one Stafford while the two were in camp together, grabbed a small cast-iron pot and smashed it over Stafford's head; thereby earning for himself this euphonious appellation. "Waco" Williams was the first white settler in the Waco country.

Though the "Smith" family was well represented, comparatively few of them seemed to have attained that degree of prominence entitling them to a rechristening. Of these, Erasmus, or "Deaf," Smith is the most conspicuous, not even excepting the governor. Deaf Smith, however, was not, as I have seen it stated, stone deaf, though his hearing was quite defective. The suggestive title of "Picayune" Smith attached to the proprietor of a store in Victoria. Charles Smith, a denizen of old San Felipe, was known everywhere as "Beaver-trap," he having formerly been engaged in trapping.

There were two William Coopers, one of whom had a large stock ranch on the east side of the Brazos below San Felipe de Austin, and was consequently designated "Cow" Cooper. The other, from having had an encounter with a sawmill, from which he came off mangled out of shape, was called "Sawmill" Cooper. He, in company with one Cheeves, put up the first frame building in San Felipe, using it for a saloon.

Robert Mitchell, who gave name to "Mitchell's Bend" on the Colorado, below Austin, was the first man in the colonies to engage in hog raising as a business, which circumstance gave him the name

"Hog" Mitchell, in contradistinction to Asa and Eli Mitchell, who operated the salt works at the mouth of the Brazos.

Judge R. M. Williamson, from an unfortunate affliction which necessitated the addition of a wooden leg to supplement the natural member, which was drawn up at a right angle at the knee, was everywhere known as "Three-legged Willie."

The most amusing story of a name is one pertaining to one "Hop" Johnson, a citizen of the Redlands. It was told of him, and he didn't deny it, that, being in old "No. 9," a notorious gambling house in New Orleans, where the deluded votaries were being fleeced without mercy, he seized the opportunity when the game was at its height, the attention of the crowd being centered thereon, to sweep a pile of money into his hat and gain the door before the denizens of the place grasped the situation. Making for the levee, Johnson, by leaping from pile to pile of cotton bales, finally succeeded in eluding his pursuers and escaped to Texas with his winnings. Said he, in justification of his course, "It was all a thieving game anyway, and my method differed from theirs only in being more direct." His feats among the cotton bales won for him the name by which he was generally known, although he signed his name with three initials.

Later there was a man in Austin called "Ramrod" Johnson on account of the stiff dignity with which he carried himself. His real name I never knew, but he was for a time editor of the *Texas Sentinel*, later changed to the *Western Advocate*.

Capt. Matthew Caldwell, who settled in Dewitt's colony and took an active part in the revolution and also in the Indian wars, was familiarly known as "Old Paint," his otherwise healthy complexion being interspersed with patches of deathly white.

There were also a goodly number of Wallaces, and, singularly enough, they were all named William. I knew several of them, but somehow never met the celebrated "Big-foot" Wallace, the origin of whose nickname seems to be in doubt. "One-eyed" Wallace, who lost an eye in an Indian fight, was for a time clerk of the court of Bastrop county.

"Peg-leg" Ward lost a leg in the storming of the Alamo in the fall of '35, for which he was remembered in a position in the land office. There was about Austin in the early days also a "Quashy" Ward.

NOAH SMITHWICK.

THE MURDER OF THE TAYLORS BY THE INDIANS.—In his chapter on the Indian Tribes of Texas in Scarff's Comprehensive History, Capt. M. M. Kenney has snatched from oblivion a great deal of our Indian history; especially much concerning our troubles with Indians. But I have detected one error which he has evidently drawn from previous writers; mainly, I think, from Rev. Z. N. Morrell. It is in the particulars of the murder of Mr. Taylor and his wife in Grimes county, as given on page 748.

I read the first edition of Rev. Z. N. Morrell's "Fruits and Flowers" soon after its publication, but have not a copy of it now at hand. If I remember correctly, he tells the story of these murders nearly as Captain Kenney tells it. Morrell gives the date as 1839, and does not apply a Christian name to Taylor, but mentions him as "Mr. Taylor." His account, I know, is incorrect.

Taylor's Christian name was not John, as Captain Kenney has it; his wife was not killed on a visit to the place of his murder; and they were not killed in 1836, the date given by Kenney, nor in 1839, that given by Morrell.

Here are the facts: Levi Taylor was killed by Indians March 8, 1837, while in a creek bottom hunting a cow. Another man, Alex Whitaker, was with him, but escaped. Mrs. Taylor, after her husband's death, moved with her children to the residence of Joshua Hadley, and dwelt with his family. She had three children: Franklin, John, and a little girl, aged respectively six, four, and two years. On the night of June 2, 1837, a band of Indians attacked Hadley's house, but were repelled. After they had retired Mrs. Taylor was fearful that the attack might be renewed, and attempted to escape with her children to the residence of Col. Joseph L. Bennet, half a mile distant. Hadley's family tried to restrain her, but could not. On the way she encountered the Indians in ambush, who killed her and the little girl. The two boys ran back to Hadley's. The Indians fired after them, wounding Franklin severely in the hand. John alone escaped unhurt.

Later Levi Taylor's brother, John Taylor, came and took the two little boys to his father, who lived in Tennessee.

I knew Levi Taylor well before his untimely death. I was one of thirteen men who buried him, and I was also one of nineteen who pursued the murderers of Mrs. Taylor and the babe, but the savages escaped. I saw the bodies of Taylor's wife and child after they had

been murdered, and I conversed with the two little boys after the death of their parents and sister. Therefore I am familiar with the facts in the case. They are stated in order to correct the error into which some earlier writer has led Captain Kenney, and for which he cannot be to blame. It is from a sense of duty that I make this correction; and under similar circumstances I should thank any responsible person so to correct me.

W. P. ZUBER.



QUESTIONS AND ANSWERS.

Where are to be found the original documents on the organization of the municipalities of Texas? C. W. RAINES.

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The work about which Edmond J. P. Schmitt inquires in *THE QUARTERLY* for April, 1898, is undoubtedly the "Memorias para la Historia de Texas" of Padre Morfi. It is mentioned by H. H. Bancroft,<sup>1</sup> who cites a copy made in 1792 "by P. Manuel de Vega from the archives of the convent in Mexico." Bancroft cites the collection of original materials used by Morfi in writing the "Memorias, etc.," as "Texas, Doc. Hist.," the full title being "Documentos para la Historia Eclesiástica y Civil de la Provincia de Texas." It seems to be this collection, not the Memorias as Raines appears to suppose,<sup>2</sup> which forms vol. xxvii and xxviii of the Archivo General de Mexico.<sup>3</sup> The Memorias are still unpublished.

GEORGE P. GARRISON.

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All persons of the name of Jennings are requested to communicate with the undersigned, who is compiling a history of the several families of this name.

W. H. JENNINGS,  
172 N. Washington Ave.,  
Columbus, Ohio.

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In reply to queries in the July number by Elizabeth H. West, I can answer:

<sup>1</sup> North Mexican States and Texas, I 631-2 and note.

<sup>2</sup> Bibliography of Texas, p. 152.

<sup>3</sup> Bancroft: North Mexican States and Texas, I xlv.

No. 3. The Mississippi River was called the "Colbert" in honor of the Minister of France, M. Colbert, who died in 1683. In the *Relation de Henri de Tonty*, published by M. Pierre Margry, in Volume I of his "*Découvertes et Établissements des Français*," we find it stated by Tonty that it was La Salle himself who so named the river. "Cela fut cause que nous n' arrivâmes que le 6 Février au fleuve de Mississippi, qui fut nommé Colbert par M. de La Salle."<sup>1</sup>

No. 4. La Salle states first of all that his party was assured by the nations living along the great river that they were the first Europeans who have "*descended or ascended the said River Colbert.*" Moreover, French, who is very often wrong in his conjectures, can hardly be justified in saying that "La Salle seems to have been the first to identify the great river of Marquette and Joliet with the great river of De Soto." On the contrary, in the fragment in his own handwriting, published by Margry in the second volume of his documentary collection, entitled *Revières et Peuplades des Pays Découverts*, disproves this identity by adducing a number of arguments.<sup>2</sup>

No. 5. The Seignelay, or Illinois, is the present Illinois River. It was by way of this river that Père Marquette made his return trip after the discovery of the Mississippi.<sup>3</sup>

EDMOND J. P. SCHMITT.

<sup>1</sup> Loc. cit., p. 595.

<sup>2</sup> See pp. 196-200, loc. cit., Vol. II.

<sup>3</sup> See Marquette, Spark's American Biography, Vol. X, especially p. 298.

## AFFAIRS OF THE ASSOCIATION.

This number of *THE QUARTERLY* has been somewhat delayed, partly to give the printers time to receive some new matrices, recently ordered, and partly by reason of special difficulties that have been encountered in the editorial work. The effort has been made to get out each number early in the month in which it is due, but unforeseen hindrances have arisen in nearly every instance. Energy and experience will doubtless secure the desired punctuality by and by. The management of *THE QUARTERLY* has a certain stock of the first of these necessary qualities, and is rapidly securing more of the second. Meanwhile, let the members be patient.

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Some complaints are made of failure to receive *THE QUARTERLY*. This can hardly be due to any fault in the mailing arrangements at the office; but whenever it happens one of the secretaries should be notified, and the matter shall then have such rectification as may be possible.

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Experience with *THE QUARTERLY* has thus far shown that it is not likely to want for material. More is now offered than can possibly be published. And this suggests one thing that it would be well for those who would be contributors to remember. If one writes about historical facts of which he has no immediate knowledge, he should, in order to satisfy those readers whose commendation is most desirable, always indicate the sources of his information.

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# THE QUARTERLY

OF THE

TEXAS STATE HISTORICAL ASSOCIATION.

Vol. II.

JANUARY, 1899.

No. 3.

*The Publication Committee disclaims responsibility for views expressed by contributors to the Quarterly.*

## THE "PRISON JOURNAL" OF STEPHEN F. AUSTIN.

[This hitherto unpublished private diary appears in **THE QUARTERLY** by the kind permission of Col. Guy M. Bryan, who, as all old Texans know, is a nephew of Stephen F. Austin. It follows closely a copy in possession of Colonel Bryan made by his brother, Moses Austin Bryan, from the original, which was written by Austin in pencil in a small blank book that he managed to conceal when he was searched at the time of his incarceration. The matter at the end refers to a project which Austin succeeded in accomplishing while he was in Mexico, and which was in fact the establishment of the first public mail route between the Mexican Republic and the United States. This matter is written without a date on the back of the last page of the copy.

Col. Bryan says that Austin's criticism of the Catholic church should be taken as referring not to the church in general, but to the form of Catholicism then prevailing in Mexico.

The italicized title given below is written in ink on the cover of the MS., except the explanatory words, "private" and "before confinement and," which are added by Col. Bryan. Under this title on the MS. are penciled the words: "Three months in the ex-Inquisition & not allowed to speak to any one, one year in the Prison of the Acordada, and the balance of the time with the City of Mexico for his limits, under bond, and was finally released without trial under a general amnesty law passed by the Congress." This title and the penciled addition would appear to be original with Moses Austin Bryan.—EDITOR QUARTERLY.]

*Private Diary of Genl. S. F. Austin before confinement and while confined in the Ex-inquisition city of Mexico, 1833 & 1834 & 1835.*

I left Mexico on the 10th Decr., 1833 in a coach in company with Don Luis de la Rosa, deputy in the general congress, Don Octavian de la Rosa, & Don Migual Ortega.

The 1st day at Tampantla.....	5 Leagues.
Decr. 11th at Huihuitoca . . . . .	12 “
Decr. 12 “ Tula . . . . .	12 “
Decr. 13 “ Arroyo Sarco . . . . .	13 “
Decr. 14 “ San Juan del Rio . . .	14 “

San Juan del Rio. Very long street; Don Luis and myself went to take a walk, every thing very dull—a church built in 1683 with a new front of the Corinthian order, at the expense, as the padre told us, of a famous robber & assassin, who had been the terror of the country—he was taken at last—he employed the money which he had robbed in building the front of the church—he received civil pardon & spiritual absolution; & went to heaven, so said the padre—& *he knew*, because the tradition was not old, about 50 years.

Dec. 15, at Queretaro—(14 Leagues) A city of convents & churches, with some very good private houses.—The convent of Santa Clara (for nuns) is the largest, it is said, in the Republic, & the richest. The inside of the church is excessively loaded with costly ornaments, all of the most ancient gothic stile, worthy emblem of such a monster, of the past century—One is astonished at seeing these monuments of the barbarity & ignorance of the 10th and 12th centuries, preserved with so much care in the 19th century, & in a Republic. Marry women with God. How ridiculous.—To break the commandment of God himself, & to go contrary to his intent in creating women, in order to please God in consequence.

16th Dec. We remained at Queretaro.—We visited the convents—these are many and very large. In that of <sup>1</sup> Cruz there is a large orchard well watered—It has a large fountain constructed by a marquis who has perpetuated his fame & piety

<sup>1</sup> Here occurs a blank, which was doubtless left to be filled with the exact name afterwards.

by a statue of himself of his own size, which stands in the centre of the fountain on a base of stone—He is habited in the old fashion. There are extensive baths convenient to the fountain, constructed by the same marquis.—How much sweat & tears from the Indian slaves, must the money have cost, which the marquis employed in the construction of this fountain and baths? But he received absolution from the monks & went to heaven.

In the orchard there are many very pretty cypress trees. I collected seeds from them to carry to Texas.—They shewed me some of these trees planted by the hands of the Rev. father Morfit, who had been a monk in this convent, & a missionary at Nacogdoches in Texas. This monk is very famous, for he has been a second Moses. At Nacogdoches all the springs went dry, & he went out with images of the saints & necessary apparatus to perform miracles. He struck a blow with a rod of iron on a rock, which stands on the bank of the creek La Nana, in Nacogdoches, & immediately a stream of water gushed out, sufficient to supply the inhabitants with water to drink. This miracle was canonized in Rome, and a print or engraving of the fact was made in order to perpetuate it.—This same padre, when he left Nacogdoches for Bexar, lost a baggage mule, which a Tiger killed; and in the morning as soon as the padre knew it, he made the Tiger come and kneel at his feet, and then he was harnessed & loaded with the baggage of the dead mule, which he carried to Bexar, & then having received a pardon for having killed the mule, was sent back to the desert. All this is true, because several old women told it to me in Nacogdoches & Bexar, and we ought not to suppose that Rome would order an engraving to be made of a miracle of the water, only to deceive credulous people.

In Queretaro the sweet potatoes are very rich, the best I have ever tasted. Sweetmeats are very good & exceedingly cheap.—In the convent of Santa Clara are sold large quantities of sweet-meats of infinite kinds & qualities—Ah woman, what inadequate shadows are these sweet-meats made by that hands, compared to the tranquil pleasure which ye ought to dispense, by occupying that rank in society & in the world, which the God of nature gave ye, & which the barbarous & avaricious cunning of Rome has deprived ye.

This city is very well supplied with water of good quality, brought by an aqueduct from the mountain in front of the city. It passes a valley on arches, which are very well constructed, & are about

60 or 70 feet high. The aqueduct is about half a league long. It is a useful work, worthy of Paris or any city in the world.

In the public square there is a large fountain of hewn stone, very convenient & beautiful—The water rises to the second story in the houses situated in the lowest part of the town.—There is a story respecting this work, which has been affirmed to me as correct. That two rich men in a moment of conviviality, speaking of the practicability of bringing water from the mountain in front, one said that it was practicable, & the other affirmed that it was impossible, & offered to build a fountain in the public square of solid gold, if the other would bring the water. Upon this the 1st admitted the challenge, & they both mutually obligated themselves to the execution, by an act legally passed. He that offered to bring the water, completed the work & made the aqueduct & arches above mentioned. But he spent his fortune & ruined himself.—The other then refused to make the fountain of gold, a law suit was commenced, & in fine he was compelled to make it of hewn stone, and to conduct the water through all the streets of the city, in which he also expended his fortune & ruined himself. In this case wine rendered a very great service to the human race, because it caused those two rich men to employ their fortunes for the benefit of the people, instead of giving them (as very probably they would have done) to convents.

The streets of Queretaro are irregular, of various width & crooked or serpentine—it is situated on the side of a hill.—The potatoes of this place are famed for their sweetness, when roasted they appear to be sweetmeats.—If it were practicable, as is said, to open a Road for carriages from this city to the head of navigation Panuco river, it would increase very fast, & in a little time would be opulent, modernized & free from prejudice. Because it would be the depot for all the Bajio, & a great commerce would be carried on in domestic & foreign produce.—It would be in fine, the *centre* of commerce of a fertile & extensive Territory—After that, various manufactures could be established here to great advantage, by making use of the convents for that purpose, & by giving employment to many vicious inhabitants, who now appear to live, God knows how, as they have no ostensible occupation.

The Tavern at which we staid in front of the convent of Santa Clara, is a very large & well built house of two stories.—It is very



convenient, having a fountain of water, warm and cold baths, very good rooms, but without a single bedstead or cot. All the furniture of one of the best rooms, consisted of two or three common chairs & a very ill made table.—It is said that the stage company of Mexico, is endeavoring to purchase the house for a tavern, & will furnish it after civilized fashion.—

(17th Decr.) 14 Leagues to Celaya, a Town of about 4000 inhabitants. The public square is surrounded by arches, as is the case in most of the towns of the Bajio. It contains some very good buildings of hewn stone. The church of the convent of the Carmelite monks is exceedingly magnificent, of modern construction. The interior is adorned with Ionic columns, & not so loaded with ornaments and statues as the gothic churches, but much more handsome & agreeable to the eye. The architect was an Indian, a native of the place, who died in August of the cholera. He studied architecture by himself, and made his own models of wood. He had great natural talent, & his death is a loss to his country.

How many other Indians would there be of as much or even more talent, if their education were cultivated? The convent is large, very well built, 160 years old, rich in estates & rents, it has two monks!

There is also a very large convent of San Francisco. We went in & walked all over the building, without seeing a single soul. It contains two or three friars. There are accommodations for more than 200.

There is also a large convent of San Augustine well constructed. The Indian architect who built the church in the convent of the Carmen, was erecting a new steeple for the church of this convent, of a new or mixed architecture, different from any that I have seen before, after his own ideas. He had it half finished when he died.

Besides these convents, there is several chapels & a parochial church. If all this money had been employed in opening a carriage Road from Queretaro to the river Panuco, how different would have been the situation of the Bajio with respect to its commerce & improvements.—What a pity that Rome did not set down as a dogma, that the man who should leave his property to open roads, canals, to establish schools, foment agriculture & the arts, should go straight to heaven as soon as dead.—The Mahometans were conquerors &

desolators by a paragraph of the Koran. Rome could have made the Catholics the civilizers and patrons of the arts with the same facility.—All that was wanting, was an edict of the Council of Trent, or of any other Council, or a bull of the Pope.

At dusk, Don Migual suddenly entered the room, & told us that the Robbers were scheming with the coachman to rob us on the following day. All the company became alarmed, and Don Luis determined to go to the political chief, and ask him for an escort. I was opposed to it. I did not believe the story about the robbers. They replied that I was not acquainted with the country or the people, that it was full of robbers. I said that it appeared impossible that there should be so many robbers, in a country that abounded so much in churches. Ah my friend said D—— these churches have only served to demoralize the people!!!! And for this parents have broken the ties of nature, & trampled on the most amiable & delicate sentiments of humanity & civilization, disinheriting their children, in order to construct convents & churches, that only served to demoralize and corrupt the people. And with all this, there are Mexicans who desire to perpetuate this monster, *the influence and power of the clergy*.—Even the late administration of Bustamente was desirous of governing the nation by the mitre & monastic superstition, credulity, & ignorance, instead of governing by intelligence & common sense.

Don Luis went to see the political chief, & agreed with him for an escort of one sergeant & five militia, at . . . <sup>2</sup> rials a day for each man, & on the following day we set out in great state; coach, & six soldiers on horseback, as an escort with their lances & red flags.

(18th Decr. 1833) 12 Leagues to Salamanca.—We arrived early & went to visit the convent of the Augustinos, a very large building of very solid construction of stone & mortar. It occupies a whole block on the public square, & has behind it the river Salamanca at 200 paces distant. The building including the church, has 156 varas in length, & 135 in width, & has two court yards. The first has portals on the four sides, sustained by very solid pillars of stone well cut, joined together by arches, under each one of which there is a large painting or picture representing some miracle or passage in the life of San Augustine. The edifice is two stories high. The

<sup>2</sup> Number obliterated. See p. 191

other court yard is very large & gives light to the cells of the friars that surround it. This enormous building is abandoned, for there are only two monks who occupy a room in the large court-yard in the first story—in the second there is not a single soul.—The whole republic is full of these edifices, & many of the best plantation lands, & an innumerable quantity of houses, & even palaces in the cities, belong to these monuments of ignorance of the past generation, & of the cunning & avarice of Rome.—It appears incredible that it is possible for mankind to have been so deceived to such a pitch, as to make them believe that they could purge themselves of the sins of this life, by giving their wealth & property to maintain a set of monks in idleness, & every kind of immorality, & even of crime, which was committed under the cloak of religion. Parents have left their children in want and misery, in order to give their riches to friars to fatten on in their wickedness, while the sons being thus robbed of their inheritance, have given themselves up to vice, & probably to *robbery*, in order to live, receiving absolution from the same monks, that enjoyed their inheritance.—Rome! Rome! until the Mexican people shake off thy superstitions & wicked sects, they can neither be a republican, nor a moral people.

(19th Dec.) To Silao 14 Leagues.  
20" " " Leon 15 "

The Bajio. A great valley which extends from Queretaro to Lagos, about 100 Leagues long & from 10 to 12 wide. It contains the towns of Celaya, Salamanca, Silao, Leon, Lagos, & several villages. The city of Guanajuato is on the mountain 5 Leagues from Silao.—This valley is excessively fertile, and sufficiently populated. It has a dull aspect, because its natural beauty & fertility is not attested by industry & art. It abounds in churches & convents, & in times gone by, in friars, the most of whom have disappeared in the political revolutions, leaving the people heirs to their idle superstitions & corrupt habits.—There are a great many robbers.—

In the Bajio, the labours of the fields & factories are done principally by the Indians. The character & natural disposition of this people appear to be very good. They are industrious, humble, patient, & docile. They speak in their native, or original language, & still preserve some of their ancient customs. They also speak in

Spanish, (badly however) & have acquired some modern habits. But not of the best kind. They are very fanatical & superstitious. As regards this subject, perhaps the only change that they have undergone, is from the adoration of coarse & ugly images of stone, to that of pretty, well made images of wood, richly clad.—It is difficult to say whether they belong to the past or present times, they may be called *shades* of antiquity, with some modern *spots*. They are naturally well disposed, & talented, & if their education were cultivated, they would undoubtedly be equal to the whites, more docile & very good citizens.—The great mass of the Mexican Republic is composed of this class.—They are not at this time capable of governing themselves, & consequently badly prepared to become republicans.—In fine, most of their customs and ideas are repugnant to the principles of the system adopted by the nation. This is a very great evil which has to be remedied before the republic may be said to be solidly established.—because this form of governments has to be . . . . .<sup>s</sup> & sustained by the general good will & opinion. But if there be no *will or opinion* permanent & established, how is the evil to be cured? By *education & example*, the first by well regulated schools, & the 2nd by means of foreign population engrafted, thus combining everything which is most essential to instruct; (viz.) Theory & example.—The substantial and palpable practice of virtues, of industry, & of habits, civilized, useful & republican.—Schools might be established, by appropriating the property of the clergy & example might be obtained by the emigration of foreigners, increasing at the same time the population & wealth & wealth of the Republic. Therefore the two cardinal points on which the Government should fix their attention, are, *education & emigration*.—Already stages & taverns have been established between Vera Cruz & Mexico by foreigners.—This has been a kind of school, inasmuch as the Mexicans have learned by *example* the manner & the advantages.—The result is, that they are going to run stages by Mexicans, from Mexico to Zacatecas & San Luis, & so progressing throughout the whole country where the roads are passable, establishing also Taverns at convenient points.—This is a very great step towards civilizing the country, & uniting the states with each other, because when transportation is easy there will be

<sup>s</sup> Word obliterated.

frequent communication, & intercourse of interests & friendship between remote points, which will be so many other links to cement the Union.—There is a very great obstacle to any system of education, or of emigration, which has to be removed before much progress can be made by this means—which is *religious intolerance*.—This restricts the sphere of education, & tends to perpetuate superstitious customs & ideas on one side, & prevents foreign emigration on the other, and it has to be, during the existence of an insurmountable counterpoise which debilitates the march of the nation in improvements, if it does not entirely . . . . .<sup>4</sup> it.

In this town (Leon) there are factories of saddlery & tanneries, there are also some of cotton cloth of a coarse kind. Whence comes the cotton? Will it be credited that it comes from Coahuila, & even from Texas, by way of San Luis Potosi & Tampico? Nevertheless thus it is.—There is no part of the republic, nor can there be of the world, more adapted to the cultivation of cotton than the Bajio.—The planters could raise it for \$3 00 \$00 per cwt, free from seed, & of a superior quality. But in place of this, it is purchased in distant countries from \$7 to \$10 a hundred. Texas which ten years since was a wilderness, inhabited only by Savages, now supplies the Bajio with cotton, (about 400 Leagues distant,) a country naturally more fertile, and a better climate for cotton than Texas.—Where it has been possible to expend innumerable millions of dollars in the fabrication of wonderful edifices for the clergy, but not a dollar for public education, or for the fomentation of agriculture, arts & manufactures.—There is a school or college recently established here which promises well. There is a castle or tower constructed by Augustin de Iturbide in the year 1815, at that time commander General under the government of the King.—The object of the castle was to defend the town from the insurgents. It appears to me that it is entirely useless as a defense for the town from attacks from outside. But it is sufficient to hold the town in awe & subjection.

There are many rumours of robbers. So that Don Luis is determined to have as far as Lagos the same escort that we brought from Celaya. This escort is composed of militia who are paid 13 rials for each man daily. What a sad & pitiable condition of the most

<sup>4</sup> Word indecipherable.

fertile, lovely & populated part of the republic, where travellers may not Journey with safety without an escort of armed men.—The people of Leon appear very bigoted, no cheerfulness, or sociability, every house appears to be a convent. Their extreme devotion caused me to remark to Don Luis, is it possible that robbers can exist in the midst of so much piety? Ah! my friend, he replied, *this piety* is one of the cloaks tainted with corruption, that we have inherited from the Spaniards, this manifest superstition is a cloak that we have to shake off before we can make any rapid progress in improvement.

(21st Decr. 1833) 'To Lagos 12 Leagues. This town is situated upon a rivulet, near which are some lakes from which it derives its name. It is near the foot of the mountain, & here terminates the Bajio.—The lands in the vicinity are very fertile. The church is the highest I have seen, of arabic gothic architecture. It contains a convent of Capuehin nuns, an order more rigid than any other.—Don Luis related to me a sad story of a pretty girl that took the veil when very young.—It appears to me that man must cease to be *man*, to approve of these prisons, where the most precious part of the works of the Almighty are incarcerated.—All the Bajio has just suffered two great calamities, civil war & the cholera morbus. In some places one half of the population are said to have died.—The road from Queretaro is excellent, very level & but few stones except on a hill this side of Leon.

The fort called *Sombrero* so renowned in the revolutionary war, is situated between Leon & Lagos, on a little round hill on the left of the road.—The fort of San Gregorio may also be seen from Leon on the left of the road, more distant than the other.

The great obstacle to the improvement of the interior of the republic, is the want of roads to transport produce to the coast for exportation. But it appears to me that this obstacle may in a great measure, be removed, at least so far as regards the Bajio.—I have already said that the country is level as far as Queretaro, and I understand that from Queretaro it is not difficult to open a carriage road to the last navigable point of the river Panuco, which disembogues at Tampico. If this be true, it is clear that the obstacle is not insurmountable; with capitalists & enterprising men this obstacle would in a very little time, be removed.—And then the Bajio, instead of receiving cotton from Texas, would export large

quantities to Europe, as also sugar, & would supply the coast with wheat, & other grain. A country without any other exports than gold & silver, can never be anything else than dependent on other nations, without advancing in agriculture any more than what may be necessary for home consumption. Such a country in fine is nothing but a nation of miners, getting out gold to enrich foreign nations.—At Lagos, Don Luis met his friends who had brought a coach for him from Aguas Calientes; & on the 22nd I took leave of this good friend & virtuous, intelligent patriot.—He is one of the most philanthropical men, & the greatest enthusiast for the welfare & felicity of his country that I have known, & the most disinterested and industrious. 22nd Decr. 15 Leagues to Matanzas.—Alone with my servant, I took the road to San Luis Potosi, & expected to overtake there Genl. Pedro Lemus, commander general of the internal States of the East, who was going to Monterey. It was my intention to go by Cienaga de Matapara in order to purchase a good horse of those raised at that place, which are said to be of the best kind in the republic. But on arriving at the Hacienda, called Instancias Grande, I abandoned the idea, as it was so much out of the way, & having remained a short time at Instancias. I passed the night at Matanzas, very fatigued as it was the first day since the month of May that I had been on horseback.—The general aspect of the country today was mountainous & sterile—nothing of much interest.

23rd. I slept at Gallina, 16 Leagues, a Hacienda belonging to the Marquis del Jaral. It did not appear to me very fertile—more adapted to raising stock than for farming purposes.

Decr. 24th 1833 I arrived at San Luis (15 Leagues from .....<sup>5</sup> of Gallina) a little after sunset, & stoped at the tavern de San Antonio, where I met Mr. Maurice Hehenstricke, a merchant from Matamoros. I arrived very tired but less than the former day, rather worse for a bad headache.—

25th. I remained in San Luis Potosi. Mr. Oregis a partner of Dall's came to see me, also Mr. Cayetana Rubio from whom I received the \$100 on the draft from W. S. Parrott. I bought a horse for \$20, in order to put part of the load, that was on the mule, my servant Jerman was riding, so as to travel faster that I might over-

<sup>5</sup> Word obliterated.

take Genl. Lemus, who had left the day previous. I bought a blanket for 20 rials.—I went to the house of the commandant Genl to enquire for Genl Lemus, & in the office a person told me that he had left for Monterey on the 23rd.

All the streets leading to the public square were still fortified with bulwarks, constructed during the siege.

The city appeared to be growing. It could be, & some day will be the depot for the produce of the neighboring country, for the commerce which will extend itself from Tampico by way of the river Panuco, & by a road from the highest navigable point on the river. A work which in a more civilized & favored country, would be concluded in a year; But here it will be a work of many years, & perhaps of half a century. Texas cotton is here worth \$30 a hundred, in N. Orleans \$10.

Dec 26th 1833	B..... <sup>6</sup>	Leagues.
“ 27th	“	Laboreilla (near to Charcas).. 20 Leagues.
“ 28th	“	Guadalupe Carnizero ..... 16 “
“ 29th	“	Vanegas .. ..... 15 “
“ 30th	“	Salado .. ..... 14 “
“ 31th	“	Rancho Jesus Maria ..... 15 “
January 1st 1834		Agua Nueva ..... 12 “
“ 2nd	“	Saltillo at 3 in the afternoon.. 9 “

On “ 3rd “ I was arrested by Genl Lemus by orders from the Secretary of War dated in Mexico 21st December.

The Genl treated me with the greatest attention & delicacy for which I am, & always will be grateful.

On the 4th we left Saltillo.—I traveled in the coach with the Genl and his family.—We slept at Los Muertos.—The weather was very cold, the wind being very strong from the north.—

On the 5th we arrived at la Rineonada.

“ “ 6 “ Monterey.—I was put in a very convenient & clean room, with a guard at the door.—My servant went out & came in when he pleased, & thus everything was furnished me, nothing was wanted but liberty.—On the 7th Horatio Alsberry came to see me.—I wrote to don Luis de la Rosa, to senator Raphael

<sup>6</sup> Remainder of word and number obliterated.



Llanos, to the governor of the State of Coahuila & Texas, to José Maria Viesca, to the chief of the department of Bexar, to Francisco Ruiz, to the Ayuntamiento of Austin, sending them, & to the governor & to the chief of the department a copy of the answer of the minister concerning the petition of Texas to be a state.—

I sent a copy of my letter to the Ayuntamiento of Austin, to the governor & to the Chief of Department.

I wrote to Williams & to Perry & to D. W. Smith Matamoros. I sent him a demand against the commisariat to collect 796.6 that Williams paid to the troops of Ugartechea & 57.3 belonging to James Ross, also a letter to D. J. Toler concerning the draft of Reynolds against Hebenstricke, instructing Smith to collect the whole of it, & to send the first to Williams, & the draft to W. S. Parrott in Mexico.

Monterey 20th January 1834. I drew on D. W. Smith for \$100 (of Matamoros) which I received from V....<sup>7</sup> for my expenses to Mexico, & left on this day. We slept at Santa Catarina.—21st at los muertos, the weather bad, with rain & hail.

22nd at Saltillo

23rd Tanque de la Vaca

24th Ventasa

25th Salado

26th Vanegas

27th Guadalupe Carra

28th Charcas

29th Hidionda

30th Garrabatya

31st San Luis

February 1st 1834 Remained at San Luis

2nd Rodriguez

3rd San Bartola

4 Francas—It rained the whole day

5 Atotoxilco. (S.....<sup>8</sup> a river)

6 Cerritos—a rancho

7 Queretaro

8 Id

<sup>7</sup> Indecipherable.

<sup>8</sup> Indecipherable.

9 San Juan del Rio

10 Arroyo Sarco

11 Tula

12 Gua[n]titlan

13 Mexico, where I was put in the inquisition, shut up in the dark dungeon No. 15 & not allowed communication with any one.

14th Feb. 1834.—I heard cannon which were fired at intervals all day as funeral honors to Guerrero who was shot on the 14th Feb 1831.—

15th The visit of the prison today.—I was permitted to walk with a centinel in a yard, alone, to take exercise.—I asked for books, but was not permitted to have any.—

In the dungeon No 15 Ex-inquisition 18th Feb 1834.

Lieutenant Col José Maria Bermuda notified me that my judge & attorney general were appointed. He lives in Santa Ines Street No. 1.

19th The attorney came for me to sign an act.

20th.—In order to understand the affairs of Texas, & to explain them perfectly, it is only necessary to ascertain some very simple points.

1st What means are most resorted to, to move & influence the actions of mankind.—It is interest.

2nd Is it, or not, the interest of Texas to separate herself, even if she were at liberty to do so? No, certainly it is not.

Is it, or not, the interest of the U. States of the North to acquire Texas? It is not, because she would extend her territory too much, & what is worse, she would annex a large district, which would have no interest in common with the rest of the republic. All the rivers of Texas take their rise in Texas, at but little distance from each other, and do not enter the Territories of the north, so as to form bonds of union, as does the river Mississippi with Louisiana & other states adjacent. There is no market in the North for the produce of Texas, & there is in Mexico. Texas is more distant from the city of Washington than from the city of Mexico.—As regards the commerce with Europe, the Mexican flag is equal to that of the North.—What then is the true interest of Texas? It is to have a local government to cement & strengthen

its union with Mexico instead of weakening or breaking it. What Texas wants, is an organization of a local government, & it is of little consequence whether it be part of Coahuila or as a separate state or Territory, provided the organization be a suitable one.—

She is at this time suffering in the departments of, 1st Justice, 2nd colonization, 3rd Indian, 4th Police, & internal improvements, in fine in every department.

22nd Feb 1834 Nothing more of the attorney since the 19th. What a horrible punishment is solitary confinement, shut up in a dungeon with scarcely light enough to distinguish anything.—If I were a criminal it would be another thing, but I am not one.—I have been ensnared & precipitated, but my intentions were pure and correct.—I desired to cement the Union of Texas with Mexico, & to promote the welfare & advancement of my adopted country, by populating the Northern & Eastern frontier. I have been impatient, and have allowed myself to be compromised and ensnared by the political events of last year, & by the excitement caused by them in Texas.—I do not see how I could have avoided what has passed in Texas; my conscience acquits me of anything wrong, except impatience & imprudence, I am in no sense criminal. A public agent should sacrifice himself, life & property, should it become necessary in order to carry out the views of his constituents. I perhaps have followed this rule to an extreme.

Sunday 23rd Feb. 1838.\*

Philanthropy is but another name for trouble. I have laboured with pure intentions to benefit others, & especially to advance & improve my adopted country; & what have I gained? Enemies, persecution, imprisonment, accused of ingratitude to Mexico, which is the most unjust of all accusations that can possibly be brought against me.—If I have been ungrateful to any one, it is to myself & family, for I have neglected my & their interests & happiness to labor for others.—My poor *sister* who removed to the wilderness of Texas with her large family owing to my solicitations, & left a comfortable home & a large circle of warm & kind friends.—My poor *sister*, how much is she now suffering on my account.—How happy I could have been on a farm alongside of my brother-in-law far from all the cares & difficulties that now surround me.—But I

\* This date is an evident slip of the copyist's pen.

thought it was my duty to obey the call of the people, & go to Mexico as their agent.—I have sacrificed myself to serve them, & in all probability the only return I shall receive, will be abuse & ingratitude.

It is horrible that I should have lived to find myself on the verge of misanthropy, soured & disgusted with mankind. My difficulties have proceeded from an excess of zeal to serve others, but I shall be calumniated by them, Although I have loved the whole human family with the most unbounded enthusiasm & confidence.—I have been impatient, and consequently imprudent, but not criminal in anything. My conscience is clear, but that will not save me from calumny & misconstruction. Nature gave me too much sensibility & too yeilding a disposition, too ready to listen to, & be influenced by those who I believed were friends & honest men, and too sensible & tender at their censure or discontent.—The heart of a public man should be made of cold & hard materials, & not of the fine & delicate chords of sensibility.—He should be impervious to momentary impulse passion or impatience.—I am naturally impatient, & irritable.

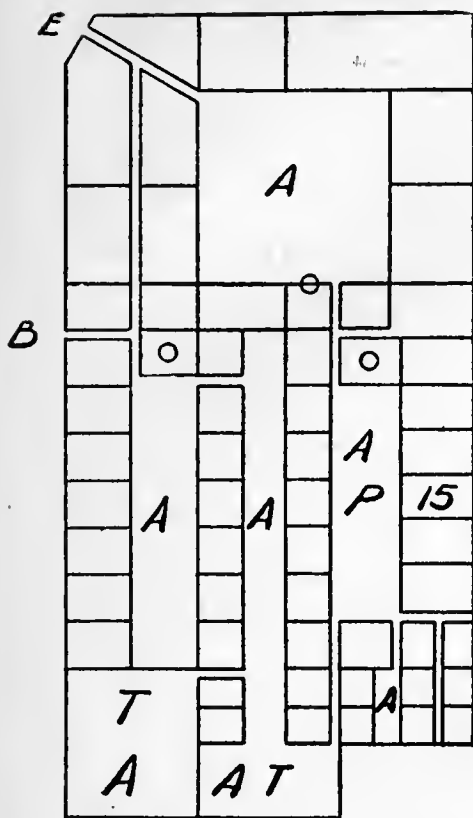
23rd Feb. Mr. Bermudor came to notify me that my cause was taken from him, & that he was no longer my attorney.

I was visited by Padre Muldoon, who had with great difficulty obtained this privilege. He was allowed to speak to me only in Spanish in presence of the Commandant of the prison, manifesting his friendship &c. I permitted him to make a bargain with some Tavern keeper for my meals, which he did, & sent me wine & cheese, he promised to send me books.

24th I received my food according to Muldoon's promise, but no books. I supposed he has not been permitted to send them.—Time drags on heavily.

25th The new attorney general came to notify me of his appointment. He did not leave his name or residence.

February 16 Dungeon No 15  
 Ex-inquisition  
 San Domingo Street.



- A** Yards
- E** Entrance
- B** Do
- ooo Stair cases
- P** Pillar or fountain of water
- T** Trees in the yards

The building behind the yard **AP** is one story high, all the rest is two stories.

The walls of my cell No 15 have a number of figures of snakes, landscapes &c, drawn by a prisoner of the inquisition, more than 60 years ago.

27th Feb.—Theory & practice have clearly demonstrated that the Mexican Republic will not make rapid progress, until she has other exports than gold & silver, because these metals disappear immediately to pay for the imports, and what is worse, agriculture & the arts do not flourish, & very many useful laborers without

employment deliver themselves up to vices & to idleness.—It is necessary to stimulate agriculture & the exportation of its products.—On the coast where the transportation to the ports is not distant or costly, nothing more is wanted but labor, population, & capital well directed in the cultivation of the land.—In the interior there is a sufficient population, but without being well directed—& transportation is difficult & costly, as it always must be, on backs of beasts of burthen, and untill they improve & open roads for wagons, instead of roads for mules.—Nature has pointed out the ports for exportation, Vera Cruz, Tampico & Matamoros are the most important.—

There are but few navigable rivers, but up to this time no use or profit has been derived from those which are navigable.—The river Alvarado is navigable for a considerable distance in the interior, and may be very useful for the exports of an extensive & fertile country.—From the head of navigation on this river, wagon roads might be opened to the States of Puebla & Oaxaca, & the produce could be exported at a trifling expense, to that which is paid at this time.—Thus Alvarado would be a depot, & thence the produce would be carried to Vera Cruz by steamboats & schooners.—The capability of this river for navigation is not yet known, & it is worthy the attention of government to send experienced engineers to examine & explore it, also the best routes for carriage roads to the interior.

The river Panuco is another which will one day be very important to the most interesting part of the republic.—It is I say worthy the earliest attention of the government to examine the capability of this river for navigation, and the practicability of roads from the head of navigation to Queretaro, San Luis Potosi, & Mexico through the plains of Apam.

With a good road to Queretaro all the Bajio of the rich State of Guanajuato would have great facilities to export the products of agriculture.

The Rio Grande is another important channel, & in time of high water, would serve to export the produce as far as Chihuahua.

In the South there is the river of Guaraqualeo & of Tabasco navigable.—Also on the coast of the Pacific there are some rivers which are navigable, or susceptible of important improvements.

The idea that the interior of Mexico is without resources for

transportation to the coast, is erroneous, as experience will one day demonstrate. They ought to dedicate themselves to opening roads on McAdam's plan, from Mexico to Vera-Cruz—from the same to Acapulco, to San Luis Potosi through Queretaro to the head of navigation on Panuco river, & from that point to Queretaro & San Luis, extending the former to as far as Guadalajara, & the latter to Zacatecas.

Roads from the head of navigation on Alvarado river as far as Puebla & Oaxaca. All these roads should be carriage roads, & when finished, they should proceed to open lateral roads to intersect the principal ones.

A road from the ports of Texas to the paso del Norte & New Mexico with the object of attracting the commerce of \$2000000 annually, to the ports & territory of the republic, which now comes from Missouri. This commerce would be a very strong chain to bind Texas to the federation, & all the expenses &c erogated by the merchants for the transportation of merchandize would be made in the Mexican territory, & would result to the benefit of the Mexicans.

March 2nd 1834.—I obtained today a book—a tale called yes & no—Muldoon failed in his promise to send me books—I prefer bread & water with books, to the best of eating without them.—In a dungeon, the mind & thoughts require aliment more than the body.

March 4th. Four dollars were paid to me for my support, the only money I have received since my entrance.—

13th At half past ten at night there was a very severe earthquake.

March 15th At six in the morning an earthquake more severe than the other.

March 16th Sunday.

I received "l'histoire de Philippe 2nd roi d'Espagne" an unnaturalized brute—a devil—a monster—in fine as much as can be expressed or imagined of evil, of hypocrisy, & of cruelty.—He was a blind, obedient and faithful servant of Rome—that mother of executioners, assassins, robbers & tyrants who have desolated the civilized world, filling it with mourning, terror, & ruin, & degrading mankind far below the level of brutes.

A Lion protects its offspring, but Philip the 2nd, *Catholic King*

of Spain is the executioner of his own son, the unfortunate Don Carlos; who was delivered by his *most Christian* father's own hands to the Inquisitors, and by these *Holy agents* of Rome, condemned to death.

The brute of a father said to the Inquisitors—'Have no regard to the rank which the prince holds in the State; do your duty, & know that zeal for religion has stifled all paternal love in me.'

At the moment of signing the sentence of death against his son, he said, directing himself to God, 'You know Lord I have no other motive than sustaining your interests, & the glory of your Holy name.'

Is it possible to believe that mankind have been able to look upon such beasts, as the representatives of God on the earth! Kings & rulers—executioners of innocent children—Robbers, all by *divine providence*, & to sustain the interests & Glory of God! The massacre at Saint Bartholomy on the 24th August 1572 in France, in which more than 70,000 Frenchmen perished, treacherously assassinated by order of the King, Charles IX, was an act very worthy of Rome & very characteristic of the kind of *piety* which governed the councils of the conclave of Saint Peter.

People of Mexico! can you throw a glance at the history of Rome, without feeling a pity for your ancestors, & without shaking off at once that religious yoke which has held, & to this day holds you enslaved? Can ye contemplate this edifice—this Inquisition—and call to your memories what has passed within its walls under the name of religion, without shuddering at the past, and making an effort in favour of religious toleration, so that ye may secure your liberties & safety for the future?

The Inquisition was established in Mexico & in Lima by Philip 2nd in 1573, and the first auto da fe in Mexico was in 1574.

March 17th I walked for half an hour in the court where they tell me the autos-da-fe were held—that is, where they burned the unfortunate, whom policy or robbery assassinated under the name of religion.—Fanaticism furnishes a cloak for everything, and is the same with all nations & religions.—Elizabeth, protestant queen of England, sacrificed her relation, Mary of Scotland, to prevent a catholic sovereign ascending the throne, and at the time of the unhappy queen's head being taken off they shouted, "Thus perish the enemies of the religion of Christ." All this was a cloak, &



nothing more, because the crime of Mary consisted in being beautiful, & beloved by every one, and Elizabeth made use of the *cloak* of religion & policy to cover her own envy, & to gratify it.—At the same time Philip 2nd was kindling the fires of the Autos-da-fe under the pretext of religion, in order to rob, & to sustain his despotic power.

March 19th For the national aggrandizement of the Mexican Republic, are required

1st Religious toleration

2nd Foreign emigration

3rd Protection of agriculture, in order to have a surplus of agricultural products, so as to pay for importations & thus avoid the export of the entire products of the mines, which at this time is leaving the country for the purchase of foreign merchandize.

4th The improvement of the navigation of all the rivers, and the opening of carriage roads from the last navigable point on them, to the interior.

5th The establishment of manufactories—but this ought to be the last step in the national progress.—Manufactories ought to be established after agriculture, & with a dense population.—Without these bases they can neither be useful nor profitable, except by force of restrictions, privileges & monopolies, which are always prejudicial to the people or the great mass of the nation.

March 20th. This day I was notified by a person from the commandant general that I must return the \$20 that I had received, because I ought to receive my daily allowance from another quarter—but he did not say from what quarter or authority.

I returned the \$20.—Recd. March	4th	\$4.
"	" 9th	\$4
"	" 12th	\$4
"	" 16'	\$4
"	" 20th	\$4
		—
		\$20

This day I also sent away my servant, Medina & ceased to receive my meals from Offutt's

22nd Sergeant Augustin Gonzalez presented himself in my dun-

geon on the part of the commandant of the place, Don Domingo Sarmiento, requested the loan of thirty dollars, which I lent to the said commandant.

I also lent ten to the said Sergeant Gonzalez.

Expenses		
	To Medina .. . . . . .	\$4.
	Book .. . . . . .	1
	Barber (chili) .. . . . . .	0.3½
13th March	Medina .. . . . . .	6.
	Washerwoman .. . . . . .	.3
20	Medina .. . . . . .	5.
22	Lent to the Commandant.....	30
"	"          Sergeant.....	10
	Bro't forward from daily expenses, to	
26th March	.....	17.9½
	Table & chair .. . . . . .	2.
	From 26th March to 3rd April .. . . . . .	6.00

4th April. I returned to the person who has paid me, the \$20 which I had received from him. He awoke me from a profound sleep.

April 4th 1834.—I received \$18 dollars from Don Victor Blanco lent.—Expenses from 3rd to 11th April..... \$4.7

11th April I commenced receiving my breakfast & dinner from Mr Offutt No 7 Tibureio Street.

12th April—It would be an injury to the U. States of the north, to unite Texas to themselves, or to see it made a state of the Mexican federation.

1st Because it would be extending too much territory of that Republic, receiving within its limits a country which is entirely isolated from all the other states, by its geographical situation, & by all the interests of agriculture, manufactures & commerce.

2nd Because Texas as a state, would flourish with rapidity, & would extend the planting of cotton throughout that country, & thence along the whole coast of the Mexican Gulf to so great a degree, that it would tend to reduce the price of that product in the European markets. It would also extend the manufacture of cotton cloth.—The evident result of this would be to injure all the

states south of Virginia, whose chief produce & almost the only one which is valuable, is cotton.—The Sugar & Rice of the Mexican States on the Gulf of Mexico, would also compete with the Sugar of Louisiana, & the Rice of Georgia & Carolina.—

On the other hand, the progress of Texas would promote the power of the Mexican Nation to a great degree, by the increase of their physical force, their agriculture, their manufactures, & of which is of more importance than all, their exports of produce, avoiding thereby the extraction of metals from the mines.—The erection of Texas to a State of the Mexican Republic in very few years would cause a moral change of the greatest importance in favour of the Mexican States, & to the prejudice of the U. States of the north, & would even have an influence in the markets of Europe by reducing the price of cotton, and by the gradual increase of manufactories in the Mexican Territory.—

April 13th—In my first exploring trip in Texas in 1821 I had a very good old man with me, who had been raised on the frontiers, and was a first rate hunter.—We had not been many days in the wilderness before he told me “you are too impatient to make a hunter.” Scarcely a day passed that he did not say to me “You are too impatient—you wish to go too fast. I was so once but fifty years experience has learnt me that there is nothing in this world like patience.” Before my trip was ended I saw the benefit of his maxim and I determined to adopt it as a rule in settling the colony which I was then about to commence in Texas. Some have accused me of adhering to this rule and to a system of conciliation and mildness, with too much obstinacy—I do not think I have, tho’ perhaps I am not a competent judge—I can however say, that I believe the greatest error I ever committed was in departing from that rule as I did in the city of Mexico in October 1833—I lost patience at the delays in getting the business of the people of Texas despatched and in a moment of impatience wrote an imprudent and perhaps an intemperate letter to the Ayuntamiento of Bexar dated 2nd of October 1833—I can say with truth that a combination of circumstances occurred about that time to make me impatient & my intentions were pure & patriotic as a Mexican citizen, for I had every reason to believe that the people of Texas would not suffer the month of November to pass without organizing a local government, and in that event, it is very evident that it would

have been much better to organize by a harmonious consultation of the respective local civil authorities of the municipalities called *Ayuntamientos*, than by a popular commotion, without the intervention of any recognised legal existing authority.

The circumstances of the case, and the purity of my motives are certainly worthy of consideration—

Texas when I left in 1833 was almost in a state of nature as to its local government—it was in danger of anarchy on the one hand, and of being destroyed by the uncivilized and hostile Indians on the other—these things oppressed me and I may have lost patience—

“The inestimable value of the liberty of the press would not be known, if it were not evident, that with it nothing is to be feared from any arbitrary power.”

Political evils of society are like bad habits in individuals easy to cure in their birth or origin, but very difficult when they have taken deep root.—The political evils of Texas are in their birth, and easy to cure by a proper organization of the local government—

“People in office do more wrong by the foolish things they say, than by the foolish acts they commit.”—So said Terray, minister of Louis 15th, on the accession of Louis 16th

The fable of Prometheus, whose heart was devoured every day by a vulture, being renewed at night for the horrible feast of the day following, represents the imaginary sufferings of mankind—We arise in the morning filled with projects, desires and occupations which destroy our felicity, like the vulture eating the heart of Prometheus—

At night we throw ourselves into bed tired out and miserable, solely that our natures may recover strength to sustain the miseries of the following day—What madness! what folly it is, to permit our thoughts to be converted into the vulture of Prometheus! how to avoid it? Limiting ourselves to what is necessary, to what is substantial, and enjoying life as it comes, without thinking or troubling ourselves about that which we do not possess, or which does not concern us, nor about what may happen hereafter—Very well, according to this man would become a being mentally torpid, that would only exist to breathe, eat and sleep—an animal. Well, what remedy is there then? The remedy is found in conducting ourselves justly, prudently and rationally between an extreme of cares,

and an extreme of torpidity—What rule is there to ascertain this? When we find ourselves restless and the head or passions excited for any project or idea, to analyze it, applying to it these questions. Is it just, is it practicable, is it necessary—what benefit will result to our fellow men or to ourselves—what may be the immediate or future consequences of it? Well, according to this we should never act mentally or physically unless justice, reason and judgement, previous examination and mature analysis should qualify as just, practicable, necessary &c whatever we think of doing—and we should never act with impatience, impulse or passion—Yes, so it is. And how many men act thus? very few—perhaps none. Unfortunately the *duty* & the *acts* of mankind in general are like the religion of Rome, in theory divine, in practice infernal. How can this be said of a religion whose foundation is perfect harmony, a union of principles, & of action? Because the history and conduct of Rome demonstrate it, from the time her first Bishop usurped from the other Bishops the right of governing their respective dioceses as to spiritual matters. The power of the pope originated from usurpation, and not from divine creation & in order not to deviate from the principles of its origin the pontiffs have gone on usurping and robbing from that time to the present, adding temporal or regal powers, as if it were possible that God, or divine and spiritual things, could be divine, perfect, pure & immortal; and at the same time human, imperfect, corrupt, tangible, sensual & mortal, thus uniting a contradiction which is palpable, monstrous and subversive of the foundation of the religion of Christ—which foundation is *purity*. How can purity exist in unity with the passions, interests & corruptions of temporal or human things? That which is pure, perfect, & immortal, cannot be united with that which is impure, imperfect, & mortal, & form a compound body, thing, or essence, without changing its nature or original principles; as for example, white can not be mixed with black, & always remain white; nevertheless mankind have seen the pure white of the religion of Christ mixed by Rome with the black passions, & human things without being aware that in this union the white has disappeared & the black has predominated.—What blindness, what prejudice, what ignorance! Those who are in favour of religious intolerance, and of the temporal power of the clergy, have not analyzed their thoughts by the rule before mentioned, nor by any other rule, ex-

cept by that of their private interest, of despotism, injustice, robbery & usurpation, or by ignorance unworthy of civilized men.

In the dungeon 20th April 1834<sup>10</sup>

April 26th 1834 I obtained two volumes of the "Oeuvres de Platon traduites par Victor Cousin".

27th April. Political philosophy—

The people, or I should say the patriots of Mexico conceived, put in execution, & are perfecting the most difficult, grand & noble work, which has been known & seen in the world since the days of Adam—the establishment of a sistem of government popular, liberal, & free, in a country where the customs & opinions of the people are diametrically opposed & repugnant to such a sistem, a work more worthy divine power, than of human debility. Political writers have set it down as a dogma or axiom that in the formation of Governments a natural course of things should be followed—what they call the natural course of things, is that Government, should be constructed, according to the customs prejudices and existing ideas of the great mass of the people, & that it would be unnatural, forcible & dangerous to attempt to regulate or accomodate these customs, prejudices & ideas to a system to which the people were repugnant & opposed. Up to this time we have seen mankind, who had to organize themselves, follow the natural course spoken of by the political writers or philosophers, and Mexico alone has the glory of having demonstrated the contrary, and of proving that the genuine principles of liberty & of truth are of divine origin, and as such are stronger than the customs and erroneous ideas which are of human origin, & therefore that the first principles are of more value, even in the abstract, than the second, notwithstanding the last are rooted and fortified by the practice of centuries. The United States of the North have the glory of having demonstrated, the practicability & advantage of a popular system for a people whose customs & opinions were prepared beforehand, for that system. This was a grand step which excited the admiration of the civilized world, & caused the thrones & gothic institutions of Europe to tremble. Mexico has the glory of having done much more & has gone beyond the people of the north in hav-

<sup>10</sup> This date evidently refers back.

ing demonstrated that the principles of truth & liberty in the abstract, or of themselves are essentially more strong than the prejudices & erroneous customs, & that the latter may be destroyed notwithstanding the force which they derive, from the practice of centuries, or from the veneration which their great antiquity may attract for them.

What a flattering lesson is this for oppressed nations, & how fearful a one for the tyrants of Europe: they, with the Pope (falsely called the most holy) at their head sustain that their power is of divine origin & that it is necessary to exercise it on the people because they cannot govern themselves, it may be, as some say, because they are naturally degraded & cannot pass above the level of slaves; or it may be, as others say, because their manners & customs are so bad that they cannot enjoy freedom without injury to themselves, like children with a penknife. Mexico answers this, denying that despotism & usurpation have such a divine origin, on the contrary, that their origin is human & therefore must yield to that which is truly divine or to principles of Liberty & truth.

These principles find a sympathy, a reception and a natural & instinctive or spontaneous protection in that part of man which has equally a divine origin, that is to say in *the soul*; because both spring from the same source, which is divine & consequently stronger than human inventions & things & must prevail.

If this power of kings & of other despots is of divine origin it should not perish or be weakened because otherwise we must admit that the works of providence are mortal & perishable.

April 29. Today padre Muldoon came to visit me by permission of President Santana, & so I knew that the president had returned to Mexico six days ago—I did not know it before— I know nothing of what passes outside, no one is allowed to speak to me, nor am I with anybody I am *incomunicadisimo*. What a system of jurisprudence is this of confining those accused or suspected without permitting them to take any steps to make manifest their innocence or to procure proofs for their trial, they can neither consult with counsel, lawyer, friend or anybody— I do not know of what I am accused how can I prepare my defence? perhaps, I will have to send to Texas for proofs of my innocence, how can I do so, being shut up—& incommunicated. This system may be in conformity with law, but I am ignorant of which law—or of what rights the

party accused has, but it is very certain that such a system is in no wise in conformity with justice, reason or common sense.

Mail from Nacogdoches to river Sabine at Gains ferry every two weeks, 20 leagues distant.

This mail ought to arrive from the Sabine at Nacogdoches the day before the mail leaves that place for Bexar. I recommend James Gains as postmaster on the Sabine. He is a Mexican citizen since the year 1820 married to a Mexican & understands the English and Spanish languages, & has a house & property on the river Sabine sufficient to live with comfort.

The mail from the U. S. of the North arrives at the Sabine in front of Gains house, so that it will be very easy to change the correspondence at that point, and so establish a communication by mail from all places in Mexico with every place in the United States of the North. For the said exchange all that is necessary is that the government of the north should be advised through their charge here, of the desire of this Govt to change the correspondence on the Sabine.

The postage on letters & papers on each side should be paid to the line, & after passing should pay such postage as is required by the laws of the respective republics.



CAPTAIN ADOLPHUS STERNE.

W. P. ZUBER.

[I have written this sketch mainly from one personal conversation with Mr. Charles Adolphus Sterne, from letters, written in compliance with my request, by him and his sister, Mrs. Rosine Ryan<sup>1</sup>; and from the subject's general reputation; but partly from works on Texas history.—W. P. Z.]

Adolphus Sterne was born in Cologne, Germany, in January, 1800. In 1824 he came from Germany, by way of New Orleans, Louisiana, to Nacogdoches, Texas, and settled there as a merchant. He purchased his supplies in New Orleans, shipped them on steamboats up the Mississippi and Red rivers to Natchitoches, and had them hauled thence on wagons to Nacogdoches. He resided at Nacogdoches during the remainder of his life.

Here, in spite of his German antecedents, Mr. Sterne was regarded as an American. The Mexican population so regarded all white people, except those speaking the Spanish language. Mr. Sterne had a good English education and spoke the English language plainly, and he was not easily distinguishable from native-born Americans. His instinctive preference was for his own race; and hence, when differences arose between the Americans and the Mexicans, his sympathies were with the former.

In 1826 Mr. Sterne became identified with the local political party known as the "Fredonians." His service was to purchase munitions of war in New Orleans, and smuggle them to his friends in Texas. He packed gun-flints, powder, and lead, into bales of dry-goods and barrels of coffee, and thus sent them to Nacogdoches, where he afterwards delivered them to Benjamin Edwards and Martin Palmer. But he was watched by the secret agents of the Mexican consul at New Orleans. They discovered his device, and reported it to the consul, and he reported it to his Government and to Norris, the Anti-Fredonian alcalde at Nacogdoches.

<sup>1</sup> Mr. Sterne and Mrs. Ryan are son and daughter to Captain Adolphus Sterne.

He was one of the twenty Fredonians captured by Ahumada's troops in January, 1827; and, on account of his smuggling munitions of war to the enemy, Ahumada excepted him from his compliance with Austin's request to release his prisoners. He was tried by a military court, convicted of treason, and condemned to be shot; but his execution was necessarily delayed till his sentence could be sent to Saltillo, approved by the military department commander, General Teran, and returned. While awaiting Teran's reply, he was chained and confined in the cuartel. But the charge against him had not been *positively* proven, and he entertained a bright hope of being pardoned, which was realized.

It has often been said that no Free Mason can be lawfully punished for crime if the power of conviction or pardon rests in one or more members of the fraternity. All intelligent Free Masons know this to be false; but, in cases of purely political offenses, Masonry has frequently been the means of saving life. Mr. Sterne being a Mason of high degree, his Masonic friends in New Orleans interceded for him through the agency of General Teran, who was also a Mason of high rank, and Teran procured his pardon. But his liberation was on parole not again to bear arms against the Mexican government, nor to aid its enemies.

Aware of the efforts of his friends in New Orleans to procure his pardon, and confident of their success, Mr. Sterne endured his imprisonment, not only patiently, but also cheerfully. An interesting incident illustrates his confidence of final release. Being a man of pleasant manners, he enjoyed the friendship of his guards; and his cheerful deportment satisfied them that he would not try to escape, but that he preferred patiently to await the approval or disapproval of his sentence. Hence they gave to him as much liberty as they could, and became, in fact, careless. He purposely wore loose boots, which he could easily draw off and on his feet, and his chain was locked around one of them. One evening his guards locked the doors of his room, and went to a fandango. Left alone, he drew the boot off his chained leg, and the chain with it. Then he raised a sash, went out through a window, proceeded to his store, dressed himself properly, and made his way also to the fandango. There he found his guards, who were much startled by his arrival; but he and they promised not to inform

against each other, and all were easy. One of his friends, in surprise, said to him,

"Why, Sterne, how came you here?"

"I walked," was his reply.

"But why are you here?"

"To dance, of course."

And dance he did. In good time, he returned to his store, resumed his prison garb, went back to his prison, reentered it through the window, and drew on his boot and the chain with it. When his guards returned, they found him as they had left him.

If the Mexican officers ever learned of this adventure, they apparently never noticed it.

In 1832 Mr. Sterne was with the Texians<sup>2</sup> in the battle of Nacogdoches, and in pursuit of the Mexicans to and across the Angelina river; but, being under parole, he did not use a gun. Yet he piloted the troops, informed them concerning the places of Mexican rendezvous, and carried water to them. Fortunately for him, the Texians were victorious.

In 1835, in New Orleans, Mr. Sterne raised the company called the "New Orleans Grays," which assisted Colonels Milam and Johnson in capturing Bexar. Among the men of that company were Thomas F. Lubbock, Henry S. Fisher, Thomas William Ward, John D. McLeod, and other men distinguished in Texas history.<sup>3</sup>

In 1839 Adolphus Sterne was captain of a company of volunteers in the command of General Douglass, in the Cherokee war, which company he commanded in the battle of Neches, on July 16th, 1839. In that battle, which continued during an hour and a half or two hours, the Cherokees were defeated with a loss of about one hundred men, killed and wounded. The forces of the Texians were estimated at 500, and those of the Indians at 800, the latter not all Cherokees. Among the slain of the Cherokees was their grand chief Bowls. The loss of the Texians was only five killed, and twenty-seven wounded.<sup>4</sup> In this battle Captain Sterne was slightly wounded. It virtually closed our war with the Cherokees, as they

[<sup>2</sup> Mr. Zuber, like perhaps most of the Texas veterans, prefers this spelling.—EDITOR QUARTERLY.]

<sup>3</sup> See Thrall's *History of Texas*, p. 220, note.

<sup>4</sup> See Bancroft's *North Mexican States and Texas*, II, pp. 323, 324.

no longer occupied Texas soil, and their subsequent hostilities were perpetrated only on incursions into our country.

Mr. Sterne at different times filled the civil offices of justice of the peace, county commissioner, post master, and state senator. He also held a commission (yet in possession of his family) signed by Sam Houston, President of the Republic of Texas, appointing him on the presidential staff, with the rank of major. He was an original member of the Grand Lodge of Texas, A. F. & A. M. He helped to organize it, on December 20th, 1837, and was then elected deputy grand master.<sup>5</sup>

As to Mr. Sterne's religion, he was identified with the Roman Catholic Church, his mother and his wife both being devoted members thereof.

My father, Abraham Zuber, became acquainted with Adolphus Sterne in 1827, and was ever afterward his warm personal friend. I myself never saw him; but I have gathered the substance of the following description of his character from what I have heard my father and other friends say of him.

In address and conversation, he was courteous, social, cheerful, and refined. In temper, he was mild; in principle, pure; in purpose, firm; in patriotism, devoted; in statement, candid; in business, honorable; in friendship, faithful. Of course, he was beloved and honored by those who were so fortunate as to know him personally.

Captain Sterne died in New Orleans, in March, 1852, at the age of fifty-two years, and about two months. In April of the same year, his remains were removed to his home at Nacogdoches, and there buried.

Captain Sterne was blessed with a model wife. Mrs. Eva Catherine Rosine Sterne, *née* Ruff, was born at Eslenger, kingdom of Wurtemberg, Germany, July 23d, 1809. Of the date of her immigration to America, I have no account. Her marriage to Adolphus Sterne occurred at Natchitoches, Louisiana, June 2d, 1828, when she was not quite nineteen years old. Thenceforth her home was in Nacogdoches, till 1859. Mrs. Sterne was a Christian lady, a devoted Catholic, and distinguished for her plainness, sociability, conscientiousness, discretion, and firmness; for devotion to her husband and children, and to their friends; also for her hospitality, charity,

<sup>5</sup> See Sayles' *Masonic Jurisprudence of Texas*, 4th Ed. pp. 218-19.

and other Christian virtues. Like her husband, she was an American and a patriot. Her home in Nacogdoches was the rendezvous of the women and children of the surrounding country, during the perilous times when the men were on duty and under arms.

The published report of the unveiling of the Burnet-Sherman monument, at Lake View Cemetery, Galveston Island, on March 2, 1894, in a tribute to Mrs. Rosine Ryan, says of Mrs. Sterne,—

“Mrs. Ryan’s mother was god-mother to General Houston, who presented her with a valuable set of jewelry, which she afterward wore at the fiftieth anniversary of the Declaration of Independence.”

In compliance with my request, Mrs. Ryan kindly explained this statement to me as follows: Recognizing the requirement of the constitution and laws of Mexico, that a prerequisite to citizenship and to holding office was to support the Roman Catholic Church, General Sam Houston was baptized into that church; and had Mrs. Sterne for his sponsor. Afterward, as is well known, General Houston, with the other members of the Convention, signed the Declaration of Independence, at Washington-on-the-Brazos, on the second day of March, 1836, which was his own birthday. Later he sent to Mrs. Sterne a handsome set of jewelry, with the request that she would wear it on each succeeding anniversary of that day. She did so till bereavement and sorrow came, when she laid the jewels aside. But, at the laying of the corner-stone of the capitol at Austin, at which she was present, on March 2, 1886, that being the fiftieth anniversary of the Declaration, her regard for the two events, occurring just fifty years apart, induced her again to wear them on that day.

In 1859 Mrs. Sterne left Nacogdoches, where she had resided during about thirty-one years, and settled in Austin. Thence, in 1874 or 1875, she removed with her daughter, Mrs. Ryan, to Houston, which was her last earthly home.

Mrs. Sterne’s daughter, Mrs. Ryan, on May 4th, 1895, wrote of her: “Mrs. Sterne is, at this date, living in Houston, Texas, and, at the good old age of eighty-six years, is well—as bright as when a young woman, fleeing on horseback with her babies from the Mexicans, in the troublous days of the thirties.”

The minutes of the Texas Veteran Association for 1896 shewed

that this worthy widow of a worthy Texas veteran yet lived, but the minutes for 1897 shewed that she was dead.

Captain and Mrs. Sterne had seven children, whose names, with the addresses of those yet alive, are as follows:

1. Mrs. Eva Helena Eugenia Barrett, widow of the late Thomas C. Barrett, Austin, Texas.
2. Charles Adolphus Sterne, Palestine, Texas.
3. Joseph Amador Sterne, deceased.
4. William Logan Sterne, deceased.
5. Placide Rusk Sterne, New York City.
6. Mrs. Laura Theresa Cave, deceased. Her husband, Major E. W. Cave, resides in Houston, Texas.
7. Mrs. Rosine Ryan, widow of the late William Aurelius Ryan, Houston, Texas.

THE FOUNDING OF THE FIRST TEXAS MUNICIPALITY.

I. J. COX.

[In the preparation of this article three original manuscripts have been consulted and these will be referred to by appropriate abbreviations, as follows: (1) "Historia del Descubrimiento y Poblacion de Texas hasta el año de 1730. Escrita por el Padre J. Melchor y Talamantes," will be referred to as "Talamantes." The original of this is found in the Archivo General de Mexico, Seccion de Historia, Tomo 43. (2) The collection of the various decrees relating to the transportation of settlers from the Canary Islands to Texas is found in Volume 84 of the same section, under the title "Colonos para Texas." Reference will be made to the separate decrees and reports. (3) "Representacion de la Villa de S<sup>ra</sup> Fernando al S.<sup>o</sup> Gobernador de Texas, Varon de Ripperda," is found in Volume 28 of the same section. The manuscript will be referred to simply as "Representacion."—I. J. C.]

Previous to 1730, Spanish operations in Texas were either of a military or religious character, and were only temporary in effect. The object of the Spanish authorities, to prevent the encroachments of the French upon Texas territory, was but imperfectly realized. After three successive attempts, the missions of Eastern Texas were abandoned. The only result of four costly *entradas* by the governors of Coahuila was the extension of the frontier line of Spanish occupation from the Rio Grande to the San Antonio river, where five struggling missions and a presidial garrison of forty-three men remained as the only outposts of Spanish civilization in Texas.

The method of reducing the province by the combined efforts of missionary and soldier had resulted in utter failure. The reasons for this are not hard to find. In the first place, the friars were working with hopeless material. The Texas Indians had neither the aptitude nor the desire for civilization. Then the scanty returns of the friars' labor were wholly lost by lack of support, at critical times, from the home government. This may have been due, in a measure, to some possible dissension between the rival Franciscan colleges of Querétaro and Zacatecas.<sup>1</sup> But even on

<sup>1</sup> Talamantes, par. 30.

the field of their labors, their task was a vain one, because of the brutal and licentious conduct of the presidial soldiers toward the Indians. Those who should have been the support of the mission movement proved to be its greatest enemies, and contributed not a little to its ultimate failure.

With the lack of success of missionary and presidial effort, there remained but one resource known to Spanish colonization—the creation of a municipality. The Marquis of Aguayo had already recommended this.<sup>2</sup> The Padre Espinosa, at the same time, had represented to the Viceroy, Riviera, the importance of a chosen population, well supplied with farming implements and domestic animals, as an object lesson to the neophytes. He asked that married men, with their families, should form the guards for the missions; that they should enjoy the pay of soldiers for two years, meanwhile cultivating lands assigned to them, and, at the end of that time, receive a title to the lands they were cultivating. Some poor families of the City of Mexico volunteered for this service, but the great distance precluded the possibility of using them. Levies were made in cities nearer Texas, and among the drafted colonists were many released from the prisons. With such helpers, Aguayo began the work of re-establishing the missions in his famous *entrada* of 1721.<sup>3</sup>

Upon the recommendation of the Viceroy, the King determined to people Texas as a more effectual protection against the French. Accordingly, in 1722, he gave orders for the transportation of 400 families from the Canary Islands to that province.<sup>4</sup> Little attention seems to have been paid to this order, but a later cedula of February 14, 1729, bids every vessel clearing for Havana to carry ten or twelve families, destined for Texas. This seems to have been more successful, for we learn the next year that a company of colonists from the Canary Islands are at the little pueblo of Guantitlan, near Mexico, ready to engage in the arduous task of subduing the wild domain of Texas.<sup>5</sup>

<sup>2</sup> Bancroft: North Mexican States and Texas, I, 631.

<sup>3</sup> Talamantes, par. 25, 26.

<sup>4</sup> Bancroft, *loc. cit.*, gives date as 1722. Representacion gives the date as 1729, probably referring to the later cedula.

<sup>5</sup> Decree of Casa Fuerte, Sept. 9, 1730.



On the banks of the San Antonio river, near the spot selected for the new settlement, there were already located the presidio of San Antonio de Bexar and five missions. Three of these had recently been transplanted from Eastern Texas.<sup>6</sup> Only one of them, San José de Aguayo, had been founded originally on this river. The remaining mission, San Antonio de Valero, had been removed from the banks of the Rio Grande. This mission, with the presidio, formed the nucleus of the modern city of San Antonio. Talamantes mentions the sending, in 1718, of a company of soldiers to the banks of the San Antonio river. The Viceroy, Marquis de Valero, had ordered Governor Alarcon of Coahuila to send fifty soldiers of good character to that river. He sent forward a less number of questionable character. At the same time the mission of San Antonio was removed from the Rio Grande.<sup>7</sup> In a report of 1794 Governor Munoz says that San Antonio was garrisoned in 1715. But as this was before the expedition of St. Denis and Ramon, his statement is more than doubtful. Father Talamantes had access to the best of authorities, the records of the Franciscan colleges of Zacatecas and Querétaro, and his statement that both presidio and mission were founded in 1718 may be taken as determining the date of the founding of San Antonio. All that remained, then, was to add the third element of Spanish colonization—a fully equipped municipality, and the settlement on the San Antonio would complete the full course of Spanish development.

We first hear of the families from the Canary Islands on the 9th of September, 1730. On that day the notary public of the pueblo of Guantitlan formed a list of the various families comprising the new colonists, with a full description of each individual. From this list we learn that the early settlers-to-be of the new villa were as follows: Juan Leal Gonzal, wife, three sons, and one daughter; Juan Carbelo, wife, two sons, and three daughters; Juan Leal y Moso (son of the first man), wife, four sons, and one daughter; Antonio Santio [Santos?], wife, one son, and four daughters; José Padron, and wife; Manuel de la Nis [Niz?], wife, and daughter; Salvador Rodriguez, wife and son; Maria Rodriguez (widow of Juan Cabrara, who died near Vera Cruz), two sons, and one daughter;

<sup>6</sup> Talamantes, par. 29.

<sup>7</sup> *Ibid.*, par. 22.

Maria Rodriguez (widow of Juan Rodriguez Granadillo), and two sons; Maria Melian (widow of Luca Delgado), three sons, and one daughter; five single men: Antonio Rodriguez, Phelipe Perez, José Antonio Perez, Martin Lorenzo de Armas, and Ignacio Lorenzo de Armas—a total of 52 persons. In addition to the names, there was given a full description of each person, comprising the place of his birth, the names of his parents, his station in life, his occupation, and his physical characteristics. The latter were also given for each child. From this description we learn that the colonists came from the islands of Teneriffe, Palma, and Lanzarote.<sup>8</sup>

We next take up the report of the auditor-general, and from it we learn that Francisco Dubal had acted as the conductor of the party from Vera Cruz. The auditor-general says that Dubal shall continue to act in the same capacity and proceeds to map out the daily journeys between Quantitlan and Saltillo. The list contained twenty-five journeys and added four extra days for necessary stops, thus allowing them twenty-nine days to complete the distance (150 to 170 leagues) between Quantitlan and Saltillo.

Since September 6th each person had enjoyed a grant from the royal treasury of four reales per day. In making the estimates for the journey to Saltillo, the auditor-general mentions the number of colonists as fifty-six, although the list of the notary public contains only fifty-two names. As the former number is mentioned in all succeeding dispatches, we may take this as the actual number and leave all surmises for the more curious. The auditor-general still mentions the number of families as ten. He estimates the probable expense of the journey at 852 pesos, with 145 more for the conductor. The latter must have a list of the families to present to the alcaldes mayores of the various districts through which they pass, together with a list of the beasts of burden and baggage, to serve as bases for providing for the needs of the company. These lists the conductor must deliver to Colonel Aguirre, the governor of Coahuila. The alcaldes mayores must also send to Aguirre an account of the provisions they have furnished. These officers would be duly notified to fulfill their part. The conductor was empowered

<sup>8</sup>Francisco Manuel de Cobanubias, Sept. 9. 1730, *Escrivano Público. Historia* 84.

to ask for additional aid, if his march should be delayed beyond the twenty-nine days assigned for its completion.<sup>9</sup>

Having the reports of the notary public and of the auditor-general before him, the Marquis de Casa Fuerte, at that time the viceroy of New Spain, proceeded to issue the necessary decrees for conveying the colonists to San Antonio de Bexar. First he ordered the alcalde mayor of Guantitlan to deliver the persons mentioned in the list of the notary public to Francisco Dubal, after noting any change in the number on account of births or deaths. He was also to make an inventory of the various belongings of the families and send it to the viceroy to be forwarded to Colonel Aguirre. The march is to begin on the 15th of November.<sup>10</sup> The marquis next issued a decree to the governors of Nueva Leon and Coahuila, to the alcaldes mayores, and to the justizias along the route of march, to render such aid as the colonists might need.<sup>11</sup> In this decree he mentions the number of families as fifteen. This number appears in all the following decrees.

With the colonists safely on the road to Saltillo the viceroy sends orders to Colonel Aguirre to provide for the next stage of the route. Aguirre is to send an escort of ten soldiers from Saltillo to the Rio Grande (which in this decree is called both the "Rio Grande" and the "Rio del Norte"). The viceroy gives the list of twenty-three daily journeys, and advises a two days' rest at the Presidio del Norte. This, with certain provisions for saints' days, results in an estimate of thirty-three days for the completion of the journey. The daily allowance for colonists and conductor will make the cost of provisions to be furnished for this part of the journey amount to 1089 pesos. The captain of the Presidio del Norte will provide the escort from that point to San Antonio. Aguirre, in addition to the allowance for provisions, is to furnish each family with a yoke of oxen and necessary implements for cultivating the soil, as well as a metate for grinding corn. The total expense of food for these colonists from Guantitlan to San Antonio de Bexar was estimated at about \$2000. If one considers all the expense necessary to pro-

<sup>9</sup> Report of Don Juan de Oliban Renollede, Auditor General, Oct. 30, 1730. *Historia* 84.

<sup>10</sup> Decree of Casa Fuerte, Nov. 8, 1730. *Historia* 84.

<sup>11</sup> *Ibid.*, Nov. 28, 1730.]

vide each family with oxen and farming implements, and adds this to the probable cost of the voyage from the Canary Islands to Guantitlan, he wonders where later writers get their authority for the statement that the total cost of transportation of these colonists was between seventy and eighty thousand dollars.<sup>12</sup>

Governor Aguirre was also to take an inventory of the possessions of the colonists, to see if any of the articles entrusted to them at Guantitlan were missing. The conductor must give a detailed account of his journey, together with all vouchers for provisions and goods furnished. These vouchers, reports, and inventories are to be sent to the royal treasury at Mexico for payment.<sup>13</sup> By this system of mutual checks the accounts of the expedition were to be kept straight and the opportunities for speculation minimized.

Having thus arranged for the safe conduct of the families to San Antonio de Bexar, the viceroy next had to send orders to the governor of Texas, or in his absence to the captain of the presidio of San Antonio de Bexar, to prepare for their coming. In the first place, the governor is to aid the colonists with provisions to the extent of four reales per day, and to continue this aid for one year after their arrival, at the same prices that provisions are furnished to the soldiers. It is interesting to note how different this course was from that pursued by the English government toward its colonists. In addition, at the proper season, the governor is to provide seeds for planting, and to see that the families attend to the planting at the proper time, in order to have provisions for the second year. Perhaps this second paternalistic requirement was made necessary by the first, and from what we know of the character of these colonists, as shown later, was not needless. The governor is to take the advice of such experienced persons as may be necessary, and is to send an account to the royal treasury.<sup>14</sup>

The next decree may have been necessary from a Spanish standpoint, but to us it seems almost useless. The governor was to make

<sup>12</sup> Bancroft, *North Mexican States and Texas*, I, 652, quoting Morfi, says: "This villa cost the king 80,000 pesos, and today, if sold, would not bring 80 pesos."

<sup>13</sup> Marquis de Casa Fuerte to Colonel Matias de Aguirre, Nov. 28, 1730.

<sup>14</sup> Marquis de Casa Fuerte to Don Antonio Bustillo y Bustamente, Nov. 28, 1730. *Historia* 84.

a new list of the persons composing the fifteen families, in order to confer upon them, as the first settlers, and upon their descendants, the title of "*Hijos Dalgos*," or, as we more commonly term it, "*Hidalgos*." This was a regular honor bestowed upon the first settlers of a new city in the colonies,<sup>15</sup> and seems to have been the survival of a similar custom in Spain during the period of the Moorish wars. The subsequent history of the villa seems to show that this unaccustomed honor did not sit well upon the new recipients. The governor was to select from the heads of these families, six men for the more substantial honor of *regidores*, as well as an *alguacil*, a secretary of the *concejo*, and a major domo to care for the goods and possessions of this "republic."<sup>16</sup> The above officers should select two *alcaldes* for the administration of justice. The governor was to attend the first meeting, to administer oaths and inaugurate the new government. As this was the first political population of Texas, it should be given the title of city and should be the capital of the province. The viceroy reserves to His Majesty, however, the privilege of confirming this decree and of giving the illustrious municipality a coat of arms, should that be his royal pleasure.<sup>17</sup> Evidently the viceroy intended that his new municipality should have a system of paper government as complete, in its way, as the "Fundamental Constitutions" of John Locke. His carefully wrought plans were to apply with even less success to the mesquite plains of Texas, than those of the British philosopher to the pine forests of the Carolinas. With reference to making the new settlement the capital of the province, the exertions of the governor do not seem to have been especially vigorous, for it was not until 1734, under the rule of his successor, that the capital was removed from the presidio of Pilar to San Antonio.<sup>18</sup>

In the next decree the governor is to provide temporary lodgings for the colonists and pasturage for their animals, taking care to keep the latter separated from those of the soldiers. He is to instruct the new arrivals how to look after their own animals, to prevent them from straying off, or from being stolen by the Indians.

<sup>15</sup> Recopilacion de Indias, Lib. 9, Tít. 6, Ley 6.

<sup>16</sup> This same word is often used in referring to a Spanish municipality.

<sup>17</sup> Viceroy to Governor of Texas, same date.

<sup>18</sup> Bancroft: North Mexican States and Texas, I, 637.

The governor is to continue his paternal care in making sure that no one takes undue advantage of the newcomers. He is to take notice that the colonists have left Guantitlan on the 15th of November, that it will take them about thirty-six days to reach Saltillo and about thirty-three more to reach San Antonio de Bexar, and, accordingly, he has no time to lose in making due provision for them. The governor is also to check up the lists of the conductor, as Colonel Aguirre has done at Saltillo.<sup>19</sup>

At this point it may be well to note, with reference to the time consumed on the journey, that a document quoted by Mr. William Corner in his book, "San Antonio de Bexar,"<sup>20</sup> says that the colonists appeared before a notary public of Saltillo January 31, 1731, to certify to the new lists and inventories made out by Colonel Aguirre. Evidently the conductor had found it necessary to make use of his privilege to extend the time of the march from Guantitlan to Saltillo. At this rate the colonists could not have reached San Antonio de Bexar before the middle of March, 1731. In this document the number of families is mentioned as sixteen.

The next duty of the governor is to "lay out" the new city. In company with the necessary number of men of discretion, he is to select a site on the western bank of the San Antonio, within a musket shot of the presidio and to the northeast of it, on a slightly elevated plot of ground, large enough to sustain a considerable population. He is to select a spot with a certain supply of pure air and water. The western bank of the river is to be chosen, because the colonists can use temporarily the missions of San José and San Antonio, without fording the river. After selecting the spot, the governor and his associates shall proceed to lay out the streets, squares, plaza, and sites for the church, house of the curate, the public or royal house, and the remaining houses which appear on the accompanying map.<sup>21</sup> When one reads that the governor was to lay out the streets "straight, according to the map," he wonders, in considering the present state of the older portion of the city, what happened to that map on its journey from the viceroy to the gov-

<sup>19</sup> Viceroy to Governor of Texas, same date.

<sup>20</sup> Page 127.

<sup>21</sup> Unfortunately the map does not accompany the decree at the present time.

error. Perhaps it is only another case of the discrepancy between plan and execution common to Spanish America.

The territory of the new municipality is to be divided as follows: The residence portion, with the church as a center, is to consist of a square of 1093 varas.<sup>22</sup> This square is to be divided into 144 blocks, each 240 feet square, and separated from its neighbors by a street forty feet wide. Each family is to be given a block for a residence lot. It is supposed that the above number of blocks will be sufficient for the probable population of the new municipality for several years to come. Each family is to line the borders of its building lot with trees, and to erect as commodious a house as possible, with a patio, corral, and all necessary buildings. The leading families were to be assigned lands about the plaza, but in other respects the assignments and buildings erected were to be as nearly equal as possible. Care should be taken to provide for the cleanliness of the premises, and that the directions of houses and streets should coincide.

Outside the residence portion came the common pasture lands, extending on every side 1093 varas. A fifth part of this land was to be set aside "*para propios de la Republica.*" From the limits of this pasture land another measurement of 2186 varas in every direction, included the land destined for labors. In the later colonization law of the Mexican Republic,<sup>23</sup> a labor consisted of a tract of land one thousand varas square, and it is probable that the labors mentioned above were about the same size. Each family was to receive a labor, together with equal privileges of using the water from the arroyo,<sup>24</sup> or from the San Antonio. A fifth portion of this land was also to be reserved for public use, and the remainder to be given to future colonists. The different families were to be given a title for their lands in the name of His Majesty, in accordance with a "law of the Indies."<sup>25</sup> This decree was to be deposited in the house of the concejo, as part of the record for land titles.

The governor was to furnish sheep, goats and cattle for each family and render account of these, together with everything else

<sup>22</sup> A vara is about 33 inches.

<sup>23</sup> Laws of Constituent Congress of Coahuila and Texas, No. 16, Art. 11.

<sup>24</sup> Probably San Pedro Creek.

<sup>25</sup> Recopilacion de Indias, Lib. 9, Tft. 12, Ley 9.

provided for the colonists. He was to attend to the matter with the zeal and energy that its great importance warranted, with the certainty that a favorable beginning would largely determine the subsequent ease and well-being of the colonists.<sup>26</sup>

Having made due provision for a reasonable amount of this world's goods for the colonists, the viceroy finally turns his attention to the spiritual needs of his new municipality. He issues a decree to the Bishop of Guadalajara, to send a resident of the oratory of San Carlos, a zealous person, to administer the sacraments and perform the other religious duties for the inhabitants of Texas' new capital. The person selected is to act both as curate and as ecclesiastic vicar judge. He is to be given a salary of 400 pesos, and his pay is to begin on the day he departs for his new field. He is also to hasten the erection of the parish church.<sup>27</sup> It is interesting to note that the corner-stone of this edifice was not laid until 1744.

With this decree the viceroy ended his hard day's work. It certainly seemed that he had taken every caution that human ingenuity could devise for the successful founding and the steady growth of this distant outpost of Spanish civilization. But the viceroy lived in the days when the Spanish monarchy had degenerated, and was working against an almost insuperable obstacle to rapid growth, in the person of the fierce Texas Indian, and with most inefficient means in "the fifteen families, consisting of fifty-six persons, come from the Canary Islands, for the purpose of colonizing the Presidio of San Antonio de Bexar." One has but to read the later criticisms of Father Morfi<sup>28</sup> to realize the futility of all paternal legislation, and especially of this experiment on the frontier of Texas. But the experiment, unsuccessful as it was in its realization, resulted in the founding of the first Texas municipality.

<sup>26</sup> Viceroy to Governor of Texas, same date.

<sup>27</sup> Viceroy to Sr. Dr. Don Nicholas Carlos Gomes de Cervantes, Nov. 28, 1730.

<sup>28</sup> *Memorias para la Historia de Texas.* MS.;



LIFE OF GERMAN PIONEERS IN EARLY TEXAS.

CAROLINE VON HINUEBER (BORN ERNST).

[This narrative has been prepared for publication in THE QUARTERLY by Rudolph Kleberg, Jr. See QUARTERLY for April, 1898, p. 297, and for October, 1898, p. 170.—EDITOR QUARTERLY.]

When my father came to Texas, I was a child of eleven or twelve years. My father's name was Friedrich Ernst. He was by profession a book-keeper, and emigrated from the duchy of Oldenburg. Shortly after landing in New York he fell in with Mr. Fordtran, a tanner and a countryman of his. A book by a Mr. Duhde, setting forth the advantages of the new State of Missouri, had come into their hands, and they determined to settle in that State. While in New Orleans, they heard that every settler who came to Texas with his family would receive a league and labor of land from the Mexican government. This information induced them to abandon their first intention.

We set sail for Texas in the schooner *Saltillo*, Captain Haskins. Just as we were ready to start, a flatboat with a party of Kentuckians and their dogs was hitched on to our vessel, the Kentuckians coming aboard and leaving their dogs behind on the flatboat. The poor animals met a grievous fate. Whenever the wind arose and the waves swept over the boat, they would howl and whine most piteously. One night the line parted, and we never saw them again.

We were almost as uncomfortable as the dogs. The boat was jammed with passengers and their luggage so that you could hardly find a place on the floor to lie down at night. I firmly believe that a strong wind would have drowned us all. In the bayou, the schooner often grounded, and the men had to take the anchor on shore and pull her off. We landed at Harrisburg, which consisted at that time of about five or six log houses, on the 3d of April, 1831. Captain Harris had a sawmill, and there was a store or two, I believe. Here we remained five weeks, while Fordtran went ahead of us and entered a league, where now stands the town of Industry.

While on our way to our new home, we stayed in San Felipe for several days at Whiteside Tavern. The courthouse was about a mile out of town, and here R. M. Williamson, who was the alcalde, had his office. I saw him several times while I was here, and remember how I wondered at his crutch and wooden leg. S. F. Austin was in Mexico at the time, and Sam Williams, his private secretary, gave my father a title to land which he had originally picked out for himself. My father had to kiss the Bible and promise, as soon as the priest should arrive, to become a Catholic. People were married by the alcalde, also, on the promise that they would have themselves reunited on the arrival of the priest. But no one ever became Catholic, though the priest, Father Muldoon, arrived promptly. The people of San Felipe made him drunk and sent him back home.

My father was the first German to come to Texas with his family. Hertzner, a tailor, and Grossmeyer, a young German, at Matagorda, both unmarried, were in Texas when my father came. There was also a Pennsylvanian, whom they called Dutch Henry, and a Dr. Adolph v. Zornow, had traveled through Texas, but did not stay long. My father wrote a letter to a friend, a Mr. Schwarz, in Oldenburg, which was published in the local newspaper. This brought a number of Oldenburgers and Münsterländers, with their families, to Texas in 1834.<sup>1</sup>

<sup>1</sup>[Robt. J. Kleberg, Sr., writes: "We had accidentally got hold of a letter written by a gentleman, who had emigrated some time before us from the Duchy of Oldenburg and who lived where now is Industry, Texas, Fritz Ernst, by name. In this letter he had described Texas, then a province of Mexico, in very glowing colors, mentioning also the advantages offered to immigrants by the Mexican government, namely, a league and labor for every man with a family and  $\frac{1}{2}$  league for every single man. This letter caused us to change our first intention to go to one of the northern states and to choose Texas for our future home. At the time we left, hardly anything was known of Texas, except that my ideas and those of my party were formed by the above mentioned letter, in which Texas was described as a beautiful country, with enchanting scenery and delightful climate, similar to that of Italy, the most fruitful soil and republican government, with unbounded personal and political liberty, free from so many disadvantages and evils of old countries. Prussia, our former home, smarted at the time we left under a military despotism. We were enthusiastic lovers of republican institutions, full of romantic notions, and believed to find in Texas, before all other countries, the blessed land of our hopes." This is taken from notes written by him in 1876.—R. K., Jr.]

After we had lived on Fordtran's place for six months, we moved into our own house. This was a miserable little hut, covered with straw and having six sides, which were made out of moss. The roof was by no means water-proof, and we often held an umbrella over our bed when it rained at night, while the cows came and ate the moss. Of course, we suffered a great deal in the winter. My father had tried to build a chimney and fireplace out of logs and clay, but we were afraid to light a fire because of the extreme combustibility of our dwelling. So we had to shiver. Our shoes gave out, and we had to go barefoot in winter, for we did not know how to make moccasins. Our supply of clothes was also insufficient, and we had no spinning wheel, nor did we know how to spin and weave like the Americans. It was twenty-eight miles to San Felipe, and, besides, we had no money. When we could buy things, my first calico dress cost 50 cents per yard. No one can imagine what a degree of want there was of the merest necessities of life, and it is difficult for me now to understand how we managed to live and get along under the circumstances. Yet we did so in some way. We were really better supplied than our neighbors with household and farm utensils, but they knew better how to help themselves. Sutherland<sup>2</sup> used his razor for cutting kindling, killing pigs, and cutting leather for moccasins. My mother was once called to a neighbor's house, five miles from us, because one of the little children was very sick. My mother slept on a deer skin, without a pillow, on the floor. In the morning, the lady of the house poured water over my mother's hands and told her to dry her face on her bonnet. At first we had very little to eat. We ate nothing but corn bread at first. Later, we began to raise cow peas, and afterwards my father made a fine vegetable garden. My father always was a poor huntsman. At first, we grated our corn until my father hollowed out a log and we ground it, as in a mortar. We had no cooking-stove, of course, and baked our bread in the only skillet we possessed. The ripe corn was boiled until it was soft, then grated and baked. The nearest mill was thirty miles off.

As I have already said, the country was very thinly settled. Our three neighbors, Burnett, Dougherty, and Sutherland, lived in a radius of seven miles. San Felipe was twenty-eight miles off, and

<sup>2</sup> See next paragraph.

there were about two houses on the road thither. In consequence, there was no market for anything you could raise, except for cigars and tobacco, which my father was the first in Texas to put on the market. He sold them in San Felipe to a Frenchman, D'Orvanne,<sup>3</sup> who had a store there, but this was several years afterwards.

We raised barely what we needed, and we kept it. Around San Felipe certainly it was different, and there were some beautiful farms in the vicinity.

Before the war, there was a school in Washington, taught by a Miss Trest, where the Daughertys sent their daughter, boarding her in the city. Of course, we did not patronize it.

We lived in our doorless and windowless six-cornered pavilion about three years.

When the war broke out, my father at first intended quietly to remain at his home. But the Mexicans had induced the Kickapoo Indians to revolt, and he was warned by Captains Lester, York, and Pettus against the savages. We then set out with the intention of crossing the Sabine and seeking safety in the States. When we arrived at the Brazos, we found so many people assembled at the ferry that it would have been three days before the one small ferry-boat could have carried us over the stream. The roads were almost impassable. So my father pitched his camp in the middle of the Brazos bottom near Brenham. Here we remained until after the Battle of San Jacinto.

Thirteen men with their families, mostly Münsterländers and Oldenburgers from Cummins Creek, were in our party. They were Amsler, Weppler, Captain Vrels, Bartels, Damke, Wolters, Piefer, Boehmen, Schneider, Kleekemp, Kasper, Heimann, Gründer, and Witte.

Some of the Germans fared ill on account of their tardy flight. Mrs. Goegens and her children were captured by the Indians and

<sup>3</sup> [This man's full name was Alexander Bourgeois D'Orvanne. He afterwards played a prominent part in the founding of the German colonies of New Braunfels and Fredericksburg in 1843-46 by the *Mainzer Adelsverein*. See *Entwicklungsgeschichte der Deutschen Kolonie Friedrichsburg* by Robert Penniger, Fredericksburg, Texas, 1896. Mrs. Rosa Kleberg tells me that her party was very hospitably entertained by him when they were on their way from Harrisburg to their farm at Cat Spring in 1835. He had a fine general mercantile business. He impressed her as a very estimable gentleman.—R. K., Jr.]

taken to the border of Texas, where American traders ransomed the lady, but had not sufficient money to purchase the children. These remained with the Indians. The Mexicans captured Stoehlke and intended to hang him. Upon his using the name of Jesus Christ, they released him. Kaspar Simon was also made a prisoner, but released upon exhibiting his ignorance of the whereabouts of the Texan army.

After the war, times were hard. However, my father had buried a good many things and had in this way succeeded in keeping them from the Mexicans. He had placed two posts a considerable distance apart, and had buried his treasures just midway between them. The posts had both been pulled out and holes dug near them, but our things had not been found. Our house and garden had been left unharmed, though those of our neighbors had been destroyed. The explanation of this is probably to be found in the fact that the Münsterländers, who were Catholics, had brought all their holy relics to our place and had set up several crosses in our garden.

Just as we had returned from the "runaway scrape," and had scarcely unhitched our horses, Vrels came running up and told us that a party of Mexicans had taken his horse. Ellison, York, and John Pettus, who had just returned from the army, galloped after the robbers, and, after York had killed one of them, recovered the horse.

We had plenty of corn and bacon. My brother and John Pettus brought back a few of our cattle from Gonzales. Before the war, there had been very little trouble; but afterwards, there was a good deal of fighting in our neighborhood, especially about election time.

A short time afterwards, my father began keeping a boarding-house and had a large building constructed for that purpose. He tore down the six-cornered pavilion, over the protest of my mother, who wanted to keep it as a sort of memento of former days. Many German immigrants accordingly came to our house. Nearly all managed very badly at first, using all their money before they had learned to accommodate themselves to their new surroundings.

Industry was founded about this time and named by Benninghoffer after a lively dispute. My father was justice of the peace for quite a time, and later was engaged in general merchandising.

I remember very well the coming of the German colonists who

founded New Braunfels and Fredericksburg. My brother Fritz accompanied Solms in the capacity of interpreter and guide. The prince had a considerable retinue of horsemen, dressed mostly like himself, after the fashion of German officers. Among the company were an architect, a cook, and a professional hunter (jaeger). Whenever they came to a good piece of road, the prince would say, "Now let us gallop," and then the whole party would charge down the prairie. The hunter was commanded to kill a deer, but did not succeed, and my brother rode out and killed one, causing much pleasure to the prince.

While on the same journey, the party stopped at a farmer's, who brought out watermelons and told them to help themselves. My brother cut a watermelon in two, took a piece, and went out into the yard to eat, whereupon one of the officers rebuked him severely, asking him how he could dare to eat when His Highness had not yet tasted.

When the prince was endeavoring to establish the Karlshafen (Indianola), and he and his party were making soundings, the boat grounded. The prince was in great distress and insisted that the only thing to do was to wait for the tide. My brother then took off his clothes, got out, and pushed the boat off the sandbank.

I also remember that the prince's cook came to my mother for information in regard to Texas dishes.

I lived in Industry until I married Louis von Roeder. Nearly all my time was spent in attending to our household, and I had little opportunity for traveling about. I was not in San Felipe after the war.

TWO LETTERS FROM A MIER PRISONER.

[The first of these two letters is in the Wilson Scrap-book, and is mentioned in the description given in THE QUARTERLY for October, 1897, pp. 132-3. The second came into the collection of the Association through the kindness of Mrs. W. G. Belding of Fort Worth and its possessor, Mrs. J. F. Miller of Gonzales. It was written to Col. A. Turner, the father of Mrs. Miller.—EDITOR QUARTERLY.]

Castle of Perota 22nd April 1844.

Dear Brother

At last addressing you from the confines of a Prison, contrary to what I ever anticipated but in character with the present condition of our Country in my former letters I gave you a history of our fight at Mier broke at the Salado &c notwithstanding our many sufferings on our march a distance of fifteen hundred miles many of us barefooted myself marched three hundred miles barefooted during the time there were three hail storms that in the wash the Hail lay ankle deep badly fed and almost naked at last brought up at this miserable place Perota the castle contain twenty six acres walls Eight feet thick of stone and cement twenty-five feet high heavy Lock and we chained by the leg this shows the improbability of escape tho sixteen of our men did dig under the wall and escape four retaken this place is situated in a vally the surrounding mountains covered with snow summer and winter upon the whole the most unpleasant climate I have yet visited the condition of most of our men have been Eleviated by their friends in the United States by sending them money as for myself sence the 25th December 42 I have been destitute of money not one cent to buy soap to wash my skin Cloth is out of the question we are all Lousy as pigs All comunication is stoped between Texas and this country which precludes all possibility of obtaining any relief from home I drew upon Alexander Spiers Brown & Co of New York for four hundred & twenty Eight dollars which they were due me my latter date 29th Dec. 43 No answer as yet Feby 23rd drew upon Bursides & Co Orleans as a matter of favour No answer here a prisoner without one cent an Epimdemic visited us

and reduced our nos one third then was the trying moment of my life fear came over me amongst our acquaintance Joseph A Cruz died about the first of Feby 44 Wm A Wallace is here a prisoner with me who at the same time suffered Marturdom with myself in the Hospital the eppidemic that prevailed affected the Head all was in a state of delirium he Wm A W was lashed hard and fast on his back with roaps which marks will show as long as he lives— We are required to perform the most menial service that ever white men did perform sweeping the streets gathering all the filth that may accumulate in baskets under the superintend of the vilest of convicts with seeming discretion to use the pole instead of the rod the application of which keeps every one up to the mark—

To myself I never have heard from my native country but once that was Govr McDowel to U. S. Consulate Black in favor of my friend Wm A W— Writing time after time farewell

WM. F. WILSON

P S leaving home I was a candidate for the sherifalty of Liberty County with an expectation of reaching home by the day we were taken prisoners making no provision for the safe keeping of my affects Send this to Mr Andrews Wallace and tender him my .....<sup>1</sup> for his interposition in our behalf

W F W

Republic of Mexico  
Castle of Perota 29th July 1844

Dear Coln

Again I write you still believing that I cannot be so far forgotten by you as not to answer my letters but attribute it perhaps to miscariages Since a prisoner I have written you four or five times & Mrs Turner once Coln Bowyer at least once per month Coln Hardin Coln Woods Major John D Andrews of Houston John B Johnson of San Philopy David White of Mobile and Osker Farish and as yet I have received nothing— we are in a most retched condition hadly fed naked made to work like beasts of burthen Some time ago we were fed upon meet of so doubtful a character that it is yet a matter undecided whether it was dried Dog or Goat meat My impression is that it was dog from the cooks

<sup>1</sup>Obliterated.



finding the foot of a dog to the end of a shank and it not differing in appearance or flavour from the Balance in our naked condition we suffer much from cold being fourteen thousand feet above the level of the see and of course it snows very easy we are in sight of snow all the time except when locked up in the Vally wher we are situated it Rains at least once in twenty four Hours & frequently mixed with snow. this Castle contains twenty six acres of ground wals eight feet thick that it has not been heated by other than animal heat for the last five hundred years they at times have from one hundred to a thousand Prisoners of their own. having but a thin mat maid out of a flag and an oald Blanket we sleep upon the brick floor and it damp which we suffer much from Rheumatism Hours of work per day ten after the Bexher Prisoners left we ware closely confined twenty Hours out of the 24 they finding it was injuring our health they maid a change for the better tho it was imposing more work the things who oversee us is the vilest of convicts with seeming discreision to exercise all the crualty over us thay may think proper in which for their amusement they inflict stripes & Blows in which we can have no redress at this time I feel it more my duty to write than formerly that I may keep you advised of all the movements so far as I can tho we are pretty much secluded from everything except insults & taunts. Mr B E Greens letter to W S Murphy United States charge d affairs to Texas as published in weekly news bearing date 17th June 1844 superseeds my entering into particulars as I otherwise would do this letter referred to is upon the subject of Invasion He leaves the number of troops indefinate the Officers in this Castle tell us sometimes that it is thirty Thousand & from that down to seventeen Thousand Thay also inform us that thay are to be supplied with a Navy from England & the same maned by Englishmen seamen again they tell us that the are to be furnished seventeen ships by Spain a number of the officers that guarded us have been ordered and on their way to Texas as published in the weekly News of Galveston Canalus is commander and chief but not so it is *Canalizo* Mormon his aid who speaks English very well told me a few days ago that he would start the first of August to Texas The most of the troops is in St. Lewis Petocia at this time— As to Federation or Revault in Mexico it was got up for the purpose of deluding Texas or throwing hir of hir guard so look out and be on the alert

I have a skeam in view but in case this should be overhalled It would operate against me but do urge the people to be prepared. I do not wish this to be published but give the news as much publicity as possable I recomend you arming both your sons and yourself well and the same to every Texian for all will have to bear a hand after reading this send it to Coln Bowyer as I wish him to get up the colt I got from Mr Hardin & have him Broak but neither main nor tail altered My respects to Mrs. Turner & famly Mrs. Bowyer & little Lewis reserving a part for yourself and Coln Bowyer.

WM. F. WILSON

## A BELATED COLONIST.

[The two following letters from Alex. Thomson to Stephen F. Austin indicate some of the troubles experienced by colonists reaching Texas subsequent to the decree of April 6, 1830, the eleventh article of which forbade further immigration from the United States. The originals are in the collection of Col. Guy M. Bryan.—EDITOR QUARTERLY.]

TENOXTITLAN, NOV. 13th 1830.

Respected Sir,

I am unacquainted with you personally, yet situated as I am, I think it necessary, to address you, and apprise you of a considerable difficulty, that now exist in the settlement of your colony, and the others also, namely, the order from General Teran, to the Colo. at Nacogdoches to suffer no person to pass, unless they have a passport, I was not apprised of that order, and came there, I think on the 28 ultmo, the alcalde inform'd me when the families came into town I must collect them all together, and present them, I done so, then the Coll. sent for me, and inform'd me that he had the saturday before recd the above mentioned order and could not consistent with his order, let me pass, but as we were ignorant of the late law, and as we had compleatly complied with the Colonization Law, having our certificates legally arraged, by the proper authorities, he would venture to give five of us a permit to you, who he said was authorised to give us pasports; but the families must remain until our return, we had traveled better than 8 weeks, had spent a great deal of money, and was much fatiuged, we could not feel willing to remain in that part of the country on expences so long, we therefore came round, which caus'd us to loose  $2\frac{1}{2}$  days travel, we are now at the barracks, at Mr. Williams, that is the families. We arrived there last night, To-day I came up to the new garrison to see the commander here he says that he has recd the same order, and advises us to remain where we are, until he receives further orders in answer to his letter that he had writen after Majr Robertson had inform'd him that I was on the road, which answer he expected would arrive in four days, mean-while he gave us permission to explore the country, which we intend to do immediately—

Coll. Thorn has sent you a letter by me on the subject, We, him & myself think it advisable for you to have an agent appointed in Nacogdoches, he says he is willing to act for you if you wish him, but he expects to start in a day or two for New Orleans and be absent two months, there ought to be some person there authorised immediately, for since I left there, I have been informed of two more families that have been stoped, and detain'd,— I have been particular in giving the particulars of my detention, to you, in order that, you may have a clear view of the impediment, emigrants will meet in coming to the colonies— So soon as I can, I expect to see you, but cannot for a few days,—Majr. Robertson has inform'd you that I am interested in the settlement of this colony,——

Respectfully your most

Obt servant

ALEXANDER THOMSON.

TEXAS, AUSTIN'S COLONY, April 9th 1831

Dr. Sir,

I am sorry to be compelled to trouble you with a few lines, but nescesity forces me to do it, I arrived with my own, and eight more families, on the 2nd Inst. at Harrisburgh, at which place I learn'd that, the families that I had brought out Last fall were ordered below the St. Antonio road, and that they had all mov'd down, the most of them to Mr. Milligans, I immediately went to St. Phillippi, to know the particulars, while there an order arrived, that all the families and myself, should return, to the, U. S. I at first concluded to go immediately but all with whom I convers'd at St. Phillippi, advised me to wait, and petion for priviledge to remain in this colony, and become a settler here, I have arranged all my business in the U. S. and came with view to become a permanent residentor in this country, and has sacrificed much, and underwent a great deal of fatigue, and trouble, to get here, if we have to return, it will break us all prety well— I anticipated no such difficulties, or I never should have engaged in the business, but remain'd where I was well settled in Tennessee—

As I believe it is in your power to do more with the government, and with Genl. Teran, than any one else, and believing that you are dispos'd to be friendly toward us, I now take the liberty to request you, to interceed for us in any way your discretion, may point out,

and that as soon as you can, for I will not be able to know what to do, until I hear from you, If I am obliged to return, the sooner I know it the better, or if I am permitted to remain, I wish to be trying to settle myself, if I can remain, I wish to settle in the uper part of your colony—

Any attention paid to my situation by you, will be greatly acknowledged, now is the time, sir, for you to do me, perhaps a greater kindness, than you may ever have an opportunity to do me again—

Your Most Obedent Sevt.

ALEXR. THOMSON.

N. B. until I hear my destiny, I expect to reside in the settlement of Mr. Milligan.

## BOOK NOTICES AND REVIEWS.

The paper of Mr. Bugbee on *Slavery in Early Texas*, published in two parts, appearing respectively in the September and December numbers of *Political Science Quarterly*, is an excellent piece of historical work. One of its most important features is the argument against the assumption made by certain historians such as von Holst in supposing that the law of July 13, 1824, forbade the further introduction of slaves into Texas. Another is the evidence offered that the exception of Texas from Guerrero's decree of 1829 abolishing slavery in Mexico was officially promulgated. The article is based largely upon material hitherto unpublished, and in fact unused, and constitutes a very satisfactory introduction to a most important question.

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*Prominent Women of Texas*, by Elizabeth Brooks, "manufactured" by the Warner Company, Akron, Ohio, is a compilation of sketches of about one hundred and fifty well known women of the State. Not claiming the list to be complete, the author states that "many distinguished in their several spheres have been necessarily omitted."

Under the title of "Wives of Texas Presidents" appear the names of Mrs. Sam Houston and Mrs. Anson Jones; while Mrs. Rusk, Mrs. Lamar, Mrs. Fannin, Mrs. Sherman, and Mrs. Wharton are classed as "Wives of Military Heroes." All the other names are arranged under the following titles: Pioneers, In the Realms of Art, Well Known Vocalists, Prominent Authors, Journalism in Texas, Educators, Physicians, Temperance Leaders, Dramatic, Wives of Prominent Men, The Uncrowned Queen of the West, Representative Women, and Well Known in Social Life.

The sketches are short, but contain a deal of matter well worth preserving in print.

*The Laws of Texas.* Compiled and arranged by H. P. N. Gammel, of Austin. With an Introduction by C. W. Baines. Austin: The Gammel Book Company. 1898. Vol. I, pp. vii + 1527; Vol. II, pp. 1729; Vol. III, pp. 1586.

This series contains really more than the title indicates, as a glance at the contents of the first volume shows. They are as follows: Austin's Colonization Law and Contract; Mexican Constitution of 1824; Federal Colonization Laws; Colonization Laws of Coahuila and Texas; Colonization Law of the State of Tamaulipas; Fredonian Declaration of Independence; Laws and Decrees, with Constitution of Coahuila and Texas; San Felipe Convention; Journals of the Consultation; Proceedings of the General Council; Goliad Declaration of Independence; Journals of the Convention at Washington; Ordinances and Decrees of the Consultation; Declaration of Independence; Constitution of the Republic; Laws, General and Special, of the Republic; Annexation Resolution of the United States; Ratification of the same by Texas; Constitution of the United States; Constitution of the State of Texas, with all the laws, General and Special, passed thereunder, including Ordinances, Decrees, and Resolutions, with the Constitution of the Confederate States and the Reconstruction Acts of Congress.

The second volume contains the Laws of the Republic and State of Texas from 1838 to 1846, inclusive, and the third volume, the laws of the State from 1846 to 1854, inclusive. The Constitution of 1845 is incorporated in its proper place.

The Special as well as the General Laws are inserted in full—in fact nothing is omitted from the current publications of the laws as they were enacted from time to time.

It would be difficult to estimate the value of this great repository of jurisprudence and history. The services rendered the legal profession by the Messrs. Sayles in the compilation of their *Early Laws* has been of incalculable benefit to the bar, but this puts us in possession of a vast amount of original data which for many years has been practically out of print and inaccessible. The student of political science is here afforded the material for studying the true philosophy of the foundations of our political system, the incongruities of Spanish-American methods in experiments toward popular government, the striking contrasts between two antagonistic civilizations, and the virtues and defects in each. The

constitutions of Mexico and of Coahuila and Texas, and the crude forms of legislation, both national and state, contained in the first volume of this series present an object lesson in history without which much of what we have heretofore obtained at second hand, and very imperfectly, would be of little value. The original sources of many private rights long since buried in oblivion are here brought to light, and in this aspect the series is of immense value to all classes of people. In spite of constitutional precautions, Texas, especially in her earlier history, was very prolific in special legislation, and numerous rights have grown up from various provisions of the laws, long since obsolete and out of print.

We have here an encyclopaedia of Texas law and political history in convenient form, adapted to use in private as well as in public libraries. The magnitude of the undertaking is such as to preclude the idea of a speculative enterprise on the part of the publisher, and it is hoped that the real merit of the work may so commend itself to the intelligence and patriotism, as well as to the practical necessities of our State, as to insure remuneration for the great outlay involved. The price of the entire series, when completed, is to be \$100, or about one-fifth the price of a set of supreme court decisions. The comparative value of a complete compendium of statutory law and a compendium of our jurisprudence as contained in the reports of the decisions of our higher courts, can be appreciated with little reflection. Neither is complete without the other; hence it may be seen that this series is comparatively cheap, and especially so when it is considered that a large proportion of the matter is inaccessible, except in these volumes.

The compilation claims to be "an exact reprint of the originals or copies, *verbatim et literatim.*" The Introduction by Judge Raines gives a summary of the matter to be contained in the entire series. The volumes are to appear successively at intervals of two months until the ten are issued.

Texas lawyers and students of law and history will wish Mr. Gammel abundant success in his gigantic undertaking.

Z. T. FULMORE.



NOTES AND FRAGMENTS.

"LYNCHBURG" FOR HARRISBURG. — In the paper by Governor Roberts in the October QUARTERLY on the capitals of Texas, I notice he substitutes Lynchburg for Harrisburg. This was doubtless a slip of the pen, for I have never heard that the Cabinet was at any time domiciled at the former place, while its members were for nearly a month at the residence of my grandmother at Harrisburg.

ADÈLE B. LOOSCAN.

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PADRE MULDOON'S TOAST.—Among the papers of Col. Guy M. Bryan is the following toast—apparently the original—offered by Padre Muldoon at a banquet given at Anahuac, January 1, 1832:

May Plough and Harrow, Spade and Fack,  
Remain the Arms of Anahuac:  
So that her rich and boundless plains  
May yearly yield all sorts of Grains.  
May all religious discord fall,  
And friendship be the Creed of all.  
With tolerance your Pastor views  
All sects of Christians, Turks, and Jews.  
I now demand three rousing cheers—  
Great Austin's health and Pioneers.

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THE CAPITALS OF TEXAS.—A resolution was offered in the second congress by Thomas J. Rusk, proposing a committee of both houses to inquire into the propriety of selecting a site upon which to locate permanently a seat of government. It was adopted, and Messrs. Rusk, Burleson, and Menefee were appointed. They reported in favor of the proposition, and recommended that "five commissioners should be chosen by vote of both Houses, whose duty it shall be to select such site, and that they should receive such propositions for the sale of lands as may be made to them, and to

make conditional contracts, subject to ratification or rejection by this Congress, and that they report by the 15th of November, and in making selections they be confined to the section of country between the Trinity and Guadalupe rivers, and that they select no place over twenty miles north of the upper San Antonio road, nor south of a direct line running from the Trinity and Guadalupe crossing the Brazos at Fort Bend."

By joint vote of the houses five commissioners were selected. They were Messrs. Greer, McGehee, Burton, Sherlock, and Chriesman.<sup>1</sup>

Upon the subsequent vote of both houses in choosing the site, Eblin's League (the adjoining league to Colonel Moore's, on which LaGrange is situated) was put in nomination, and upon the second ballot received a majority of all the votes.

It may be of some interest to know the names of the places nominated in the contest. Besides Eblin's League, there were Nashville, Bastrop, Black's Place, San Felipe de Austin, Nacogdoches, Groce's Retreat, Comanche—not the town of that name at present—and Richmond.<sup>2</sup>

President Houston vetoed this bill, so momentous to the interest of Fayette County, upon the ground that "the law fixing temporarily the seat of government" provided "that it shall be established at the town of Houston until the end of the session, 1840, which clearly required "that at least two elections must take place for members of the house of representatives, and two-thirds of the senators will be renewed previous to that time." "Many changes," he argued, "must take place in the population and condition of Texas previous to the year 1840," and the act contemplated "a larger expenditure of the public treasure than the Executive would be willing to see subtracted from the treasury at this time."<sup>3</sup>

These seemed good and sufficient reasons. What especial motive the house and Senate had for pushing the question further, is not expressed in the resolutions upon the question which followed.

May 22d the veto message was received, the bill was taken up again, and the question put,

<sup>1</sup> House Journal, Second Congress, pp. 10, 38-9, 62-3.

<sup>2</sup> House Journal, Second Congress, Adjourned Session, pp. 97-8.

<sup>3</sup> *Ibid.*, pp. 162-3.

"Shall the bill pass, notwithstanding the reasons of the President to the contrary?"

The vote stood 14 to 12, so the bill was lost, there not being a constitutional majority.<sup>4</sup>

It was the opinion frequently expressed by the old settlers that that if General Burleson had not been absent, Eblin's League would have been the seat of government, but I find his name among those who voted for the passage of the bill over the veto. Voting on the nomination of a place for the capital, he did not support Eblin's League until the second ballot, giving his first vote to Bastrop. He was absent when the vote to create the county of Colon was taken, the bill for which was also vetoed by President Houston directly after; and this probably gave rise to the notion I have mentioned.

In prospect of the seat of government being located upon Eblin's League, the people of the vicinity had selected the lot first settled by Professor Decherd, within the corporate limits of La Grange, as Capitol Hill, and looked with confident expectation to the outcome.

But the veto message came, and with results entirely unlooked for by the President; for a bill was subsequently passed by a constitutional majority, locating the future capital at Austin, or rather, the bill resulted in that.

Tradition says that the southern members urged the extension of the limits fixed by the bill, hoping to defeat it by exhibiting the imprudence of the effort, but to their utter astonishment it passed, placing the capital upon the outermost verge of civilization. Whatever outcome as to the development of the country may have been expected, this must at least be regarded as rather a daring act of legislation.

The prosperity to Fayette that would have followed the location of the capital on Eblin's League is easily understood.

JULIA LEE SINKS.

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THE NAME ALAMO.—Even the casual observer notices that the mission of the Alamo is the only one of the Texas missions which

<sup>4</sup> *Ibid.*, pp. 166-8.

bears a name not associated with sacred persons or things. San Juan, Concepcion, San José, San Francisco, and the rest may have called up the reverential respect of the friars in the mere pronunciation of the names, but there was nothing in plain Alamo,—the name of a tree and in no way connected with things holy,—to excite the veneration of churchman or to awe the more than half-savage convert. Indeed, the Alamo was not the official designation of the mission, and we may be sure that the friars never applied such a non-holy name to it. To them and to the church it was the Mission San Antonio de Valero; and Alamo is, of course, only a popular name which has by some means won favor until San Antonio de Valero has been almost forgotten.

What, then, is the origin of the name Alamo? Common report in San Antonio replies that once the grounds around the mission church were covered with a growth of cottonwoods,—*álamos*,—and that the name arose from this circumstance. Certainly this seems to be a sufficient explanation.

But there is another explanation which has been suggested by certain documents in the archives of Bexar relative to the history of the Alamo, and which, if it does not point to the real origin of the name, at least brings to light an interesting coincidence. We may, perhaps, safely assume that the mission was called San Antonio de Valero as long as the friars remained in charge of it; that is, until 1793, when it was secularized.<sup>1</sup> From 1793 to 1801, the buildings were unoccupied; in the latter year, the military force in Texas was increased by the addition of "la compañía Volante del Álamo de Parras," and this new company was quartered in the deserted mission.<sup>1</sup> It remained there till 1813,<sup>1</sup> when the Revolution caused the temporary abandonment of the mission. After the Revolution, the company returned to its old quarters, where it remained till at least late in the twenties.

In the reports of the commander of the Texas troops, this company was usually referred to as the "company of the Alamo," and no doubt this was the name by which it was popularly known. Was it not an easy step, then, to attach the name of the company to the abandoned mission where it was quartered? If, indeed, the cotton-

<sup>1</sup> Political Chief José Antonio Sancedo to Governor Gonzales, June 10, 1825.—Archives of Bexar.

wood grew on the mission grounds, this step was rendered all the more easy, and very probably the people soon forgot that the "company of the Alamo" brought its name along with it when it first came to San Antonio. We may even think of the average citizen, in the twenties, explaining to the stranger that the company of the Alamo was so called because it was quartered in the mission of that name. Explanatory traditions frequently arise in this manner.

In submitting this suggestion, I wish it emphasized that it is offered only as a possible explanation. The facts are not sufficiently conclusive to warrant positive statements. Of course, the hypothesis suggested above would be overturned by the discovery of a single instance in which the name Alamo was applied to the mission prior to 1801, the date of the arrival in San Antonio of the company of the Alamo of Parras. If such an instance should come under the observation of any reader of this note, I trust *THE QUARTERLY* will be informed.

LESTER G. BUGBEE.

QUESTIONS AND ANSWERS.

The School of Pedagogy of the University of Texas is desirous of obtaining information concerning the early schools of Texas. Personal reminiscence pertaining to education in this State, catalogues of schools and colleges, and pamphlets containing articles and addresses on educational topics will be thankfully received. Correspondence with a view to gathering up material for a history of education in Texas is earnestly invited. Address

W. S. SUTTON,  
Professor of Pedagogy, University of Texas.

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In answer to the question of Judge Raines in the October number of *THE QUARTERLY*, I will say that the municipal ordinances for the villa of Guerrero (1830), the villa of Goliad (1830), and the city of Leona Vicario (Saltillo) can be found in the Bexar Archives. Those of other Texas towns may be there also, although the task of finding them would be as uncertain as the traditional search for a needle in a haystack. The decrees for the founding of the villa of San Fernando are found in Volume 84, Seccion de Historia, Archivo General, Mexico. The petitions and decrees relating to the founding of the Pueblo of Nuestra Señora del Pilar de Bucareli, on the Trinity (afterwards removed to Nacogdoches), are found in Volume 51 of the same section. I. J. Cox.

AFFAIRS OF THE ASSOCIATION.

The index to Volume I of *THE QUARTERLY* has been prepared, but it has been thought best to defer the printing of it until the final number of Volume II appears. This will be the number for April, 1899. The index will be so printed that it can be detached and bound with Volume I by those members who have that volume still unbound.

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The appearance of the editor's name in this number of *THE QUARTERLY* is no more than the announcement, by authority of the Publication Committee, of a fact which has, almost of necessity, existed from the time when the publication was first undertaken. The editorial office in this case, while demanding no little labor and care and involving a responsibility that is keenly felt, carries with it no pecuniary compensation. The editor's reward lies mainly in the hope that he is promoting the interests of his chosen work, of the Association, and of the State of Texas. He will strive to make *THE QUARTERLY* worthy of the Association and the State.

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According to the policy adopted by the management of the Association, *THE QUARTERLY* has been sent free to the principal libraries of America, and this arrangement will continue until the second volume is complete, or until the next number has been issued. After that, such libraries as desire its continuance and have nothing to offer in the way of exchange, will be expected to subscribe.

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In this connection, while there is no intention to advertise in this Department, it may not be amiss to say *THE QUARTERLY* has been well received, both within the State and beyond it. Many

kindly things are said of it in letters received from thoroughly competent critics, as well as in the newspapers and periodicals to which it is sent. These opinions it will be the constant effort of the management to justify.

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The Faculty of the State Agricultural and Mechanical College has kindly sent for publication in *THE QUARTERLY* three rare and valuable Spanish MSS. obtained from the Ramirez collection. One of these may be looked for in the April number. It is the letter of Padre Manzanet, giving an account of the establishment of the first Texas mission, San Francisco de los Tejas. If arrangements can be made therefor without involving too great cost, the MS. will be given in fac simile. A translation by Miss Lilia M. Casis, instructor in French and Spanish in the University of Texas, will accompany it. The other two will appear in later issues.

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The "Prison Journal" of Stephen F. Austin, published in this number by the courtesy of Col. Guy M. Bryan, is of especial interest as containing Austin's private statement of his views relative to the conscientiously conservative policy which he adopted in dealing with the Mexican government, and which was so strongly disapproved by some of the more impatient among the Colonists. Subsequent numbers of *THE QUARTERLY* will contain various important documents relative to the history of Austin's Colony. In the April number is to appear the diary of Moses Austin, covering the period of his journey in 1796-7 from Virginia to what has since become Missouri.

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The Regents of the University have made an appropriation for the purpose of constructing a fire-proof vault, and the Association can now assure all who feel disposed to give it MSS. or any kind of valuable material that such gifts will be stored in a safe depository and carefully preserved. It is sincerely hoped that much matter



of historical importance now in private hands will be given to the Association to be kept where it will be at once more useful to students of history, and less liable to be lost or destroyed.

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There has been thus far no definite policy determined upon by the Council as to a regular midwinter meeting. This meeting may be expected to become a feature of the work of the Association, but considerable difficulty has been experienced in finding a time that would appear to be convenient. It is probable that there will be a meeting called previous to the regular annual date of the Thursday following the third Wednesday in June. Meanwhile, the Recording Secretary will be glad to hear from those having papers to offer. When the time and place of meeting are determined, due notice will be given the members.



# THE QUARTERLY

OF THE

TEXAS STATE HISTORICAL ASSOCIATION.

Vol. II.

APRIL, 1899.

No. 4.

*The Publication Committee disclaims responsibility for views expressed by contributors to the Quarterly.*

## CARTA DE DON DAMIAN MANZANET Á DON CARLOS DE SIGUENZA SOBRE EL DESCUBRIMIENTO DE LA BAHÍA DEL ESPÍRITU SANTO.

[The MS. here given in fac simile, with the translation by Miss Casis, belongs to the Agricultural and Mechanical College of Texas, and has been kindly lent for publication by the authorities of that institution. It is of especial interest for its account of the founding of the mission San Francisco de los Tejas, the first established by the Spaniards in what is now Texas. Yoakum and others who have followed him are wrong in supposing that this mission was located near the ruins of the French settlement, Fort St. Louis, on the La Vaca. It was, in fact, far in the interior, not a great distance from the present town of Nacogdoches.

As to the history of the MS., nothing certain has been learned further than that it belonged to the collection of Ramirez, Maximilian's Secretary of State, and that President John G. James of the Agricultural and Mechanical College bought it in 1881 from Bernard Quaritch, London.

On the back of the MS. is the following:

A 30 días, del mes de sepre año de 1709, a la madrugada, sucedió un terremoto, en el puerto de la Vera Cruz, de vientos en contrados, q se sumergieron y se hisieron pedasos, once, navios, y se caieron algunas casas, y aseguran se perdieron en esta rruina mas de Trecientos mill pesos.

This is in a different hand from the rest, and is, like the letter itself, undated.

The title given above does not appear in the MS.; it was that given in Quaritch's Catalogue. The size of the written page of the MS. is 6½ x 11¼ inches—EDITOR QUARTERLY.]

















































Damos. Paraque Comere. Cominosotas. en Namera, berná. <sup>to</sup>  
 Nui. apiao. Nonmucha. quaxidad. Nonmuchirimo. á compen. am.  
 Depnido; qndra; Imuchichon. ligo. mulreotea. Nodcum; pecco. Nle  
 Dijo El Governador. asi quelleri anorotao. quoní beisavé. Elauito;  
 libero. ligo. non. sentamos. á comer. y dize. al Governador. los sentar  
 a belado; Lallo ministro. Elprimta. boaxo. quetemo. hico. en lugar de  
 bendición. el dize. á fuera de ploto. en forma de cruz. Tromoquen. xne la  
 Conquaxo. bionco; opaxer. pñmá pa les. del mundo. Después de comer.  
 á áomos. xrepa. pazael y samú. sea. y gualdo. mul. contenty. des. pñe. no  
 dijo. un pñ. aco. querehuas en los te. sa. quela. á adellante. de. Com.  
 quela. Mue. lhuas. en. Nle. o. ciano. qu. dho. mñ. d. ho. á. ho. te. sa. les. h. á. u.  
 á. ho. á. ho. qer. los. cap. it. a. no. mas. te. sa. Va. á. a. a. bo. ro. to. a. no. mas. te. sa.  
 á. ho. de. mi. bo. x. o. de. El. ho. mñ. it. a. no. qu. am. berná. som. berná. de. x. o.  
 mñ. á. ho. de. (Ay. imat. cad. o. i) que. en. su. lengua. qu. it. a. no. de. á. ho. q. r. a. no.  
 Cap. it. Va. el. nombre. da. u. á. Dios. por. que. como. em. en. el. ho. no. ay.  
 mas. no. h. á. a. ni. qu. a. r. á. a. qu. é. de. cap. it. por. que. á. quel. que. el. ho. h. á. u.  
 g. a. u. a. ni. que. á. u. q. u. a. n. á. l. So. b. ra. es. á. u. a. las. a. r. a. s. le. l. l. e. m. a. n. t. o. n. Gran. Cap.  
 Del. go. u. e. r. n. a. d. o. r. na. a. á. u. r. i. q. u. i. á. l. o. del. nom. b. re. de. cap. it. Vo. x. h. a. u. x.  
 ó. n. o. r. que. lo. r. o. n. le. l. l. e. m. a. n. de. r. a. ni. que. qu. é. r. i. á. d. i. x. Gran. em. o. r.  
 T. o. n. p. e. r. i. o. n. á. d. o. r. do. r. lo. r. á. o. n. e. i. = á. a. u. e. r. á. l. a. h. o. l. i. á. N. l. a. b. i. b. i. e. n. d. a.  
 en. lo. n. o. d. o. r. se. h. a. u. i. a. n. de. q. u. e. d. a. z. = lo. r. o. n. i. t. a. r. a. i. se. p. a. r. o. x. o. d. o. lo. que. r. e.  
 h. a. u. i. a. de. que. d. a. z. á. lo. r. x. u. l. i. h. o. r. o. r. V. e. l. d. i. á. p. r. i. m. e. r. o. de. p. e. n. i. o. V. o. c. a. u. a.  
 De. Co. n. q. u. e. p. o. r. lo. m. e. n. t. a. r. a. = Qu. a. n. d. i. o. l. a. T. o. l. e. r. a. V. e. r. a. r. o. l. a. r. i. a.  
 T. a. l. i. p. u. i. = S. e. a. n. o. = S. e. e. d. u. e. n. = C. a. u. d. a. m. u. s. = e. n. á. d. i. o. n. d. e. q. u. e. r. a. V. l. o.  
 S. o. l. d. a. d. o. r. h. i. á. t. o. n. = l. a. a. l. u. a. V. e. a. l. = l. a. T. o. l. e. r. a. = I. p. u. a. l. i. a. = s. e. d. e. d. i. c. o.  
 a. H. i. s. p. e. r. i. a. n. = á. u. s. p. u. = d. e. c. i. m. a. = á. quel. m. i. n. i. s. t. r. o. d. i. a. = l. e. l. i. o. = El.  
 P. e. = p. a. z. a. c. o. = T. o. n. q. u. e. d. e. = á. r. t. a. = ó. t. a. o. d. i. a. = qu. i. b. i. r. e. = á. l. t. o. n. c. a. = l. o. = e. n. =  
 El. C. a. m. i. n. o. = l. a. n. o. c. h. e. = á. n. c. e. = á. u. l. i. x. = p. o. = d. e. h. a. l. l. a. = l. l. e. m. i. = á. l. = G. o. u. e. r. n. o.  
 T. l. e. d. i. s. = qu. i. m. a. r. e. = qu. i. l. o. r. = P. a. d. e. r. = qu. e. q. u. e. d. a. u. e. n. = e. l. = lo. r. h. a. u. i. a. = e. l.  
 C. u. i. = á. u. x. = I. p. r. o. c. i. d. a. z. = qu. i. r. e. n. t. e. = l. e. r. u. = b. i. e. r. e. n. = x. u. s. p. e. c. t. o. = T. a. i. r. e. r. e. r. e. n.  
 a. l. a. d. o. t. a. r. i. a. = S. p. e. r. i. a. n. = qu. i. l. o. r. = P. a. d. e. r. = n. o. l. i. = h. a. u. i. a. n. = á. s. e. d. e. d. i. c. = n. o.  
 qu. i. b. i. r. e. = c. o. r. a. = á. = A. q. u. a. = á. n. o. r. = e. n. t. a. d. o. = lo. que. p. u. d. e. r. e. n. = l. e. r. = á. l. = p. u.  
 D. a. z. i. a. n. = R. e. s. p. o. n. d. i. o. = á. l. t. o. = G. o. u. e. r. n. a. d. o. r. = T. o. = c. u. i. = d. a. z. = á. l. o. s. = p. a. d. r. e.

12

De Manca. que quando teñen las noventa y una. que  
 ya alguna quedate. demi. Nono do. reguero y san spauero  
 N. Juan. qui dar de par. l. a. l. q. que no coada. que si el  
 No no al cui pariente. si n. i. uen. con m. g. o. para que b. e. sen. non  
 t. e. a. a. U. l. l. e. u. a. n. m. u. c. h. a. s. c. o. a. s. p. a. r. a. e. l. l. o. s. I. g. u. e. r. i. n. o. g. r. a. n. C. a. p. t. o.  
 E. l. o. s. U. S. T. e. p. l. o. s. d. e. l. a. c. a. u. a. b. e. n. f. l. o. s. q. u. e. r. i. a. m. u. l. t. i. s. I. l. l. u. c. o. m. e.  
 d. e. s. s. o. q. u. e. u. l. t. e. a. m. l. t. o. s. d. o. s. p. a. r. i. e. n. t. e. s. J. u. n. o. s. t. r. e. n. o. S. e. l. t. o.  
 b. e. n. d. i. a. n. G. a. m. g. o. l. e. o. a. d. b. e. r. e. n. c. i. a. q. u. e. m. e. d. i. s. p. e. l. o. s. q. u. e.  
 U. e. u. a. n. n. o. c. o. n. i. e. n. t. e. s. q. u. a. n. d. e. l. a. m. a. n. d. o. r. i. a. d. e. n. q. u. e. l. o. s. a. p. a. r.  
 t. r. a. s. a. f. a. d. e. d. o. m. d. e. s. e. b. e. q. u. e. e. n. t. r. o. e. l. l. o. s. a. t. n. o. b. l. e. a. T. r. e. d. e. t. e. r. i.  
 q. u. e. n. l. o. n. o. b. l. e. i. d. e. l. a. f. e. n. t. e. o. d. i. n. a. t. i. a. = D. e. r. e. q. u. e. l. l. e. s. a. n. t. e.  
 a. l. q. u. e. l. e. a. d. o. s. t. e. p. a. h. a. t. a. q. u. a. d. i. m. o. s. a. d. b. e. t. t. i. a. l. o. s. p. a. r. i. e. n. t. e. s. c. o. m. e.  
 I. t. e. p. e. r. i. m. e. n. t. e. a. l. g. u. n. o. s. h. o. m. b. r. e. s. d. e. l. a. s. q. u. e. b. e. n. t. a. l. e. U. S. T. e. p.  
 D. e. l. o. q. u. e. h. a. u. i. a. m. p. a. c. e. i. d. o. e. n. l. a. c. a. m. i. n. o. q. u. e. n. o. s. l. o. s. O. n. o. g. i. a.  
 D. e. s. p. e. r. i. d. e. h. a. u. e. r. l. l. e. g. a. d. o. a. t. a. t. o. q. u. e. l. l. o. p. o. r. q. u. e. e. n. t. e. n. d. o. s. e. s. t. o.  
 a. l. g. u. n. o. s. h. a. u. i. a. n. d. e. q. u. e. d. a. z. p. o. r. N. e. j. e. y. a. l. o. s. t. e. p. a. s. s. e. n. a. c. t. a. t. a.  
 N. e. l. a. c. a. m. i. n. o. q. u. e. u. l. t. e. a. m. l. t. o. s. p. a. r. i. e. n. t. e. s. p. a. r. a. a. t. a. p. a. r. i. e. n. t. e. s. e. n. g. u. e. r. a. n. d. a. u. a.  
 a. l. C. a. p. t. o. N. o. n. o. d. e. l. o. n. d. e. l. a. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s.  
 E. l. l. o. s. J. e. n. t. e. s. I. g. u. e. r. i. a. n. t. e. l. a. m. i. n. i. s. t. r. a. c. i. o. n. q. u. e. l. l. o. n. o. e. n. c. o. m. p. a. r. i. e. n. t. e. s. d. e. l. l. o.  
 J. e. n. t. e. s. S. a. m. a. n. t. e. m. a. c. a. n. e. s. q. u. e. r. i. o. s. t. e. p. a. s. p. e. d. i. a. n. m. i. n. i. s. t. r. a. c. i. o. n. q. u. e. u. l. t. a. m. b. a. u.  
 I. t. e. a. n. t. e. q. u. e. d. a. r. i. n. l. o. r. a. t. e. s. p. a. r. i. e. n. t. e. s. N. o. t. a. t. o. t. e. p. a. s. p. e. d. a. u. a. n. b. e. r. m. u. l. t. i. s. t. e. m. p. o. r.  
 I. n. o. r. e. a. u. e. l. e. u. a. d. e. l. o. s. d. e. n. o. a. l. g. u. n. o. q. u. e. n. o. q. u. e. d. a. r. e. n. m. u. c. h. o. s. S. e. l. t. o. d. e. n. o.  
 q. u. e. d. e. n. o. b. i. e. n. t. e. m. u. c. h. a. m. e. n. t. e. p. a. r. i. e. n. t. e. s. d. e. l. a. s. t. e. p. a. s. q. u. e. d. a. r. e. n. t. e. s. S. e. l. t. o.  
 D. a. d. o. s. q. u. e. s. u. e. n. m. e. n. t. e. a. t. a. l. a. c. o. n. s. u. l. t. a. p. a. r. i. e. n. t. e. s. m. i. n. o. s. d. e. l. l. o. S. e. l. t. o.  
 S. a. m. a. n. t. e. M. a. n. t. e. s. S. e. n. c. a. f. u. e. r. e. n. t. e. s. d. e. l. a. s. s. a. l. e. d. e. s. e. n. l. o. s. t. e. p. a. s.  
 P. a. r. a. m. e. j. q. u. e. d. o. n. o. l. o. s. t. e. p. a. s. p. a. r. i. e. n. t. e. s. p. o. r. q. u. e. a. d. a. t. e. q. u. e. e. n. c. a. r. a. n. o. n. e. x. a. t. i. o. n. e. s. i. t. e. n. t. e.  
 z. o. n. l. o. n. t. e. n. t. o. a. m. o. r. i. s. t. a. n. t. e. q. u. e. n. o. s. a. d. a. n. q. u. e. t. a. s. p. o. r. n. o. t. a. s. S. e. l. t. o.  
 t. o. d. o. S. e. l. l. o. s. N. o. n. o. d. e. l. o. n. d. e. l. a. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s. p. a. r. i. e. n. t. e. s.  
 S. e. m. b. r. a. s. p. o. r. e. a. u. d. e. l. l. o. s. a. l. C. a. p. t. o. N. o. n. o. d. e. l. a. s. p. a. r. i. e. n. t. e. s. u. n. h. o. m. b. r. e. t. e. p. a. s. d. e. l.  
 n. u. d. o. I. g. u. e. r. a. n. d. a. u. a. l. l. e. g. o. e. l. e. a. n. t. e. p. a. r. i. e. n. t. e. s. d. e. l. l. o. S. e. l. t. o. a. d. e. l. a. s. S. e. l. t. o.  
 t. e. n. t. o. I. l. l. e. u. i. s. t. e. n. d. i. O. m. n. i. a. d. e. e. s. t. a. t. u. s. a. l. e. i. d. e. a. d. e. n. t. e. d. e. l. l. o. S. e. l. t. o. q. u. e.  
 m. e. d. i. c. e. S. e. l. t. o. C. o. n. s. u. l. t. a. n. o. u. a. d. e. r. p. a. l. b. a. d. a. m. e. n. t. e. e. n. v. i. d. o. s. d. o. s. S. e. l. t. o.  
 O. m. n. i. a. d. e. l. l. o. C. a. p. t. o. N. o. n. o. d. e. l. a. s. p. a. r. i. e. n. t. e. s. d. e. l. l. o. S. e. l. t. o. p. a. r. i. e. n. t. e. s.  
 O. m. n. i. a. l. o. q. u. e. r. i. e. n. t. e. q. u. e. e. n. S. e. l. t. o. m. u. c. h. o. s. e. n. t. e. d. e. l. l. o. S. e. l. t. o. S. e. l. t. o. p. a. r. i. e. n. t. e. s.  
 p. a. r. q. u. e. l. a. p. a. r. i. e. n. t. e. n. o. e. s. t. a. d. a. d. a. d. a. d. o. d. e. l. l. o. S. e. l. t. o. l. o. s. t. o. s. = l. l. a. m. e. n. t. e. d. e. l. l. o.







La qual. bajava. De No. 18. 1812. 1812  
y que ellos. querian ser como otros. y para entender si habia  
Mucho tiempo. dijo el gouernador no hauia sido. En su tiempo. querian  
Madas. que exabiera. La hauiá sido y los demas bispos. de donde rebe  
Voluntariamente. Ju la M. Maria. de ferui. de adrede la qual. Estubo  
En aquella. vez. muchas veces. como ella misma. Confeso a  
pe. Custodio del Puerto Mexico. Las ultimas veces. que Estubo fue  
El año de 1834. como Comita de unima declaracion que se co. a  
Pe. cargo de. del nro. Sr. M. de. S. P.  
D. Damian Francisco

TRANSLATION.

LILIA M. CASIS.

*Translator's Note.*

In this translation it has been attempted to keep in view not only the faithful rendering into English of the Spanish original, but also, as far as was practicable, the preserving of the naive and simple style of the Spanish letter.

In order to obtain this double result, as well as to secure a fairly smooth English version, it has been necessary to break the unpunctuated Spanish original into sentences and periods, at times to vary connectives, and, in a very few instances to interpret ambiguous or obscure passages. However, an earnest effort has been made not to take any undue liberties with the original text. Reference to the original will show that the paragraphing is the translator's almost throughout.

Proper names of persons have been retained unchanged, with the single exception that the antiquated spelling with *ç* has been, for popular convenience, changed to the modern *z*; thus, *Siguença* has been written *Siguenza*.

A few notes have been appended where they seemed absolutely necessary. Particularly, attention has been called to the digressions which often seem to break the narration with more or less abruptness; they are a characteristic feature of the original.

Although I assume personal responsibility for the accuracy of the rendering into English, yet the finished translation is to such a degree the result of the joint work of Dr. Garrison and myself that it must be essentially considered as due to our united efforts.—LILIA M. CASIS.

LETTER OF DON DAMIAN MANZANET TO DON CARLOS DE  
SIGUENZA RELATIVE TO THE DISCOVERY OF  
THE BAY OF ESPIRITU SANTO.

My dear Don Carlos de Siguenza y Góngora:—

The following is the narrative for which you ask me, of the discovery of the bay of Espiritu Santo and the Rio de los Tejas:—

In the year 1685-'86, His Excellency the Viceroy, who, at that time, was Conde de Paredes, Marqués de la Laguna, gave orders to the Marqués de S. Miguel de Aguayo, who was then governor of the New Kingdom of Leon, to send out a company of cavalry along the sea-coast lying north beyond Tampico, towards the Rio Bravo and the Magdalena. And the said governor sent out fifty

men, headed by Capt. Alonso de Leon. With his soldiers, the above-mentioned commander went to the sea, and following along the coast, they passed the Rio Bravo with considerable difficulty. This river is the same found at the passage into New Mexico, and the Indians give it various names, for it is called by different persons Rio Bravo, Rio Grande, Rio Turbio. In New Mexico it was never known whence this river originated; all that was ever found out was that it issued from the Gran Quivira. Thus said the Indians who came to New Mexico from the interior.

But let us turn our attention again to the route taken by Capt. Alonso de Leon and his soldiers. After crossing the Rio Bravo, they reached another river, to which they gave the name of Rio Solo. This river, it seems, forms at its mouth a lake which they were unable to pass, and they returned to the New Kingdom of Leon without having had any news of the bay of Espiritu Santo, and still less of the French who were settled about this bay.

By order of His Excellency, the afore-mentioned governor sent a second time an expedition to discover the bay, and he sent two companies of cavalry led by Capt. Alonso de Leon, and they arrived the second time at the Rio Solo, when, not able to proceed any further, they returned without bringing any information. Now, since they had twice gone down to the sea-coast, and on both occasions failed to learn anything, they considered the whole report as being unfounded. So it came about that they paid no more attention to the matter, and took no further steps concerning it.

At that time I was living at the Mission Caldera, in the province of Coahuila, whither I had gone with the intention of seeing whether I could make investigations and obtain information about the interior of the country to the north and north-east, on account of facts gathered from a letter now in my possession, which had been given in Madrid to the Father Fray Antonio Binaz. This letter treats of what the blessed Mother Maria de Jesus de Agreda made known in her convent to the Father Custodian of New Mexico, Fray Alonso de Benavides. And the blessed Mother tells of having been frequently to New Mexico and to the Gran Quivira, adding that eastward from the Gran Quivira are situated the kingdoms of Tulas, Theas, and Caburcol. She also says that these names are not exactly the ones belonging to those kingdoms, but come close to the real names. Because of this information, brought by



me from Spain, together with the fact of my call to the ministry for the conversion of the heathen, I had come over and dwelt in the missions of Coahuila. Now, knowing that His Excellency was taking steps to open up the interior, to lead to the discovery of the bay of Espiritu Santo, and to find out whether any Frenchmen were there, I endeavored to learn from the Indians coming from the interior whether they knew where there dwelt men white like the Spaniards. Thus in time I learned that there were indeed some, and he who told me was an Indian whom I had with me, a man whom I had converted a little before, and in whom, though he had been a pagan, I had recognised a high degree of truthfulness. Thereupon I charged him very earnestly to ascertain in detail where and how far distant these settlers might be, and what manner of people they were, likewise whether the country to be traversed were passable.

Just at this time there arrived another Indian, of the Quems nation, who related to me that he had been even in the very houses of the French; there were many of them, he said, including women; they were well armed, and had some very large fire-arms (referring to the artillery). On my asking whether he were well acquainted with the country, he replied that, if I wished, he would take me to the place without any risk, that there we should also find priests like myself, and that already the people were sowing maize and other crops.

At this time Capt. Alonso de Leon, the same who had gone out as commander of the companies from the New Kingdom of Leon, became captain of the presidio of Coahuila. Now, before going out to his presidio, he came to the Mission Caldera, where I was living, and I made known to him what had passed between the Indians and me concerning the discovery of the bay of Espiritu Santo, endeavoring to persuade him that we should set out thither. He asked whether I had some unmistakable sign which might be made known to His Excellency, and which would make it evident to him that the report was true, so that he might undertake the expedition.

Then I called the Indian known by the name of Juan, captain of the Paepul nation, and bade him say what he would dare undertake in order to ascertain and prove that there were in the interior men white like the Spaniards. He then said that in a "ranchería"

of heathen Indians, which must be some sixty leagues distant, there was a white man, one of those referred to as dwelling in the interior, and that, if I so wished, he would go and bring the other out of the "ranchería." Thereupon I despatched him, and that he might the more readily execute his commission, I gave him the articles of clothing and the horses which I had with me, for him to give to the chiefs of the place where was the man of whom he spoke (whom, from the description given, I inferred to be French).

This captain of the Pacpul nation, known as Juan, set out, and having come close to the mountain-range of Sacatsol (which means "stone nostrils," and in the language of the Indians of that place is also called Axatscan, with the same meaning) he found an assembly of many Indian nations composed of the following: Mes-cates, Yoricas, Chomenes, Machomenes, Sampanales, Paquachiams, Tilpayay, Apis. This mountain-range of Sacatsol is twenty leagues beyond the Rio Grande, which is the stream coming from the north, and is called also Rio del Norte; the distance from the Mission San Salvador to the said range is sixty leagues, and from Coahuila the same.

Now, the Indian mentioned above, Juanillo, found the Frenchman referred to, told him that I was asking for him, and took him out to another "ranchería," leaving word with the Indians that they should not be afraid, and that I desired to visit them. Returning, he told me how he had left the Frenchman, and that we might without fear go after him. I notified Capt. Alonso de Leon, who, with twelve men, went quite undisturbed, and they brought the Frenchman, painted like the Indians, old and naked. His name was Juan Francisco So-and-so, and, by his own account, he was a native of Cheblie in New France. This Frenchman Capt. Alonzo de Leon placed in the hands of His Excellency the Conde de la Moncloba, and in all his testimony the said Frenchman always proved himself untruthful.

After the Conde de la Moncloba had determined on the expedition to discover the bay of Espiritu Santo, there arrived as viceroy in this kingdom His Excellency the Conde de Galbe, who put his whole heart into the cause as soon as he came into power. His Excellency ordered Capt. Alonso de Leon to pursue the journey to the bay of Espiritu Santo, as his predecessor had ordained, and for this expedition forty men went out from the presidios of Viz-

caya, and from the New Kingdom of Leon forty others. From all the men three companies were formed, having Capt. Alonso de Leon as commander-in-chief and Nicolás de Medina as Sergeant-Major; the leader of one company was Tomás de la Garza, of the second, Lorenzo de la Garza, and of the third <sup>1</sup>Capt. Francisco Martínez, who was a discharged sergeant, having just finished his term of service in Flanders.

We left Coahuila on the twenty-sixth of March in the year 1689, and went as far as the Río del Norte, which, in the said province of Coahuila is called the Río Grande, our guide still being the Indian Juanillo, and when we reached that river, I sent for the Indian who knew the country and had been among the Frenchmen, whom I call Quemés, because he belonged to the Indian nation of that name. We traveled on towards the northeast and at times east-north-east, until we reached the river of Our Lady of Guadalupe. And here I asked this Indian whether the dwellings of the French were still a long way off, thinking that when we should be distant from them a day and night's journey, some of us might push forward in order, unnoticed, to take a survey of the village. The Indian replied that the village was about fifteen leagues distant from that river.

On the morning of the next day Capt. Alonso de Leon asked me what we should do in order to ascertain the number of Frenchmen and the condition of things in their village. With regard to this there were various opinions, mine being that, since we had with us the Quemés Indian who was well acquainted with the country, we should all have a mass sung in honor of the Blessed Virgin of Guadalupe that very morning, at the very place in which we were; also, that when we should succeed in reaching the dwellings of the Frenchmen, we should have another mass celebrated, in honor of Saint Anthony of Padua. All consented very readily to this, and, soon, at about nine o'clock in the morning, the mass to the Virgin was sung.

After that it was arranged that, the two Indians, Juanillo the Papul and the Quemés Indian, serving as guides, twenty-five men should travel on with us until we should come upon the French

<sup>1</sup> Here, in the original, the name "Alonso de Leon" is inserted out of place, obviously by an error of the scribe.

village in the early morning, while the remaining soldiers with the beasts of burden should come behind us and camp when they reached a suitable spot. This spot they should then not leave until we returned, unless by the express command of Capt. Alonso de Leon. When we started out, the rear-guard received orders to proceed slowly, watching cautiously lest any Indian should appear; in case any did, they were to seize him without doing him the least harm, and notify us of the capture.

After traveling some four leagues, the rear-guard saw an Indian come out of a dense wood, and called to him, whereupon he went towards them without any show of resistance. They sent us word of the occurrence, and we halted. On the arrival of the Indian the two we had along asked him whether there were, thereabouts, any of the white people who dwelt further on. He said that, as to those living further, they used to inhabit houses which now no longer existed, for, two moons previous, the Indians of the coast had killed all but a few boys whom they had carried off; that he himself lived in the "ranchería" of the Emet and Lavas Indians, which was about two leagues out of the route which we were following towards the bay of Espiritu Santo. We went with this Indian to the "ranchería" of which he spoke, and reached it at about three in the afternoon. As soon as the Indians became aware of our presence, they made for the wood, leaving to us the "ranchería," together with the laden dogs, which they had not been able to drive fast enough when they fled. The Indian who served as our guide himself entered the wood, and called to the others, declaring that we were friends, and that they should have no fear. Some of them—and among these was their captain—came out and embraced us, saying: "thechas! techas!" which means "friends! friends!" One of those who came out first was a big young fellow about twenty years old, who wore a monk's cloak, and when we saw that it was the habit of a friar, we gave him a blanket, and I took the robe from him.

These Indians told how, two days previous, two Frenchmen had passed by with the Tejas Indians. That very afternoon we started in pursuit of those Frenchmen, and at sunset, we reached the "ranchería" of the Toxo and Toaa Indians, who told us that the Frenchmen had passed by with the Tejas, and had been unwilling to remain there with them. That night we slept in the neighborhood of the "ranchería," and at eight in the evening some Indians

came to the place where we were, one of them dressed after the fashion of the French. And they brought some French books, and a Holy Bible. The next morning we set out in quest of the said Frenchmen, passing through some very dense woods; and at about two o'clock in the afternoon we came to some "ranchitos" of Emet Indians. On our inquiring concerning the Frenchmen these Indians pointed out to us an Indian who had just arrived and who had conducted them (the Frenchmen) as far as the San Marcos river, and seeing us pass they told us that we would not be able to cross the said river. We told the Indian who had led the Frenchmen that if he would take them a paper and bring an answer we would give him a horse, and that he should take the answer to the houses where the Frenchmen lived. Capt. Francisco Martinez wrote the letter in the French language because he was master of it.

Then we returned where the camp was, five leagues beyond the Guadalupe river, and we learned that three days previous the horses had stampeded, and a number having been recovered, fifty were still missing, and in pursuit a soldier had lost his way.<sup>2</sup> This man remained missing four days, and in the meantime he met with some Indians who were skinning a buffalo, who took him home with them at nightfall to their "rancheria," giving him to eat of the buffalo meat, and whatever else they themselves had. On the day after this, an Indian belonging to the same "rancheria" came there with a small bundle of tobacco. This Indian was the one who had been with us, and he made a long harangue to all the Indians who were in the "rancheria." As to the soldier who was lost, when he met with the Indians who had the buffalo, they spoke to him by signs, and he understood them to tell him to make a fire. This he must have inferred from seeing the meat they had, and very likely he was frightened at seeing himself lost among barbarian Indians, at any rate, he spilled<sup>3</sup> on his

<sup>2</sup> The narrative proper is interrupted here, rather awkwardly, by an account of what befell the soldier in question during the four days he was missing.

<sup>3</sup> The Spanish construction at this place can not be rendered literally. The above is evidently what is meant. Word for word, we have, "either he inferred this from seeing the meat they had, or on account of the fear he felt at seeing himself lost among barbarian Indians, he spilled, etc." See original.

cloak the powder he was carrying in a flask, and on striking the light he dropped a spark on the powder, so that he burned his whole side from head to foot. When the Indians learned that we were in their territory, they must have come to the conclusion that, since that man was lost, his comrades would be sure to look for him. The next day they brought him his horse, and, since he was so badly burnt that he could not help himself, the Indians themselves saddled it for him, and assisted him to mount, telling him by signs to follow them. They brought him very near to the place where we were, just a couple of shots away. These Indians who brought him, not wishing to approach us, signified to him that he should go on, using signs to indicate to him where we were, at the foot of a hill which he saw there. At the foot of that hill, on the other side, they left him, and he reached us at nine in the morning, which was for all a source of great satisfaction. We felt very sorry when we saw how badly burnt he was.<sup>4</sup>

On the following day we left for the French settlement, and when we were about three leagues from it there came out some twenty-five Indians. Now the old Frenchman who accompanied us took occasion to say that the French settlement was not in the place to which the Indian guides were taking us. On the way this Frenchman tried several times, by means of an Indian of the Cavas nation whom he had with him, to make our two Indians desert us, or say that it was very far, and that we should not be able to cross the rivers which were on the way. I was so sorry that the Frenchman should be given occasion to speak that I grew annoyed, and Capt. Alonso de Leon said to me: "Father, we are going where I wish to go." We continued following the two guides quite three leagues; we arrived at a stream of very good drinking-water, and the two Indians said to me: "Lower down on the bank of this stream are the houses of the French, which must be about three leagues off." Then the old Frenchman saw that there was no help, and that we were certain to come upon the village. He then said: "Sir, now I knew very well, yea, very well, that the houses are on this little river."

We started the next morning, and three leagues off we found

<sup>4</sup> Here the thread of the narrative is resumed.

<sup>5</sup> Here the Frenchman's words are given in what seems to be a conscious reproduction of his broken Spanish. Cf. original.

the village of the Frenchmen on the bank of the stream, as I had been told by the two Indians, the Queins and Juanillo the Papul. We arrived at about eleven in the forenoon, and found six houses, not very large, built with poles plastered with mud, and roofed over with buffalo hides, another large house where pigs were kept, and a wooden fort made from the hulk of a wrecked vessel. The fort had one lower room which was used as a chapel for saying mass, and three other rooms below; above the three rooms was an upper story serving for a store-house, wherein we found some six loads of iron, not counting scattered pieces and some steel, also eight small guns and three swivels made of iron, the largest pieces being for a charge of about six pounds of shot. The pieces and one swivel were buried, and Capt. Alonso de Leon carried off two of the swivels. There was a great lot of shattered weapons, broken by the Indians—firelocks, carabines, cutlasses—but they had not left the cannon, only one being found. We found two unburied bodies, which I interred, setting up a cross over the grave. There were also many torn-up books, and a number of dead pigs.

These Frenchmen had a piece of land fenced in with stakes, where they sowed just a little corn, and had an asparagus bed; here we found also very good endive. This place affords no advantages as to situation, for good drinking-water is very far off, and timber still further. The water of the stream is very brackish, so much so that in five days during which the camp was pitched there, all the horses sickened from the brackish water.

The next day we went down to explore the bay of Espiritu Santo, and coasted it until we succeeded in finding the mouth; in the middle of this there is a flat rock, and all along the shore of the bay there are many lagoons which it is very difficult to cross. Blackberries are abundant, large, and fine, and there are a number of stocks which seem to be those of vines, but no trees, and no fresh water. The Indians dig wells for drinking water.

After exploring the bay we returned to the main body of our party, whom we had left in the village; we arrived there at noon, and remained there that afternoon, and the next day they bent

<sup>o</sup>This passage might also be read, "and remained there. That afternoon and the next day they bent, etc." The absence of punctuation causes some difficulty in this and similar passages. Cf. original.

the large iron bars, making them up into bundles,<sup>7</sup> in order to carry them with ease. We found the Indians with the reply to the letter which we had written to the Frenchmen; they said that we should wait for them, that they would soon come, that another Frenchman was further on, and that they were waiting for him in order that they might come all together. The Indian received the horse, as we had ordered. As to the fort, Capt. Alonso de Leon would not have it burnt down, and it remained as it was.

The next day we set out on our return trip to the Guadalupe river, and when we got halfway, since we saw that the Frenchmen did not come, Capt. Alonso de Leon, with twenty-five men, went to the "ranchería" where they were, and the main party went on as far as the Guadalupe river, where it remained waiting three days. The Frenchmen were in the "ranchería" of the Toaa Indians, with the Tejas; they came to the Guadalupe with Capt. Alonso de Leon, and arrived there on the 2nd of May, '89. Two Frenchmen came, naked except for an antelope's skin, and with their faces, breasts, and arms painted like the Indians, and with them came the governor of the Tejas and eight of his Indians. Through that day and night I tried my utmost to show all possible consideration to the governor, giving him two horses, and the blanket in which I slept, for I had nothing else which I could give him. <sup>8</sup>Speaking Spanish, and using as an interpreter one of the Frenchmen whom we had with us, I exhorted the governor that his people should become Christians, and bring into their lands priests who should baptize them, since otherwise they could not save their souls, adding that if he wished, I would go to his lands. Soon the aforementioned governor said he would very willingly take me there, and I promised him to go, and to take with me other priests like myself,

<sup>7</sup> The "tercio" (cf. original) is technically the half of a regular load.

<sup>8</sup> This passage is difficult to handle, partly because one word in the MS. is not easily read (cf. original), partly because there seems to be an error of the scribe. While the translation attempts to render what appears to be the meaning, it is not entirely satisfactory; it assumes the defaced word to be "tenia," and "en Castilla" to represent "en Castellano." It has been suggested, plausibly enough, although I did not quite see my way to adopt the view, that the defaced word should be "serbia" or "bibia," and hence the meaning: "By one of the Frenchmen who used to serve (or live) in Castile, I told, etc." Suggestions are invited.



repeating to him that I would be there in the following year, at the time of sowing corn. The governor seemed well pleased, and I was still more so, seeing the harvest to be reaped among the many souls in those lands who know not God.

The next day was the day of the Holy Cross—the 3rd of May; after mass the governor of the Tejas left for his home and we for this place. We arrived at Coahuila, and Capt. Alonso de Leon sent the two Frenchmen—the one named Juan Archebepe,<sup>9</sup> of Bayonne, the other Santiago Grollette—<sup>10</sup> from Coahuila to Mexico, with Capt. Francisco Martinez, and his excellency the Conde de Galbe had the Frenchmen provided with suitable clothes and dispatched to Spain on shipboard in the same year, '89.

All this news did not fail to create excitement and to give satisfaction not only to His Excellency but also to other men of note in Mexico, and there were several meetings held in order to consider measures not only for keeping the French from gaining control of those regions and colonizing them, but also for the introduction of religious ministers.

At this time His Excellency deigned to send for me, asking the Rev. Father Luzuriaga to give orders for my coming. I was living at the Mission of San Salvador, in the valley of Santiago, in the province of Coahuila. I went to Querétaro, arriving at my college of the Holy Cross on the 24th of October, in the year '89, and left for Mexico on All Soul's Day. On the 5th of November I came to the convent of San Cosme, and the next day there entered Mexico the Very Rev. Father Fray Juan Capistrano, who came from Spain as commissary general of this province of New Spain.

It seems that Our Lord had ordained that it should not be Father Luzuriaga's good fortune that in his time priests of the order of our Father Saint Francis should go among the Tejas, for he always objected to the idea that the brethren of that holy order should undertake missions to the heathen, their chief office being that of Apostolic Missionaries among communities of both the

<sup>9</sup> This is the writer's rendering of the French name "Jean L'Archevêque." It may be either merely an incorrect Hispanized rendering of the name, or a translation into the obsolete form for the word "archbishop."

<sup>10</sup> In the Spanish, "y" seems here misplaced. Cf. original. The translation here given follows what is evidently the sense.

faithful and infidels.<sup>11</sup> For after the Rev. Fathers, Fray Juan Bautista Lazaro and the Predicador Fray Francisco Esteves came to Guasteza, and founded at Tamaulipas a mission for unbaptized Indians, when already the mission included more than three hundred families, without counting a large number who were in process of joining, and the Indians were very much pleased and very attentive to the Christian doctrine, the Rev. Luzuriaga ordered the fathers to depart, and to leave their mission and the Indians, no ground or motive being alleged other than the fact that those regions belonged to the district of Tampico, and that the priests belonging to that district could look after that settlement of Indians. The reverend fathers obeyed the Rev. Luzuriaga's orders with heavy hearts, seeing that, after the arduous labors by which they had gained that post, those poor heathens would be lost. After those priests had departed and left the Indians, the district fathers never again gave them a thought. When the fathers took leave of the Indians, there was a pitiful scene, the latter weeping and lamenting that the former, though priest and ministers of God, had deceived them, since they had pledged their word to minister to them, to teach them and baptize them, and now, if the unsettled life they led, without rule or law, were an evil one, whereby they should lose salvation, the fathers would be to blame, for these were leaving them and had deceived them. With these and many other expressions they parted, the fathers in tears over the fold which was now without a shepherd, yet on the other hand, feeling compelled to obey. On another occasion, when the superior of our holy order begged for permission to enter New Mexico, the Very Rev. Luzuriaga refused and would not allow it. In short he ever remained adverse to the introduction of priests among the heathen. However when there came out of the land of the Tejas tidings of discoveries which were noised abroad, he thought of many possible measures, and of sending priests out of the provinces, but our Lord God ordained that when I reached Mexico, another commissary general, as I have already said, was ruling.

I reached the city and saw the very reverend father and we spoke of the Tejas. I told him how I had been called by His Excellency

<sup>11</sup> With his characteristic fondness for digression, the writer here goes back in point of time, recounting anterior events.

and by the Very Rev. Luzuriaga, and he said to me: "See His Excellency, and then come again to me." I had an interview with His Excellency, and spoke at great length of the bay of Espiritu Santo and of the Tejas, and immediately he replied that he would foster the cause with might and main.

Besides the news which we had brought with us on returning from the bay of Espiritu Santo, Capt. Alonso de Leon had brought the information that an Indian who had come from there at a more recent date than ourselves said that among the Tejas there were eighteen Frenchmen, and that houses had been built; that they had flocks of goats and sheep, and that some of the Frenchmen had gone to their country for women and for more settlers. I do not know what Capt. Alonso de Leon had in view in giving this account to His Excellency, for I had seen the Indian and spoken to him before he saw Captain Leon, and he told me that he came from the interior, and had been told that six Frenchmen, who seemed to have lost their way, were wandering among the Tejas. He had also heard of the coming of<sup>12</sup> some Tejas Indians, and that on their advancing further on this side of the Rio Hondo, other Indians had come out to attack them, that they had killed two of them, and that the rest had returned to their homes. It seems to me that word of this must have come to the old Frenchman who lived in Coahuila, because in tracing the report to its source they said: "Juan says so"; and since Juan's accounts have always been untrue, he certainly lied that time also, for the Indians themselves were ignorant of such an occurrence, and when we went among the Tejas they knew nothing about the reported deaths.

But, to return to our subject. When I was in Mexico and had spoken to His Excellency at different times concerning a second expedition to the bay of Espiritu Santo and a visit to the Tejas His Excellency resolved to call a general meeting in order to decide what should be done. Taking for granted the information given by Capt. Alonso de Leon about a settlement of Frenchmen among the Tejas, and concerning the death of those who had settled on the bay of Espiritu Santo it was uncertain whether some French vessel might have come afterwards with settlers for the

<sup>12</sup>The Spanish has "un Indios Tejas," which seems to be an error of the scribe. Cf. original.

bay; besides, there were other grounds for action in the fact that the Tejas were asking for priests for their country. All these grounds being taken into account in the general assembly, there were various opinions, and finally His Excellency decided that a second expedition should be undertaken to the bay of Espiritu Santo. Previously Capt. Alonso de Leon had already made known to His Excellency all that was necessary for that journey, and what he should do in the case. His Excellency ordained that Capt. Alonso de Leon should go as commander, taking with him a hundred and ten soldiers,—twenty from the garrison of Vizcaya, in the neighborhood of Coahuila, forty who enlisted in Sombrete and Zacatecas, the rest from Saltillo and the new Kingdom of Leon—one hundred and fifty long guns, twelve hundred weight of powder, and three hundred weight of shot. They were to inspect the bay of Espiritu Santo and to ascertain whether there were any Frenchmen left of those who used to live there, or whether others had recently arrived; the wooden fort built by the French was to be burnt down, and Capt. Alonso de Leon was to communicate with the Governor of the Tejas from the bay of Espiritu Santo as to whether he would be willing to have the ministers of the gospel enter into his territory, as he had promised Father Fray Damian Manzanet a year previous. If the governor consented, then they should escort the priests, proceeding with every precaution, and should dispatch an order requesting and charging the Very Rev. Father Commissary General to send with Father Fray Damian Manzanet those of the brethren of the Holy College of the Cross who should prove suitable, the father himself to decide how many priests would be needed at first. At the same time he was to be provided with all the necessaries for the journey. And I, being present at this general assembly, remarked that I would take along three priests for the Tejas, myself being the fourth, besides two for the mission of San Salvador, which is on the way, making a total of six priests to be sent immediately by the college; and in the event of the Tejas receiving the faith, then the college should send whatever other priests would be required. This was accepted by the general assembly.

Afterwards His Excellency bade me make a note of what I needed to take along, whereupon I replied that for the moment I only wanted wine for the masses, a wafer-box and wax; as to

other necessaries, such as vestments and other things, I should procure them myself. It was determined that the journey should take place after Christmas, so when the Christmas feast was over His Excellency dispatched Capt. Francisco Martinez with twenty mules laden with wine, wax and so on, also clothing for distribution among the Indians, and six loads of tobacco; and at the College of the Holy Cross at Queretaro, with the priests who were to accompany me, I awaited him. These priests were the Father Predicador Fray Miguel Fontecuberta, the Father Predicador Fray Francisco de Jesus María, the Father Predicador Fray Antonio Perea, the Father Predicador Fray Francisco Hidalgo, the Father Predicador Fray Antonio Bordoy. Those who remained in the Mission San Salvador were the fathers Fray Antonio Perea and Fray Francisco Hidalgo.

We left Coahuila for the Tejas on the third day of the Easter feast, March 28, '90. When we left, the twenty soldiers from Vizcaya had not yet arrived. The forty from Zacatecas were for the most part tailors, carpenters, masons, miners—in short, none of them could catch the horses on which were they to ride that day, for when they had once let them go they could manage them no longer. Besides, we had saddles that could not have been worse.

Thus we went on traveling by the route described in the journal which was kept of this expedition. What I noticed was that on our first trip we had found many Indians along the rivers and everywhere else, while this time we went to inspect the bay of Espiritu Santo and returned to the Guadalupe river without having found a single Indian in the country. Twenty of us reached the fort built by the Frenchmen, the rest remained with the horses by the Guadalupe river. We saw no trace of Frenchmen having been there during our absence, all being as we had left it the year before, except that, certainly, there were signs that the Indians had dwelt there. I myself set fire to the fort, and as there was a high wind<sup>13</sup>—the wood, by the way, was from the sloop brought by the Frenchmen, which had sunk on entering the bay—in half an hour the fort was in ashes. This was at the hour of noon; afterwards we went down to the coast of the bay, all along the banks and the

<sup>13</sup> In the Spanish the parenthetical remark is not cut off from the context, but I believe the translation gives the meaning accurately. Cf. original.

rivulet by which the Frenchmen passed in and out of the bay with their barges and canoes. And after we had arrived, some of the soldiers of the kingdom of Leon said that they wished to bathe, in order to be able to tell that they had bathed in the sea, this being esteemed so remarkable a thing that they carried away flasks of sea-water which later, in their own country of Monterey, it was held a great favor to try and to taste, because it was sea-water.

<sup>14</sup>On our first journey there was a soldier in Coahuila who was a Creole from Pabullo. His father's name was So-and-So de Escobedo, and when he learned that an expedition to the bay of Espiritu Santo was being planned, he wrote a letter to Capt. Alonso de Leon, which letter ran as follows:—"Friend, I entreat you to do me the favor of taking my son Antonio among your troops, that when he is old, he may have a tale to tell."

<sup>15</sup>While the soldiers were bathing, we saw in the bay two dark and bulky objects, looking like buoys, and though there was some discussion as to whether they might be buoys, no special investigation was made, such as Capt. Alonso de Leon and Capt. D. Gregorio Salinas made later on in order to give information to His Excellency. These buoys must have been distant from the land about two gunshots, and they were not in the mouth of the San Marcos river, as they reported, nor is the mouth of the San Marcos river half a league wide, as they said, for whoever said so did not see it, and I, who saw it on the feast of San Marcos (that is why it is called the San Marcos river), I say that the mouth of the river is about a gunshot wide.

We returned to the main body of the army, which awaited us by the Guadalupe river; arriving there we found nothing new. The next morning we left for the country of the Tejas, and journeyed some six leagues. On the next day there was no traveling done. Some soldiers went out to reconnoitre, and to see whether there appeared any Indians from whom they might gather information. They found none, and no smoke was seen, nor was there ever any answer to that which daily we allowed to rise. The next morning while I was saying mass two gunshots were heard far away on the

<sup>14</sup> Another digression; this time the writer introduces a reminiscence in order to illustrate his statement concerning the current thirst for adventure.

<sup>15</sup> Here the narrative is abruptly resumed.

hill<sup>16</sup> towards the Guadalupe river. Some one went to see who it was, and it proved to be three of the soldiers who belonged to the garrisons of Vizcaya. They came up, and we asked them about their journey, and they told us of hardships as follows:

<sup>17</sup>On the second day of the Easter feast they had arrived at Saltillo, namely, twenty soldiers of the two garrisons of Vizcaya which are nearest Coahuila, i. e., Cuencame and El Gallo. And the sergeant-major of Vizcaya, Juan Bautista Escorza, appointed a mulatto named Martincho So-and-So leader of the ten men he sent. The captain of the garrison El Gallo, a native of Vizcaya whose name was Ogalde, sent as leader of his ten soldiers Joseph de Salcedo, a Spaniard. While they were in Saltillo, a town inhabited by Spaniards, one of Martincho's men had words with Captain Anchiondo, and the Alcalde Mayor, D. Alonso Ramos, nephew to the president of Guadalajara, tried to seize him, but could not, because the soldier and his companion decamped and went off where their company was stationed on the property of Capt. Nicolás de Guajardo. Thither the said Alcalde Mayor followed them. He arrived close behind them, and spoke very politely to the leader, Martincho, who agreed to take along the soldier next day in order that he might make it up with Captain Anchiondo. They went next day, and on the arrival of the said leader with the soldier at the government houses, it happened that the Alcalde Mayor received word concerning a christening to which he was invited. He said to the soldiers: "Wait for me a while, I shall soon be back;" and so on his return the difference existing between the two men was settled, and they made friends. But next day a tale-bearer—they are numerous in the town of Saltillo—did not fail to tell Martincho that the Alcalde Mayor said that he would find means to punish the Vizcayan soldiers, and that when he was away at the christening he had left them as prisoners in the government houses. At this Martincho took offense, questioning whether the Alcalde Mayor had jurisdiction over military cases, and he made a complaint. He

<sup>16</sup> The expression here used, "en el monte" (cf. original), admits also of the translation "in the thicket."

<sup>17</sup> The writer here begins with a direct narration, in the first person; he very soon, however, though very naturally and almost unconsciously lapses into what is rather indirect narration. For convenience the latter plan has been adopted throughout this episode in the translation. Cf. original.

called four of his soldiers, whom he took with him, saying to them that if they were not men, and intended to flee, they should not accompany him. Finally they went to the government houses, and Martincho left the four soldiers at the door, and, without giving warning, he entered the hall, and gained access to the room where the Alcalde Mayor was with a priest from Coahuila. On entering he drew his sword and dealt the Alcalde Mayor a stroke, taking off a considerable piece from his head, and cutting off one of his arms so as to leave him crippled, and to a mulatto who sought to help his master he gave a back-handed blow which split his head. The priest took away Martincho's sword, and just then the inhabitants of the place came crowding up to the door to assist the Alcalde Mayor. The soldiers who were keeping guard would not allow them to enter, but the crowd afterwards came in through the yard. It was then about ten o'clock in the morning. Martincho departed, he and his companions getting upon their horses and returning to the camp which he had established at the house of Guajardo. The whole population of the town followed with weapons in pursuit, and after much dispute, Martincho having offered resistance in the house, he allowed himself to be seized because the holder of the warrant, Gerónimo Montés de Oca by name, assured him that his life was safe. This occurred on the Thursday after Easter; that night the Alcalde Mayor himself passed sentence on him, and he received the notification in bed. The sentence was that he should be shot according to military usage, and on the next day, Friday March 21st, in the year '90, Martincho was shot on the plaza at Saltillo.<sup>18</sup>

This news the Vizcayan soldiers brought us as their excuse for not having arrived in time to set out from Coahuila with us.

These soldiers of whom I have spoken as arriving on that day were three that came on together while the others were following slowly, driving their horses, which gave great trouble. So six soldiers were sent with a load of flour to meet them, and Capt. Alonso de Leon and myself with fifteen men set out in a northerly direction for the San Marcos river, in order to try to find some Indians, burning fires day and night to see whether they would be answered by others. We spent six days in this sea-region without

<sup>18</sup> As is intimated in the next sentence, the account given by the newly-arrived soldiers, which is inserted so as to break into the narrative, closes here.



being able to find a single Indian. We crossed the San Marcos river on the Feast of the Cross, May 3rd. The next day, as we were still traveling north, it being already late, about five o'clock in the afternoon, all of us weary now with the seven days' journey, we saw some buffaloes, and the soldiers went out to kill something for supper that evening. I remained with a son of Captain Leon, and as we were walking directly forward, at the report of a gun an Indian woman came out of a thicket, and looking by chance to the right, I saw an object in the distance, concerning which it was impossible to tell whether it was an Indian or a tree, but on watching closely to see whether it was moving I saw another and a smaller object issue forth, from which it was evident that they were both Indians. Leon's son and I set out towards them, and when we had come closer I waved my hat to them, whereupon they fled, making for the thicket. Just then Captain Leon arrived with some soldiers, and we went up to the thicket and could not find any Indian; we did find some buffalo hides fastened to a tree so as to make a shade, also a great quantity of buffalo meat, dried as well as fresh, three wild fowls that were roasting, and buffalo tongues and udders, very fine, like hams. Nothing was taken away from them, nay, more, we left them a bunch of tobacco, some small knives and some ribbons, and went away. We and the soldiers slept that night on a little hill a couple of gunshots away from that place. By careful watching, at about nine that night, I noticed that the fire of the Indians grew brighter, and then I said to Captain Alonso de Leon: "Either these Indians are numerous, and therefore they fear us not, or those that are here, seeing that we have taken nothing from them, but, rather, left them more, are of a friendly disposition and willing to be at peace."

In the morning before sunrise I called the Quems Indian, and told him that we would try to ascertain whether those Indians were few or many, whether they were willing or not to be friendly, and to what nation they belonged. The Quems replied, as usual:—"Father, what you desire me to do shall be done." Then I gave a soldier the order to take off the armor he had on, bidding the Quems Indian wear it, and I had a good horse given to the Indian, and said to him:—"See here! if the soldiers go to visit the Indians, perchance these will be afraid, and flee; it will be better for you alone to go to reconnoitre. If one of them comes out peaceably to meet you, tell

him to come forward, for we are not here to take away from them what they possess, or to hurt them; on the contrary, we wish to be their friends, and help them to our utmost." As the Indians came forth Captain Leon and his soldiers mounted their horses to be ready to assist our Indian in case the others should be numerous and should try to kill him. The Quems Indian came near the place where we had seen the Indians, and soon one of them came out towards him. The Quems waited for him, and they spoke at great length. And our Indian told him by signs—this being the most usual language—not to be afraid, and that he might safely come to us, for we were good people, and the Indian, seeing the Quems painted like himself, believed all that he told him, and the two came on together. After we had talked by signs a long time to the aforesaid Indian, he led us to his "ranchito" and we found his wife and a boy about ten, and no one else. These people were of the Tejas nation, and had come to hunt buffaloes and carry the meat to their village. Soon we arranged for the transportation of the meat they had, and charged the man to take word to their governor, telling him that we were waiting for him at the very spot where we had found them. At noon we sent them forward, and returned for the night to the spot already referred to, where we had found these Indians. This place is at a distance of thirty leagues, rather more than less, from the village of the Tejas.

The next morning four soldiers were sent out to the main body of the army to take a message, giving them the order to come and join us, as we were waiting for them at that place. By this time the provisions were consumed, and we were living simply on roasted meat. The next day at about five in the afternoon the Indian whom we had sent out appeared with wife and child, in the same place, and on our asking him how it was that he had not gone on to his settlement he told us that his horse had run away from him that night, that he had left the meat hanging on a tree, and that he had come near to us to try to catch the horse. They slept with us that night, and the next morning we held a consultation as to whether it might not be that other Indians had come with him, and he was acting as a spy; with this in view it was resolved that four soldiers should examine the country around for about three leagues and see whether there were Indians or tracks of any kind. About three leagues away they found an Indian, a very tall

youth, on an excellent bay horse; the Indian was hunting buffalo, and though he was by himself he began to raise a hue and cry as soon as he saw the four soldiers, riding around as if he had no fear. The soldiers drew near him without exposing their guns or making any show of fight, and they made signs to him that he should come with them. And they brought him, and we gave him some presents, and told him that if he would go with a message to the governor of the Tejas, we would give him a horse. As soon as the other Indian whom we had first sent saw that another man was going with the message, he asked for a good horse, and said he would go, and leave his wife and boy for us to take care of until he returned with the governor. So we sent him, telling him to light fires along the road by which they should come, and that we would answer by the same signal.

After four days, our company reached the San Marcos River, and came upon the Indians of the "ranchería" Emat, Too, Toaa, and others, and these Indians said that further along there were other Indians, and with them two persons of French nationality. Leon, remaining with a few soldiers, sent for them, and they came. The one was named Pedro Muni, a Creole, from the city of Paris, the other, Pedro Talo, a Creole, was from New France; these had their firearms, a sack of powder, and shot; more than twenty reales of the lowest value,<sup>19</sup> in silver, Spanish money, and eighty gold eight-dollar doubloons, French money. The doubloons were then passed from hand to hand, and when they had made the round, there were only thirty-nine left. One of the two individuals mentioned, P. Muni, must have been about twenty years old; the other, Pedro Talo, was eleven or twelve.

The main body of the soldiers soon reached the place where we were, and the day after they came Captain Leon arrived with the two French boys. There came also into that region an Indian who was thoroughly acquainted with the road into the country of the Tejas, and he showed us the way until we met with the governor of the Tejas, together with fourteen or fifteen of his Indians, and the Indian whom we had sent to him with our message. It was about ten o'clock in the morning when we came upon them by a

<sup>19</sup> The "real sencillo," or "real of least value" (for this name is given to coins differing in value), is worth about 12½ cents in our money.

brook in which they were bathing, and, on account of the thick woods, they did not see us until we were very close to them. As soon as the governor saw me, he came forward to embrace me; he sat down to talk by signs—this being the most usual mode of communication in those regions; and he produced a small sack of powdered tobacco, of the kind which they grow, and another small sack of pinole,<sup>20</sup> white, and of very good quality. After talking we left the place, and went to rest a while. That night it was arranged to provide the governor with garments, in order that he might enter his village clothed, so that his people might see how highly we thought of him.

Three days later, on Monday, May 22, 1690, we entered the village. It was raining heavily on our arrival. That year it had, up to that time, rained but little, and already the corn was suffering from the drought, but every day of the eleven that we spent in the village it rained very hard.

At evening on the day of our arrival, the governor being in the tent with us, an old Indian woman brought him for his meal a large earthenware vessel full of frijoles, with ground nuts and tamales. That evening the governor said that he would spend the night with us in the tent, and take us to his house next day, but afterwards, it being already late, Captain Leon insisted that they should go at once, as he had some skirts and other articles of clothing which he wanted to take to the governor's wife. The governor replied that he did not want to go then, but would go next day; however, in spite of all, he was obliged against his will to take Leon to his house.

On the next day the governor expressed a desire to take us home with him, and said that we might live in his house, in which, he said, there was room for all. After dinner we, the priests, discussed what should be our conduct on visiting at the governor's, and whether it would be advisable to stay there. My opinion was that we four priests should go on foot, carrying our staffs, which bore a holy crucifix, and singing the Litany of Our Lady, and that a lay-brother who was with us should carry in front a picture on linen of the Blessed Virgin, bearing it high on his lance, after the fashion of a banner.

<sup>20</sup>The "pinole" is parched corn, ground or crushed. It is, I have heard, used to prepare drinks.

We set out in this manner for the governor's house from the place where we had stopped, and this pious conduct proved so blessed in its results that, although it had rained heavily, and the water stood high all along the road where we had to pass, so high, indeed, that for the greater part of the way it came nearly to our knees, yet our fervor was such that we paid no attention to the water. Following the example given, some of the soldiers who were walking through the water became animated with such zeal and ardor that they could not keep back tears of joy and gladness. Among those who thus especially distinguished themselves, giving no heed to the water or to the mud, were Capt. Francisco Martinez, D. Gregorio Salinas, and others. The rest, some twenty soldiers, were on horseback, and Capt. Alonso de Leon was with them; we who walked were in their midst.

We came to the governor's house, where we found a number of Indians—men, women, and children. Kneeling, we concluded the Litany, and we blessed the house. Soon the governor and the other Indians came up to kiss my robe, and the former bade us enter, in order to look at his house. The house is built of stakes thatched over with grass, it is about twenty varas high, is round, and has no windows, daylight entering through the door only; this door is like a room-door such as we have here. In the middle of the house is the fire, which is never extinguished by day or by night, and over the door on the inner side there is a little mound of pebbles very prettily arranged. Ranged around one half of the house, inside, are ten beds, which consist of a rug made of reeds, laid on four forked sticks. Over the rug they spread buffalo skins, on which they sleep. At the head and foot of the bed is attached another carpet forming a sort of arch, which, lined with a very brilliantly colored piece of reed matting, makes what bears some resemblance to a very pretty alcove. In the other half of the house, where there are no beds, there are some shelves about two varas high, and on them are ranged large round baskets made of reeds, (in which they keep their corn, nuts, acorns, beans, etc.), a row of very large earthen pots like our earthen jars, these pots being used only to make the atole<sup>21</sup> when there is a large crowd on the

<sup>21</sup> This is a kind of gruel, of varying consistency, made by cooking pounded maize or rice, in water or milk. Probably maize is the grain meant here.

occasion of some ceremony, and six wooden mortars for pounding the corn in rainy weather, (for, when it is fair, they grind it in the courtyard).

After a little while they brought out to each of us in the courtyard a small wooden bench very skilfully fashioned, and after we had been through the house we sat down there, for the yard was bright and cool. Then they brought us a lunch consisting of the tamales they make, with nuts, pinole very well prepared, a large crock full of corn stewed with frijoles, and ground nuts. Soon I noticed, outside the yard, opposite the door of the governor's house, another long building in which no inmates could be seen. I asked who dwelt therein or what purpose it served, and was told that the captains were lodged in that house when the governor called them to a meeting. On the other side I saw yet another and smaller vacant house, and upon my inquiring about this one they answered that in the smaller house the pages of the captains were lodged, for there is a law providing that each captain shall bring his page when the governor assembles the captains, and they observe this custom. As soon as they arrive they are lodged in that house, and for each one is laid a large, brightly colored reed mat, on which they sleep, with a bolster made of painted reeds at the head; and when they return home, each one carries with him his mat and pillow. While they attend the meeting the governor provides them with food, until he sends them home.

The following are the domestic arrangements in the governor's house: each week ten Indian women undertake the house-work; each day at sunrise these women come laden with firewood, sweep out the courtyard and the house, carry water from a brook at some distance—for this water is very good, and though the river is close by, its water is not as good as that of the brook—and grind corn for the atole, tamales, and pinole. Each one of the women goes home for the night, returning to the governor's house next morning. I saw a little wooden bench in front of the fire, and the Indians admonished me not to sit upon it, lest I should die. Of course I was curious to learn what mystery there was connected with it, and they told me that no one but their lord the governor, might sit upon that stool.

As to whether the priests should live in the governor's house, it seemed to me inadvisable that they should do so, on account of

the number of Indians, men and women, who went in and out at all times. Using the Frenchman as an interpreter I told the governor with many kind expressions that his house was very fine, and that I heartily appreciated his desire to have the priests in his household, but that since we had to build a house for the celebration of masses, it might be well to build likewise a dwelling for the priests, because they must needs live near the church. Thereupon the governor said that we could build the house I asked for in the most suitable place, that he would show us the village and that I might choose the spot. We agreed to visit the village on the following day in order to look for a favorable location for the church and the priests' dwelling; accordingly next day we went with the governor, who took us to the place the French had selected for their settlement, pleasantly and favorably situated on the riverbanks. We did not locate the convent there because it was so far out of the way of the Indians. Just at that spot they showed us two dead bodies of Frenchmen who had shot each other with carbines. All this day we were unable to find a place which suited me.

The next morning I went out with Capt. Alonso de Leon a little way, and found a delightful spot close to the brook, fine woods, with plum trees like those in Spain. And soon afterwards, on the same day, they began to fell trees and cart the wood, and within three days we had a roomy dwelling and a church wherein to say mass. Very reverently we set in front of the church a very high cross of carved wood.

On the feast of Corpus Christi mass was sung, and before mass we had a procession with the holy sacrament exposed, a large concourse of Indians being assembled, for we had notified them the day before. The soldiers had been given leave to fire as many salutes as they could during the procession, at the elevation, and at the close of mass, and it was the will of the Divine Majesty that in that solitude we should celebrate a memorable feast, which was rendered a source of great consolation by our being able to carry the blessed sacrament exposed and to walk in procession as Christian Catholics are wont to do. After mass we hoisted in the name of His Majesty the royal standard bearing on one side the picture of Christ crucified, and on the other that of the Virgin of Guadalupe. A royal salute was fired, and we sang the *Te Deum Laudamus* in thanksgiving.

These Tejas Indians have always had among them an old Indian who was their minister, and presented their offerings to God. They observed the custom never to taste any eatable without first taking a portion of it to their minister for sacrifice; they did this with the produce of their lands—as corn, beans, watermelons, and squashes—as well as with the buffalo meat they obtained by hunting. Their minister had a house reserved for the sacrifices, and when they entered therein they behaved very reverentially, particularly during a sacrifice. They never sacrificed to idols, but only to him of whom they said that he has all power and that from him come all things, which is recognising a first cause.

The captains as well as the governor himself, all treat this minister with much consideration, and in order to induce him to visit us, as well as to avoid hurting his feelings, the governor sent out the captains with orders to do honor to the Indian priest and bring him with them. They went, and during three days and nights they entertained him with songs and dances, as is their custom, and when they returned home, he accompanied them. They arrived at noon, just as we were about to have dinner. Since I was eager to see the ceremonies of these people, I suggested that we should wait for that priest of theirs and ask him to eat at our table. He came advancing slowly, and bearing himself with much dignity, and with him was a crowd of Indians, men, women, and children. He appeared extremely serious and reserved, and, as soon as he reached the place where we were the governor bade him kiss our robe. This he did, and when we sat down to dinner I asked the governor to let our visitor sit by his side.

When this Indian priest took his first mouthful, instead of asking a blessing, he made with the food, as he took it out of the dish, a sign like that of the cross, pointing, as it were, to the four winds, or cardinal points. After dinner we gave him clothing for himself and his wife, and he was quite pleased.

Later we were told by an Indian who was then with the Tejas but came from the country beyond—from Coahuila—and who spoke Mexican, that the abovementioned priest of the Tejas had told all the captains and other Tejas:—"Now you will no longer heed me, for these priests who have come to you are the true priests of Ayimat Caddi"—which last name signifies, in their language, "The Great Captain." This was the name he gave to God,



for since the only rank or title they know is that of captain, they call "Great Captain" him whom they consider as great above all things. Similarly, in order to give the governor a distinguishing name they call him "desza," which means "Great Lord and superior to all."

When the church and the dwelling intended for the priests had been finished they carried into these buildings all that was to be left for the priests, and on the morning of the first of June, a week from the feast of Corpus Christi, we consecrated the church and celebrated mass, after which the *Te Deum Laudamus* was sung in thanksgiving, the soldiers firing a royal salute. The church and village were dedicated to our Holy Father St. Francis.

After dinner on that same day our company left the place, to return hither, but I remained until the next day, when I went to join the others on the way. The night before I left the place I called the governor, bidding him remember that he must take care of the fathers who remained there and try to cause his people to respect them and to receive the Christian doctrine. I told him the the fathers would not take anything away from them, nor ask them for anything, but rather help them whenever they were able. And the governor said: "I shall take care of the fathers, so that, when you return, they will have no complaint to bring against me; they are perfectly safe, and may remain." I then told him that I should be gratified if his brother and some other one of his relatives would come with me to visit our possessions and bring back numerous presents for those who remained at home, and that our great captain the Viceroy was anxious to see them, and entertained very kindly feelings towards them. The governor then replied that his brother with two other relatives and a nephew of his would accompany me, and he thus admonished me:—"Do not permit anyone to demand service from these men whom you take with you, nor to make them work." From these words of his it is evident that they have among them the idea of rank, and that they distinguish their nobles from the mass of the people.

From the time of our arrival at the Tejas village until we left I took note of many things and learned something about certain men whose conduct proved so different from what it had seemed to be when we were on the road, that I hardly knew them for the same persons after we were in the village. Evidently some of them

thought that they were to be made rulers of the Tejas, and forgot His Excellency's express orders concerning the journey, which orders provided that Capt. Alonso de Leon should go as commander of the expedition that was to find out whether there were any Frenchmen in that region, and that Leon and his men should escort thither the priests who accompanied Fray Damian Mazanet. If the Tejas asked for priests and desired baptism, the priests were to remain there. And if the Tejas proved quite friendly and no danger was to be expected at their hands, no large garrison was to be left behind; if, on the other hand, they proved troublesome, as many soldiers should remain as seemed needful, according to the advice and with the consent of Father Fray Damian Mazanet. It was not in the least necessary for the safety of the priests to leave soldiers among the Tejas, for from the very first they welcomed us with so much affection and good will, that they could hardly do enough to please us. Yet, in the face of all this, Capt. Alonso de Leon made arrangements to leave fifty men, under the command of Capt. Nicolás Prietto, an incapable and undeserving old man.

When the time came, the captain told me of his purpose in a private interview, and I replied:—"You are under orders from His Excellency, and if you mean to consult with me, the consultation must not take place in private; call your captains and the priests, and in their presence state what you wish to offer for consideration." This reply deeply wounded Leon, for his passions had blinded him. He called the captains, and I called the priests, and Capt. Alonso de Leon told us that he had planned to leave for the protection of the priests forty or fifty soldiers under a leader, and that he was holding this consultation because His Excellency had ordered that, if soldiers were to be left, it should be with my consent. To this I replied that it was not necessary to leave a military force in the district, since the people were so peaceable and so friendly. In case the priests should need assistance, I requested that three soldiers whom I thought fit for the position should stay there. If he chose to leave a greater number, well and good; but with no consent of mine, for I did not wish more than three to remain. Leon was annoyed by my proposition, so was his friend Capt. Nicolás Prietto, who was to remain as leader of the forty or fifty soldiers. However, in the end, it was arranged that the three soldiers recommended by me should remain there. They were

willing to do so, and were quite content. They belonged to the Zacatecas company. Leon left for the soldiers nine of the king's horses, some firelocks, a barrel of powder and some shot, and for the priests he left twenty-six loads of flour, twenty cows, two yoke of oxen, ploughs with ploughshares, axes, spades, and other little things.

On the 2nd of June we took our departure, and the priests walked with us a little way out of the village. Then we took leave of one another with many tears of joy, and gladness, for these men did not sorrow at being left behind, nay, rather, they gave thanks to God for having merited such a grace as to be called to save the souls of the heathen. We arrived at the Trinity on the 3rd of June, and found this river very high. On this account we were kept for a week from crossing. Meanwhile the governor's brother was taken ill and went home. After a week they made a raft of logs, on which the packs, the clothing and all other baggage were taken across, while the horses were driven through swimming, some few getting drowned.

We followed the road by which we had come, until we reached the "ranchería" of the Emat, Toaa, Too, Cavas, and other Indians, and in this "ranchería" we heard that the Indians on the coast had captured some young Frenchmen. The captain of the "ranchería" told us that although they themselves were at feud with the Indians on the coast, yet there was among them an Indian who held intercourse with those others, and if some of us desired to go and find them, this Indian would take those who wished to go. Captain Leon decided to go with twenty men for the purpose of trying to rescue the French boys. They reached the coast of the bay and found the Indians whom they sought. These had just arrived from some other portion of the same coast, armed with lances, and soon our people began to treat with them, about delivering up the French boys. The Indians were promised horses and clothing if they would consent to give up the boys, and their reply was that they would do so promptly, without causing any trouble. The soldiers then began to enter the "ranchitos" of the Indians, peering with too much curiosity into their belongings, and committing other acts which incensed the Indians when they found out who was guilty. Later, after the French boys had been delivered over to our men, the Indians, having grown suspicious, commenced to

shoot arrows among the soldiers. Two arrows struck Captain Leon in the side, but as he wore mail, they did not penetrate; also, the horses were shot down under two other soldiers. There were four Indians killed and two wounded, and our men took the French boys and returned to the main body of the army, which was waiting by the Guadalupe river.

We returned by the way we had come, and, arriving at the Rio del Norte, found it so high that we were kept from crossing for 18 days, and when we did get across it was by swimming, at great peril to our lives. The river current carried off many articles of clothing as well as horses, and one soldier, who bore among his comrades the ill name of Judas, was drowned. This man had the reputation of being likely to appropriate what belonged to other people, and on the morning of the day he died he returned to one of the mule drivers a boiler he had stolen, saying:—"Forgive me, friend, for I stole this boiler from you." And when he entered the river to cross, he said:—"Let us hurry in, for this is the last time." When he was in the middle of the river he disappeared, he, the horse, and all he was carrying, and he was never again seen. Just at the time when he disappeared there arose a high wind which terrified us, and the waters of the river grew so angry that they seemed about to leave their bed.

There were some points of which I took special note on this journey. First, in the preceding year we had everywhere found Indians, while in the year '90 we saw not a single one, until we inspected the bay of Espiritu Santo and entered the land of the Tejas.

Secondly, in the year before the soldiers all behaved in a peaceable, orderly manner, performing their duties faithfully, so that there was no disorder on the march, and no loss of horses. But in this year '90 there hardly passed a day without some one fighting, or else some officer stabbing a soldier, so that a lay-brother who had come with me was generally kept busy tending the wounded. He treated them with tepid wine, which is, they say, an excellent cure for stabs in the head.

Thirdly, I noted that there were so many horses and mules that the laden mules were not missed until some article contained in their pack was needed. As to the number of horses, it was never known to the officers.

Fourthly, Captain Leon had a chum along, Captain So-and-So, so honorable that he never failed to play the tale bearer and excite quarrels; so kind-hearted that only his friend Leon drank chocolate, and the others luke-warm water; so considerate of others that he got up early in the morning to drink chocolate, and would afterwards drink again with the rest; so vigilant that he would keep awake and go at midnight to steal the chocolate out of the boxes; perhaps this vigilance was the reason why, while, by order of His Excellency, Captain Leon should have left for the priests twelve hundredweight of chocolate and the same quantity of sugar, he left only six hundredweight of each.

This same fellow is so smooth-tongued that he told me once:—"In truth, in truth, since the time of Cortes there has not been in the Indies another man who can be compared with my protector Gen. Alonso de Leon." This fellow of whom I have been speaking is so compassionate towards the Indians that because he saw how poor they were, and that their only clothing was the skins of antelopes and buffaloes he endeavored to provide them in secret with the articles which His Excellency had sent for them—e. g. blankets, flannel, cloth and knives—but that fellow so arranged his almsgiving, by first robbing the Indians of what they had, that his gifts were equal to about one-fourth of his robberies.

Fifthly, when the Indians brought certain complaints against the soldiers for entering their houses, Captain Leon never attempted to remedy things at all. In one particular case, when the brother of the governor of the Tejas came to us, complaining that a rape had been attempted on his wife, I remonstrated with Captain Leon, about his letting such misdeeds go unpunished. I urged that conduct like this would not be tolerated even among Moors or heretics, and should be the more severely reprov'd in this case because we had come among these heathen people in order to give an example of right living. But Leon did not say a word—perhaps because he feared exposure.

For lack of more time I shall now only add what is the most noteworthy thing of all, namely this: While we were at the Tejas village, after we had distributed clothing to the Indians and to the governor of the Tejas, that governor asked me one evening for a piece of blue baize to make a shroud in which to bury his mother when she died; I told him that cloth would be more suitable, and

he answered that he did not want any color other than blue. I then asked him what mysterious reason he had for preferring the blue color, and in reply he said that they were very fond of that color, particularly for burial clothes, because in times past they had been visited frequently by a very beautiful woman, who used to come down from the hills, dressed in blue garments, and that they wished to do as that woman had done. On my asking whether that had been long since, the governor said it had been before his time, but his mother, who was aged, had seen that woman, as had also the other old people. From this it is easily to be seen that they referred to the Madre María de Jesus de Agreda, who was very frequently in those regions, as she herself acknowledged to the Father Custodian of New Mexico, her last visit having been made in 1631, this last fact being evident from her own statement, made to the said Father Custodian of New Mexico.

*Translation of note on back of MS.*

On the 30th of September in the year 1709 there was an earthquake in the port of Vera Cruz, and as a result of the adverse winds eleven vessels sank and were destroyed, and several houses fell. It is said that this catastrophe caused a loss of more than three hundred thousand dollars.

THE BATTLE OF GONZALES, THE "LEXINGTON" OF  
THE TEXAS REVOLUTION.

MILES S. BENNET,  
CAPTAIN COMPANY E, TEXAS EX-RANGER BATTALION.

On the fourth of July, 1838, at Gonzales, I met at a festive occasion some of those who had been prominent in the defense of that town and its brass cannon in 1835; and associating with them and others for many years afterwards I had opportunities for hearing from them narratives of stirring incidents of that period. Although these incidents were considered of small importance at the time, I like to recall them and place them on record, that they may not be completely forgotten.

In company with my father, Major Valentine Bennet, who had actively participated in those scenes and who was one of the first officers commissioned at Gonzales by General Stephen F. Austin, I went to some of the places of the vicinity made historic by the movements of the colonists and the events of the battle and retreat, notably the celebrated mound (De Witt's) where the Mexicans encamped; also, the prairie bluff below the town watering place just above where the timbered bottom begins, the place where the cannon was thrown into the river when the town was burned by the retreating army, and the stricken inhabitants terribly weakened by the slaughter in the Alamo of forty of their men, were constrained to abandon the place and try to save themselves in the disastrous flight known as the "Runaway Scrape." It occasioned melancholy feelings to view the ruins of the burnt town, which had evidently been quite a thriving little city, having comfortable two-story dwellings, storehouses said to have been stocked with valuable goods, a cotton gin and mills, and a brick yard, and was able to boast of a regular city incorporation.

My father was acquainted with the circumstances attending the beginning of hostilities at Gonzales, he having located there with some colonists in 1832. He had been in feeble health, having been severely wounded in the battle of Velasco in June of that year. He had been acquainted with the forty citizens who had ridden to

the front and fought and fallen in the Alamo a few days before the time when Gonzales, being deprived of so many of her protectors, was also wantonly sacrificed to the flames. The memory of those heroes of the Alamo should ever be cherished by our people. I record here the names of some of those who went from Gonzales: Capt. Albert Marlin, George W. Cottle, Almerion Dickinson, William Dearduff, James George, John E. Garvin, Thomas Jackson, George C. Kimble, Andrew Kent, William King, Jacob C. Darst, William Fishbaugh, Thomas R. Miller, Jesse McCoy, Isaac Milsap, Isaac Baker, John E. Gaston, Robert White, Galby Fuqua, Amos Pollard, John Cane, Dolfin Floyd, Charles Despalier, Claib. Wright, George Tumlinson, Johnnie Kellogg. I became acquainted with the survivors of some of the families of these men after their return to the Guadalupe.

The colonists of DeWitt's settlement had in 1831 been furnished for their defense against the Indians a brass six-pounder which was kept at Gonzales. From rumors that had been heard, the apprehensions of the settlers were excited; and, when in the latter part of September 1835 Colonel Ugartechea commanding the Mexican forces at San Antonio sent a small troop of cavalry with an order for the delivery of the piece, it was resolved by the inhabitants not to give up the gun. The order was directed to Andrew Ponton, the alcalde, and Wiley Martin the political chief at Gonzales, and was brought by Lieutenant Castañeda, who had ten men and an ox cart to carry away the unmounted cannon. In order to gain time the citizens delayed the Mexicans with evasive answers two or three days, in the meantime sending Matthew Caldwell to the Colorado and Washington for re-inforcements. They also secreted the ferry-boat in the slough branch in the timber bottom above town, and the first day mustered eighteen men whose names are as follows: Capt. Albert Martin, Jacob C. Darst, Winslow Turner, W. W. Arrington, Graves Fulchea, George W. Davis, John Sowell, James Hinds, Thomas Miller, Valentine Bennet, Ezekiel Williams, Simeon Bateman, J. D. Clements, Almerion Dickinson, Benjamin Fuqua, Thomas Jackson, Charles Mason, Almon Cottle.

Afterwards when I became acquainted with some of the survivors of this little band of eighteen and heard their narrative of this part of the history, I noticed with what honest pride they referred to it, and the gratification of being able to say, "I was one of the 'Old Eighteen' defenders of Gonzales."



Some of the families secreted themselves in the timbered bottoms. Jesse McCoy, Joseph Kent, Graves Fulcheare, and W. W. Arrington kept watch at the river. Mr. Kent told me afterward how he and Fulcheare in their hiding places could scarcely resist the temptation to shoot at the Mexicans as they came to the opposite bank to water their animals. Texian scouts were sent out in the direction of San Antonio, as it was known that the Mexicans encamped at DeWitt's Mound had sent couriers to the west, and that probably they had been informed by a half friendly Indian who had been loitering about the town of the preparations made there for defense.

The naked cannon was at first buried in Geo. W. Davis's peach-orchard, the ground being plowed and smoothed over. Then a broad-tired ox-wagon was fitted up and the gun raised and mounted upon it, Mr. Darst, Jno. Sowell, Dick Chisholm, and others working diligently at it. Mr. Chisholm afterward narrated to me how he and Mr. Sowell (both of them blacksmiths) managed to prepare shot for the cannon cutting up pieces of chains and forging iron balls out of such scraps as they could procure.

In the short space of forty-eight hours Matthew Caldwell returned from the east with help. Upon the arrival of Mexican reinforcements, increasing their number to about two hundred, their Lieutenant, Castañeda, with a troop, was sent with despatches directed to the alcalde of Gonzales, but could not cross the Guadalupe as the boat had been secreted. The officer was told that alcalde was not in town, but that a messenger might swim over with the despatches without molestation which was immediately done.

The Texian force, now increased to about one hundred and fifty men, organized under the command of John H. Moore and drilled diligently, the Ferry-boat was returned to its landing, and a message sent to the Mexican commander that the alcalde had returned to Gonzales and invited him to come over and get the cannon. Upon hearing this the officer, shrugging his shoulders, replied "I suppose I need not go if I do not want to."

The enemy started on their return to San Antonio, marched about seven miles, and encamped for the night at Ezekiel Williams's place, which they robbed, supplying themselves with many sacks of watermelons.

On the night of Oct. 1st the Texians crossed the river with their cannon, and forming held a council of war, and listened to a patriotic address from Rev. W. P. Smith, a Methodist preacher of Rutersville. Then they marched up the river several miles, and towards morning on Oct. 2d, a dense fog prevailing, their pickets encountered the mounted pickets of the enemy, and a ludicrous firing and scattering ensued, neither force being able to distinguish friend from foe. The Texians, however, were annoyed by a little dog that ran among them, betraying their position. A little lifting of the fog showed the Mexican encampment, and an American known as Dr. Smithers came out calling, "Don't shoot, don't shoot. I have a message;" but the colonists firing their cannon charged up and put the Mexicans to flight, capturing many of the camp equipments. My father told me that the roar of the cannon loaded with cut up pieces of chains, reverberating along the valleys and river in the early morning, was remarkable. Some blood was seen, and crippled animals were left on the battle-ground.

In the division of the camp spoils my father procured an excellent Spanish blanket that was of great value to him in the following campaign, in which he took an active part. Remaining with the troops, he was requested by Gen. S. F. Austin to drill the men, and was appointed lieutenant, being among those first commissioned at Gonzales. He was at the battle of Concepcion on Oct. 28th, and he afterwards took me over that battle-ground, showing me the positions of the troops. He also received from General Austin the appointment of assistant quarter-master general, as is seen from Scarff's Comprehensive History of Texas, Vol. 1 page 541, where the surname printed "Baker" should doubtless be Bennet; and at the siege of Bexar he was complimented for his efficient services in that memorable campaign by the commander in chief, Gen. Ed. Burleson, whose Report may be found in the History of Texas by Jno. Henry Brown, Vol. 1, page 424.

BOOK REVIEWS AND NOTICES.

In the publications of the Southern History Association for April, Mr. Bugbee has an interesting article entitled *Some Difficulties of a Texas Empresario*, in which he sets forth those encountered by Stephen F. Austin in such a way as to bring into clear light the unfulfilled obligations of the State to this self-sacrificing and patient hero.

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The appearance of the fourth volume of Gammel's Reprint of the Laws of Texas will be noted with general satisfaction. Extending from Austin's colonization to the adjournment of the Twenty-fifth Legislature, this publication involves a large outlay in time and money, and by some the undertaking at its inception was thought a bold one. But the increasing interest and demonstrated value of the work give good assurance of its success. It is very valuable to the student of history and to the Texas lawyer, as it brings within ready access the sources of original information as to the development and changes of our institutions and laws.

Volume 4 opens with special laws of the Fifth Legislature (November 7, 1853), and closes with the Constitution of the Confederate States, adopted March 11, 1861. During these years growth was rapid and changes great. There was then no prohibition in the Constitution regarding private legislation, and more than half the laws enacted were of that nature. All private corporations were then created by special acts, and it is to these private or special laws that the inquirer must go to acquaint himself with the growth of corporations in our State. At one session of the Fifth Legislature acts were passed for relief of more than 200 individuals.

Among the curiosities in this volume is a special law of the Legislature entitled "An Act to incorporate the Terraqueous Transportation Company," a private corporation to continue for 100 years, and whose business it was to construct and operate certain

amphibious vehicles designed to "traverse equally the land and the sea, passing," with ease "from one to the other," recited to be equal on land to the most improved railroad cars and on sea to the best steam vessels. It would be interesting indeed to know the actual workings of this company and its vehicles.

Among the general laws of this period are many of the most important that have ever been enacted in Texas. Space forbids specializing. It is sufficient to say that many of the statutes now in force have come down to us without change, and others can not be properly understood and applied in their present form unless we go back to their first enactment and trace them through their several changes. This the lawyer or student who has Gammel's Reprint can readily and accurately do. JOHN C. TOWNES.

## NOTES AND FRAGMENTS.

MRS. STERNE'S REMOVAL TO HOUSTON.—In THE QUARTERLY for January, 1899, on page 215, in my sketch of Captain Adolphus Sterne, occurs a misprint (if it be not a blunder of my own), in stating the date of Mrs. Sterne's last removal. It reads thus:

"Thence [from Austin], in 1874 or 1875, she removed with her daughter, Mrs. Ryan, to Houston, which was her last earthly home."

The correct statement of the date is "1894 or 1895."

W. P. ZUBER.

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AUSTIN'S VIEWS ON SLAVERY.—Mr. Lester G. Bugbee, in his recent monograph, *Slavery in Early Texas*, says concerning Stephen F. Austin's views on the slavery question: "After the colony had been established on a firm basis, Austin thought that a sufficient number of slaves had been brought in, and so, from 1830, we find him in opposition to the further advance of the institution." Mr. Bugbee sustains his assertion by several quotations from Austin's letters; one, whose tone is very positive, reading thus: "I am of the opinion that Texas will never become a slave State or country. I will be candid with you on this point, and say I hope it never may."

Nevertheless, Austin's convictions were entirely changed before the Texas revolution; for, on his return from prison in Mexico, he wrote to Mrs. Mary Holly, August 21, 1835, saying: "*Texas must be a slave country. It is no longer a matter of doubt. The interest of Louisiana requires that it should be. A population of fanatical abolitionists in Texas would have a very dangerous and pernicious influence on the overgrown slave population of that State. Texas must and ought to become an outwork on the west, as Alabama and Florida are on the east, to defend the key of the western world—the mouths of the Mississippi.*" Touching the relations of Texas and Mexico, he continues: "Being fully Americanized under the Mexican flag would be the same thing in effect and ultimate result as

coming under the United States flag. A gentle breeze shakes off a ripe peach. Can it be supposed that the violent political convulsions of Mexico will not shake off Texas so soon as it is ripe enough to fall? All that is now wanting is a great immigration of good and efficient families this fall and winter. Should we get such an immigration, especially from the Western States—all is done; the peach will be ripe. . . . The cause of philanthropy and liberty also will be promoted by *Americanizing* Texas. I am right, therefore, to do so by all possible honorable means."

EUGENE C. BARKER.

AFFAIRS OF THE ASSOCIATION.

This number of THE QUARTERLY has been greatly delayed by difficulties incident upon the execution of the fac simile of the Manzanet MS. We trust there will be no such delay hereafter.

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In spite of the very best intention and effort, it is impossible to print as yet the promised indexes for Volumes I and II. They are almost ready and will be forthcoming soon. The fact is that the income of the Association does not yet justify adequate clerical help for the management. We feel sure that the members, and especially those who have not kept their dues paid up, will bear with us concerning the delay of the indexes.

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It has been thought best not to publish the Journal of Moses Austin in this number. The members of the Association may expect, however, to have the pleasure of reading the Journal soon.

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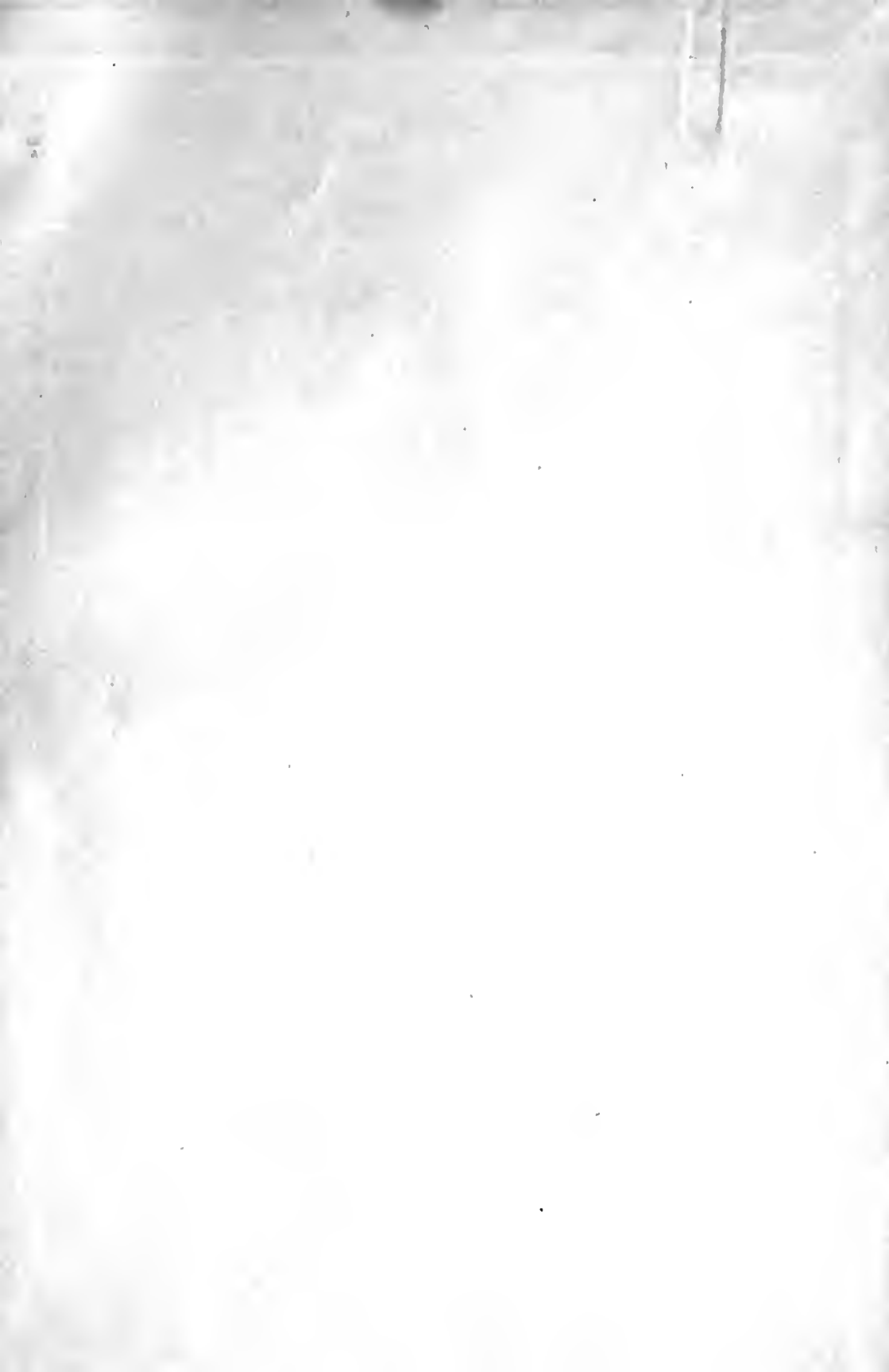
Recent valuable gifts to the Association are the rare pamphlet of Commodore Moore, published in 1843, in which he appeals from President Houston to the people, and which contains much important material relative to the history of the Texas navy; and a printed sheet containing the names, ages, places of birth, date of immigration, etc., of the members of the Sixth Congress. The first was presented by Mr. L. N. Goldbeck, of Austin; the other by Hon. Beauregard Bryan, of Brenham. Mr. W. P. Devereux, of Jacksonville, Texas, has sent the Association two interesting old newspapers. One of these is the New York Morning Post for November 7, 1783; the other the New England Weekly Journal (published at Boston) for April 8, 1728.

The third annual meeting of the Association is to occur in Austin, at the University building, June 15. The program has been distributed among the members and will speak for itself. Arrangements have been made with the railroads for a single fare for the round trip, and those who wish can attend the University commencement at the same time. These meetings do much to arouse and stimulate enthusiasm, and all that can possibly come are urged to be present.

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The joint meeting of the Veterans' Association and the Daughters of the Republic at Temple on San Jacinto Day is said by the participants to have been an exceedingly pleasant occasion. The city entertained its visitors in royal fashion, and those who shared its hospitality are lavish in their expressions of gratitude. For resolutions which were passed commending the work of the Association are due our most sincere thanks.







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