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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOLUME XIX

JULY, 1915, TO APRIL, 1916

EDITORS:

EUGENE C. BARKER,

HERBERT E. BOLTON.

ASSOCIATE EDITORS:

CHAS. W. RAMSDELL,

E. W. WINKLER,

EDGAR L. HEWETT.

MANAGING EDITOR:

EUGENE C. BARKER.

THE TEXAS STATE HISTORICAL ASSOCIATION

AUSTIN, TEXAS

1916

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JOHNSON REPRINT CORPORATION
111 Fifth Avenue, New York, N.Y. 10003

JOHNSON REPRINT COMPANY LTD.
Berkeley Square House, London, W.1

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First reprinting, 1967, Johnson Reprint Corporation

Printed in the United States of America

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X 692565

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XIX

JULY, 1915

No. 1

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

TEXAS *VERSUS* WHITE

WILLIAM WHATLEY PIERSON, JR

CHAPTER III

THE OPINION OF THE COURT

The opinion of the court was read by Chief Justice Chase on April 15, 1869. The case had attracted attention from all sections of the country, and it was expected that a great working principle of law would emerge from the clash of vital forces. The interests immediately involved were inconsiderable in importance, but, in order to justify in some measure the course of that branch of the government which at the time was pre-eminently strong, it was necessary to depart from established precedent and legal tradition. The opinion was of political significance; and the public awaited the contribution to constitutional law and political theory with interest and, probably, on the part of some, with anxiety. At the outset, the court acknowledged that, in view of the varied interests and division of public opinion, it did not expect to satisfy the judgments and anticipations of all.

We are very sensible of the magnitude and importance of this question, of the interest it excites, and of the difficulty, not to say impossibility, of so disposing of it as to satisfy the conflicting judgments of men equally enlightened, equally upright, and equally patriotic.

Some idea of the importance of the case, both to contemporary

and subsequent legal history, may be derived from the estimate placed upon it by the Chief Justice. He always considered it the greatest case in which he figured while on the bench, and, likewise, the opinion as the greatest he ever wrote.¹

The Question of Authority

After a preliminary review, in which the conditions and circumstances out of which the case arose were briefly mentioned, the court proceeded to decide the question of authority raised by the defendants. As has been stated previously, Paschal had been appointed solicitor and agent of the State by the provisional governor, A. J. Hamilton. After the accession of Throckmorton, in 1866, his services as legal representative of Texas terminated, and, although his advice and assistance were retained, Epperson was appointed in his stead. Epperson had instituted the suit before the Supreme Court. Governor Throckmorton had written a letter ratifying this action in the name of Texas. When Throckmorton was superseded by Pease, Paschal resumed the office of agent and continued the legal action before the court. His efforts had the express sanction and confirmation of the governor. It seems, therefore, that, if the government of Texas was legal, the attorneys had sufficient power and authority to act for the State. These facts, at any rate, were sufficiently strong and clear to determine the decision of the question. The court promptly dismissed the plea of Chiles, on the ground that the acts of the State authorities served to dispel any doubt as to the legal right of the prosecuting attorneys. Since the introduction of this plea had only been incidental to a denial of statehood to Texas and of legality to her government, it would or would not be substantiated in law and in fact according as the denial was sustained or dismissed by the court.

The Question of Jurisdiction

1. The American State

The question of jurisdiction was not so easily decided. As has been suggested, the decision of this question involved the most

¹Hart, *Chase*, 378.

complicated and important points of the case, and made it memorable in the history of American jurisprudence. One preliminary source of difficulty and doubt which had been encountered in the arguments of the case in connection with this point lay in the absence from the Constitution and public law of the country of a clear and comprehensive definition of the word "state"; and it was necessary that such a definition should be formulated before the court could decide the questions of legal status and jurisdiction. This fault of omission the court, therefore, proceeded to remedy. In previous cases, the description of the essential elements of the concept "state" related either to the purposes of its organization, the manner of its composition, and the enumeration of its functions, or to the powers and privileges of States. As tests to discover whether or not a particular political body was a State under the Constitution, they were not individually reliable or adequate. There must, consequently, be a generalization from a synthetic consideration of the various uses made of the word in the Constitution. The word had not been assigned a specific meaning there or in the works of commentators on the Constitution and government. The Chief Justice was, therefore, correct when he remarked that "the poverty of language often compels the employment of terms in quite different significations; and there is hardly any example more signal to be found than in the word we are now considering."²⁷ He then pointed out that, in the Constitution, "state" most frequently expresses the idea of territory, people, and government; but that, in some instances, it denotes only one of these elements or features. It is used in its territorial, geographic sense in the requirement that a representative in Congress shall be an inhabitant of the State in which he is elected. It is also used in that sense in the section which provides that trials for crimes shall be held in the State in which the crimes were committed. It is employed in the sense of a community of people in the clause which enjoins upon the United States the duty of protecting each State against invasion, and, again, in that which guarantees to each State a republican form of government. In the sense of government, as distinguished from territory or people, there are numerous and recurring refer-

²⁷ Wallace, 721.

ences. Examples of this usage are to be found in the prohibitions of power to the States, such as those depriving them of the right to make treaties with foreign governments, of emitting bills of credit, or of laying tonnage duties. Each use of the term here mentioned has the sanction and approval of the Constitution, and any definition agreed upon by the court, if it be comprehensive, must embrace each sense. Proceeding, therefore, from these particular usages, the Chief Justice announced the following definition:

A State, in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed.

Chase was not the first to grasp the various meanings given by the Constitution to the word "state." His statement is practically identical with that submitted, in 1800, by James Madison. At that early date, there was recognition of the fact that the Constitution employs the term in different senses. After acknowledging a lack of consistency in this usage, Madison said,

Thus it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into particular governments; and, lastly, it means the people composing those political societies, in their highest sovereign capacity.³

Madison, as did Chase, noticed that the uses of the word were often conflicting and regretted that the language is not more rich in words to convey the shades of meaning desired in the treatment of scientific matters. "Although it might be wished," he said, "that the perfection of language admitted less diversity in the significations of the same words, yet little inconvenience is produced by it where the true sense can be collected with certainty in the different applications."⁴ It is almost impossible to escape the conclusion that the Chief Justice, who was a profound student of Democratic legal and political literature, was conversant with the constitutional exegesis of Madison.

³Hunt (editor), *Madison's Works*, VI, 348.

⁴*Ibid.*

In the light afforded by the definition, the court examined the history of Texas since her secession in order to ascertain whether or not she had lost, during that period, the attributes therein ascribed to a State in the American Union. The definition was sufficiently broad and flexible to prevent allusions to a specific act on the part of Texas or to the loss of a particular privilege,—such as that of representation in Congress,—as affecting the disestablishment or destruction of the State. Such questions as: Had Texas by the acts of those who directed the state government ceased to be a State? if not, had the State ceased to be a member of the Union? or, had not the acts of Congress, in denying her representation and in denouncing her government as illegal, destroyed the State? could not be answered by reference to this definition.⁵ These matters were still before the court for adjudication.

Of the practical results of secession, the court said,

In all respects, so far as the objects could be accomplished by the ordinances of the convention, by acts of the Legislature, and by votes of the citizens, the relations of Texas to the Union were broken up, and new relations to a new government were established for them.

These acts were undeniably real and positive in fact; were they so in law? Not, said the court, to the extent of breaking the *union* between the State and the United States. This union, the court, in harmony with previous opinions, held to be indestructible, and, thus, it was not dissoluble by any act of the State, the government, or the people. Of this union, the court said,

The Union of the States never was a purely artificial and arbitrary relation. It began among the colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographic relations. It was confirmed and strengthened by the necessities of war, and received form, and character, and sanction from the Articles of Confederation. By these the Union was solemnly declared to “be perpetual.” And when these articles were found to be inadequate to the exigencies of the country, the Constitution was ordained to “form a more perfect

⁵This interesting bit of constitutional lexicography is important as a contribution to political science and to clarity of thought with respect to a term of doubtful meaning, but what influence, if any, it had upon the result of the case is not clear.

Union." It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble if a perpetual Union, made more perfect, is not?

Such was the Union created by the Fathers. Although the Union was made perpetual by the Articles of Confederation and more perfect under the Constitution, it had not operated to submerge under it the identity and separate existence of the constituent members, the States. In declaring such to be the conclusion of the court, the Chief Justice gave expression to the most eloquent passage in the opinion,—a passage which is an adornment to legal literature.

But the perpetuity and indissolubility of the Union, by no means, implies the loss of distinct and individual existence, or of the right of self-government by the States. Under the Articles of Confederation each State retained its sovereignty, freedom and independence, and every power, jurisdiction and right not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still, all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people. And we have already had occasion to remark at this term that . . . "without the States in union, there could be no such political body as the United States."⁶ Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may not be unreasonably said that the preservation of the States, and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

In this passage, the court announced its allegiance to the federal system of government. The statement, indeed, came dangerously near an open espousal of the doctrines and philosophy of the *ante bellum* advocates of State rights. There is, however, a great and fundamental distinction between the theory of State rights here defended and the doctrine of State sovereignty which the court repudiated. Thus far, therefore, the court held that the war had not destroyed the identity, the individuality, or the constitutional rights and powers of the States. The judicial department, con-

⁶*County of Lane v. State of Oregon*, 7 Wallace, 76.

sequently, was strenuously opposed to the Sumner theory of State suicide, since it declared a State an indestructible entity. Finally, it must be said of the passage that it is a glorification of the Union and the federal, in contradistinction to a consolidated, system of government.

2. The Location of Sovereignty in the United States

In the case of *County of Lane v. The State of Oregon*,—a part of which was virtually incorporated in the case of *Texas v. White*,—the court gave expression to certain ideas relative to the nature of the relationship existing between the States and the United States. In such connection, attention is invited to the following quotation:⁷

The people of the United States constitute one nation, under one government, and this government, within the scope of the powers with which it is invested, is supreme. On the other hand, the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence. The States disunited might continue to exist. Without the States in Union there could be no such political body as the United States.

In *Texas v. White*, the court, as has been pointed out, held that the successful termination of the war by the Union forces, although establishing the perpetuity and indissolubility of the Union, had by no means implied that the constitutional rights and powers of the several States had been abridged. On the contrary, the preservation of these rights and powers had been and continued to be as much the care and design of the Constitution as had been and are those of the national government. The political entity to which these rights were judicially assured was defined as—

A political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed.

The court further declared that “it was the union of such States, under a common constitution, which forms the distinct and

⁷⁷ Wallace, 76.

greater political unit, which the Constitution designates as the United States." The grand result is: An indestructible Union composed of indestructible States.

In the excerpts here quoted, there is embodied, in general terms, what appears to be the Supreme Court's theory of the location of sovereignty in the United States. There is, in them, of course, no speculation concerning the nature of sovereignty, but only a statement of its exact location according to the opinion of the court. There are also the *ex cathedra* ideas of the court as to the changes, if any, which were effected in this location by the late war. It is the design of this section of the paper to comment briefly upon this theory.

Just what the war actually accomplished in determining the location of sovereignty in the Union has caused considerable difference of opinion. This result was possibly the inevitable consequence of the complex purpose for which the great war was fought. The Supreme Court, in the opinion of the writer, enunciated in the case of *Texas v. White* its theory of the location of sovereignty under the Constitution, and of the effect of the war thereon.

This theory was opposed, in many respects, to those which found widest acceptance before the war. According to the opinion in this case, sovereignty, under the Constitution, resides neither in the people *en masse* nor in the individual States. On the contrary, it is organized and reposed in the political peoples of the several *States in Union*. Both the federalistic idea that the people as a whole, irrespective of State lines, are sovereign and that of Calhoun that the particular State is sovereign are renounced. Instead, the court declared that the rights claimed by the South for the individual State were possessed by all the States as a collective unit. When this theory is applied to the words of the preamble of the Constitution, "We, the people of the United States of America," they mean the peoples of each State as they form the political community under the written constitutions of those States. Under this conception, the term "United States" becomes surcharged with meaning and significance. It is in these States united that sovereignty resides,⁸ in an indestructible Union

⁸Brownson, *American Republic*, 220 *et seq.* In reference to such a theory, he argues, "We the people of the United States,"—Who are this

of indestructible States. There was a revolution, therefore, in 1861-1865 in political theory, but not in law; for the above interpretation of the Constitutional system, it is to be presumed, was held by the court to have been the proper one from the date of the foundation of the government. Such is the theory, as I see it, that was advanced by the Supreme Court.

The following rules may be adopted as a guide in the search for the location of sovereignty: In the first place, sovereignty, in orderly states, resides in the political corporation which actually establishes and ordains the organic law and which, in accordance with the means and methods provided by that law, possesses the power to amend, supersede, or abolish it on occasion; secondly, in revolutionary societies, it resides in the group, however organized, which assumes and, by whatever means, exercises such creative, amendatory or destructive powers. Let us now see if the theory is historically consistent with our constitutional experience. There is probably no fact in American history more firmly and incontrovertibly established than that the Constitution was ratified and the general government set up by virtue of the acts of eleven States. These States meeting in separate conventions debated the Constitution and, impelled by various motives and reasons, ratified it.¹⁰ These States and two others had

people? How are they constituted and what are the modes and conditions of their existence? . . . Are they the people of the States severally? No; for they are called the people of the *United States*. Are they a national people really existing outside and independently of their organization into distinct and mutually independent States? No; for they define themselves to be the people of the *United States*. If they had considered themselves as States only, they would have said, "We, the States"; and, if independently of State organization, they would have said, "We, the people do ordain," etc.

The key to the mystery is precisely in this appellation, *United States*, which is not the name of the country, for its distinctive name is *America*, but a name expressive of its political organization. In it there are no sovereign people without States, and no States without Union, or that are not *united States*. The term *united* is not part of a proper name, but is simply an adjective qualifying *States*, and has its full and proper sense. Hence, while the sovereignty is and must be in the States, it is in the States united, not in the States severally, precisely as we have found the sovereignty of the people is in the people collectively, or as society, not in the people individually. For another statement of the theory, see Hurd, *Theory of our National Existence*. For the history of the phrase "We, the people, etc.," see the journal of the Constitutional Convention and Hunt (editor), *Madison's Works*, III, 23-25; IV, 92 *et seq.*; Crallé (editor), *Calhoun's Works*, I, 133.

¹⁰Madison held that the States in convention assembled represented the

been previously in a union which was thereby superseded and abolished. It seems that there can be no question that had more States willed it, they might have remained out of the new Union, but that they did not so elect is a matter of history. While they were acting in the high capacity of ratifying the Constitution, however, they were united under the Confederacy; and, had the States refused ratification, it is to be presumed that, at least for the time being, the Confederacy would have continued its existence. That Confederacy, however, was destroyed when the ninth State ratified the Constitution, and a new Union in which there were eleven members, instead of thirteen as formerly, was set up. We are constrained, therefore, to the conclusion that, as a matter of fact, the constituting act was done by several of the States united under the Confederacy, but acting separately and without any official connection with any other State. The ratifying conventions, furthermore, were elected by political communities in which the suffrage qualifications were radically different.¹¹ Since the Constitution did not establish a general or particular suffrage qualification for the convention electors, this was a matter left to the States and by them controlled. So far as there was a legal election for such conventions, it was held under State laws; and it was the politically organized peoples of the various States who chose the delegates to the conventions. It seems clear, also, that the acts of the conventions were voluntary to the extent that they might have rejected the Constitution with as much right as they ratified it. Whatever the motives controlling them, whatever the political or economic forces actuating the votes, the fact is plain that the Constitution was ratified by the representatives of the political communities in the various States. Thus the people of the territories, such as Ohio, Kentucky, and Tennessee, took no corporate part in the establishment of constitutional government, although their inhabitants to some extent were citizens of the States and occupied the lands which were then the common property of the States. Had the people at large been those re-

State in its sovereignty. See letter to Judge Spencer Roane, *Works*, IX, 66; and also *Works*, VI, 352. In the latter reference, he remarked, "The State governments are not the parties to the compact, but the States in their sovereign capacity."

¹¹Beard, *An Economic Interpretation of the Constitution*, 64-72; 239-252; McKinley, *Suffrage in the American Colonies*.

ferred to in the preamble of the Constitution, it seems but logical to suppose that those outside the States would have been given a voice in the establishment and ordination of the new government.

With the Constitution ratified by the States in union, and the government set in operation under it, it is pertinent to inquire where the power resides which can legally change the law. The Constitution ordains that an amendment adopted by a two-thirds majority of both houses of Congress and ratified by a three-fourths majority of the States effects, to that extent, a change in the instrument. An alternative process is proposed by which a convention called by Congress at the request of two-thirds of the States may submit amendments. These propositions are, in turn, brought before the States, and, in case they are accepted by three-fourths of them, the organic law is again altered, modified, or enlarged. Since the second method has become obsolescent, it may be said that Congress is endowed with the power of initiation. In either case, the States have the final and decisive power of determining whether such amendments shall be valid. While each State acts in a separate, independent manner, the validity of its ratification or rejection arises from the fact that the State is a member of the Union. In each case, also, the body which decides between ratification and rejection is the representative of the political community which exists within the boundaries of the State. There is no constitutional requirement which makes the electorate of one State similar to that of other States, and, as a matter of fact, they are not alike.

It will be profitable to narrow this investigation for the moment to a consideration of legal sovereignty,—that is, to the law-making and law-executing power. In this restricted realm, we find the representatives in Congress are elected and controlled,—so far as there is a control through election,—in accordance with the theory of the Supreme Court. In the important function of electing Congressmen, the power of fixing the suffrage qualifications resides in the States. The electoral qualifications in such instances are those required by the States for participation in the election of members to the most popular branch of the State legislature. With such restrictions as the States impose, the Representatives and Senators are elected by the people of the several States. In the case of the Representative, the State has the power, and employs

it, of designating the bounds of the district. It is often said that he is the representative of the people. This maxim must be construed, however, to mean that he represents the political people of a State; and it is a significant fact that, as no Congressional district ever overlaps the boundary of the State, he is strictly a State representative. There is, to sum up, no necessary similarity in the modes prescribed for the election, in the machinery employed, or in the suffrage franchise. These are State matters. It is interesting to note, also, that, in actual law making, the enacting clause reflects the influence of the theory. The words, with some slight variations, are: "Be it enacted or resolved by the House of Representatives of the *United States* in Congress assembled."

The election of the President and Vice-President is one of the nicest tests of this theory. These officers are elected by the people of the States, despite the fact that the expression of their will is made indirectly. The Electoral College has become, as is well known, a registering board; but it is of importance still because of the constitutional requirement that a majority must be in favor of one candidate before his election is secured. It is not demanded, therefore, of the presidential candidate that he obtain a popular majority; and, as a matter of fact, it has very often happened that the successful candidate did not receive such a majority. The suffrage, again, is controlled by the States. The election of President in Massachusetts has no connection, legally and officially, except in point of time, with that in Texas, Connecticut, or New York. The cumulative results in all the States form the election for this office. In case the election is thrown into the House of Representatives, the action is effected by votes of the States,—in a united capacity.

To this extent do the facts of the legal organization of the existing political system substantiate the theory of the court. Under the opinion in *Texas v. White*, governmental authority and power are divided between the general government on the one hand and those of the States on the other.¹² Thus far the traditional division of *power* was followed and endorsed; but *sovereignty*, in its political aspects, resides in the States in Union, and is not divided.

¹²*Ex Parte Siebold*, 100 U. S., 371.

3. The Contract Theory and Secession

Returning from this search for the location of sovereignty in the American Union, which has led the discussion somewhat far afield, attention must now be directed to the conclusions of the court as to the character and status of Texas before and after the attempt at secession. The court argued that the union of Texas with the United States was something more than a compact. It was the irrevocable incorporation of "a new member into the political body. And it was final." When Texas accepted the terms of annexation, a union was formed in which there "was no place for reconsideration, or revocation, except through revolution, or the consent of the States." There was in this last sentence a curious inconsistency of reasoning which destroyed the logical finality of the conclusions which Chief Justice Chase had drawn from the preambles of the Articles of Confederation and the Constitution respecting the perpetuity and indissolubility of the Union. There was after all a way by which this Union could be broken up: through consent of the States.

The idea that the States, in 1787, consciously and deliberately made a contract with each other, that this contract is irrevocable and binding on the parties entering into it, and that, to be abrogated, it must have the consent of all the contracting parties, is here adopted. This conception of the Union found its earliest and ablest exponent in Madison, who claimed that it was the philosophical basis upon which he framed the famous Virginia Resolutions. There the doctrine is set forth that the Union is a compact to which the States severally were parties.¹³ The politi-

¹³The following extract from the Virginia resolutions is pertinent: "That this assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, liberties, appertaining to them." See MacDonald's *Select Documents. Illustrative of the History of the United States, 1776-1861*, p. 156. The Kentucky Resolutions are much stronger in their sentiment for the rights of the States to interfere, and there is even the word "nullify"; but Madison stated that Jefferson had the same idea when he

cal result of this compact was the creation of the general government of the United States to which certain specifically enumerated powers were delegated. The exercise of powers was precisely limited to those mentioned in the Constitution. In case of an exercise of power not granted, the resolutions contemplated an interposition of the States to prevent a violation of the constitutional pact. This guardianship of the Constitution was a solemn duty imposed upon the States. During the Nullification period, when Madison came to interpret these resolutions, he maintained that he was speaking of the powers and duties of the States in their plural and collective capacity, and not of those of a single State. Thus all the parties to the compact could challenge and refuse compliance with the supposedly unconstitutional acts of the general government, but this right and power were denied to a single State, which could only initiate an inquiry or an agitation of the matter that might lead to a redress of the injustice protested against.

From the premise that the Union is a compact to which the States are parties, Madison drew certain conclusions as to the responsibility of the United States and the States in the performance and observance of their mutual constitutional obligations. There were occasions when it became the duty of the States to interfere in order to check the encroachment of the general government upon the limitations prescribed by the Constitution. Thus the rights and powers of the States and the liberties of their peoples would be preserved. On the other hand, the States had engaged themselves in this compact, and must govern themselves accordingly. They could not release themselves from the compact at their own pleasure.

It is the nature and essence of a compact that it is equally obligatory upon the parties to it, and that no one of them can be liberated therefrom without the consent of the others, or such a violation of it, or abuse of it by the others, as will amount to a dissolution of the compact. . . . Applying a like view of the subject to the United States it results that the compact being among individuals as embodied into States, no State at pleasure can release itself therefrom, and set up for itself. The compact can only be dissolved by consent of the other parties, or by the

was writing his resolutions, and that he would have repudiated any other interpretation of them.

usurpation of power justly having that effect. It will hardly be contended that there is anything in the compact authorizing a party to dissolve it at pleasure.¹⁴

Madison argued that the attempt by one party to expound or annul the compact gave the others the option of accepting the annulment or insisting, peaceably or forcibly, upon the fulfillment of obligations by the recalcitrant member. Immediately, however, he said that such an enforcement would be disastrous and "fatal to the hopes of liberty and humanity; and presents a catastrophe at which all ought to shudder."¹⁵

The same idea was echoed in the public utterances and proclamations of President Jackson during the nullification period. It was also popular among those who opposed secession and nullification on grounds other than those which controlled the action of Jackson. The questions and issues were political in nature, to a large extent, and, as there would inevitably be a division of sentiment, it was not likely that consent should ever be secured for a dissolution of the Union; so the theory was employed later by the most ultra-radical unionists. The argument of the various parties which adopted this theory was very similar to that of Madison. In fact, the administration leaders in the Jackson period, like Senator Benton, of Missouri, employed the actual words of Madison as authoritative refutation of the extreme State rights position of those who favored nullification. The attitude of the President was made clear in the famous proclamation to South Carolina, in which, after some vacillation and hesitation, the compact theory is accepted, with the results which Madison had described. In this connection he said,

Because the Union was formed by compact, it is said that the parties to that compact may, when they feel themselves aggrieved, depart from it: but it is precisely because it is a compact that they cannot. A compact is an agreement or binding obligation.

¹⁴Hunt (editor), *Madison's Works*, IX, 355-356.

¹⁵*Ibid.*, 357. The theory of contract above presented was frequently repeated by Madison. Its reaffirmation is found in the assertions: "Were this a mere league, each of the parties would have an equal right to expound it; and of course, there would be as much right in one to insist on the bargain, as in another to renounce it" (IX, 347); "The former (a particular State) as only one of the parties, owes fidelity to it, till released by consent, or absolved by an intolerable abuse of the power created" (IX, 490).

It may by its terms have a sanction or penalty for its breach or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt: if it have a sanction, then the breach insures the designated or implied penalty.¹⁶

He argued that every government has a sanction,—the right of self-preservation. The implication is, also, that the government of the United States has the power to enforce the fulfillment by the States of the obligations incident to the contract. In his special message to Congress in December of 1832, Jackson restated his position in the following expressive terms:

The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their solemn obligations, and hazard the liberties and happiness of the millions which compose this Union, cannot be acknowledged. Such authority is believed to be repugnant both to the principles upon which the general government is constituted, and to the objects which it is expressly formed to attain.¹⁷

The contract theory was one of the strongest and most popular arguments against the action of the Southern States, in 1860-1861, when they seceded from the Union. Lincoln recognized its force, and employed it in his inaugural as an argument in rebuttal of the State sovereignty doctrine asserted by the seceding States. He put it in the form of questions—¹⁸

If the United States be not a government proper, but an association of States in the nature of contract merely, can it, as a contract, be peaceably unmade by less than all the parties who made it? One party to a contract may violate it—break it, so to speak; but does it not require all to rescind it?

Such was the theory which the court adopted. Since the other States did not consent to its renunciation of the Union, the court was of the opinion that despite the actions of Texas,

the obligations of the State, as a member of the Union, and of every citizen of the State, as a citizen of the United States, remained perfect and unimpaired. It certainly follows that the State did not cease to be a State, nor her citizens to be citizens of the Union. If this were otherwise, the State would have be-

¹⁶MacDonald, *Select Documents*, *op. cit.*, 279.

¹⁷Richardson, *Messages and Papers of the Presidents*, II, 621.

¹⁸Nicolay and Hay (editors), *Lincoln's Works*, II, 3.

come foreign, and her citizens foreigners. The war must have ceased to be a war for the suppression of the rebellion, and must have become a war for conquest and subjugation.¹⁹

Our conclusion, therefore, is, that Texas continued to be a State in the Union, notwithstanding the transactions to which we have referred.

Confronted with the alternative of declaring a particular political community a State or not a State,—an alternative created by conditions arising from secession, the war, and the attempts to restore or reconstruct the commonwealths which were formerly the Southern States in the Union,—the court encountered the difficulties of those who would reconcile the facts and results of revolution with historic traditions, legal precedents, and political theories which that revolution, in large measure, sought to destroy. In the state which has no written constitution the problem is not a particularly serious or difficult one, for the facts of revolution can then be admitted without legal complications; but when the public law of a country is embodied in the fixed and rigid forms of a written constitution, the effort becomes involved in complications and, oftentimes, in contradictions. In the United States, there has always been a very large element which has sought to preserve the historic continuity of our constitutional law. Even during the war and reconstruction periods, when radicalism was rampant, a strong effort was made, especially in the Senate, to prevent a hiatus in legal development. Loyalty to and respect for the Constitution were often invoked in order to prevent too radical a departure from earlier forms. And when the time came for the establishment of the results of the war in the law of the land, care was taken that there should be an uninterrupted progression in the legal history of the nation. In laboring for the accomplishment of this purpose, the course of reasoning followed by the conservatives was frequently tortuous and inconsistent. Notwithstanding this fact, the duty and task of securing this end were assumed by the Supreme Court of the United States, and the opinion in the case of *Texas v. White* was written with this purpose in view.

¹⁹This would have been contrary to the resolutions of Congress, declaring the nature of the war, Dunning, *Essays*, 13.

4. The Consequences of Rebellion

The fact that the obligations and duties of Texas and her citizens remained unaltered during the period of civil strife, and that the State as such was not destroyed, was not to be taken as an indication that the relations of the State with the general government remained unchanged. There must be certain relations of the State and the Union complete and unbroken before a suit can be brought before the Supreme Court by the State. In other words, Texas, in order to sue as a State, must possess a state government "competent to represent the State in its relations with the National government, so far at least as the institution and prosecution of a suit is concerned."²⁰ Marshall, in the case of *Hepburn and Dundass v. Ellzey*, had held that the community, claiming to be a State, must actually have representatives in Congress, that the relations of the State to the Federal government must be complete, in order to invoke the original jurisdiction of the Supreme Court.²¹ These requirements Chief Justice Chase calmly set aside. He argued that, while obligations often remain unimpaired, the relations may be undergoing the most violent disruption. This was revolutionary doctrine, but so were the circumstances which demanded attention.

The obligations of allegiance to the State, and of obedience to her laws, subject to the Constitution of the United States, are binding upon all citizens, whether faithful or unfaithful to them; but the relations which subsist while these obligations are performed are essentially different from those which arise when they are disregarded and set at naught.

He contended that there were times, when the people and government of a State departed from their allegiance to the Union and from the performance of their duties, as in the time of civil war, when the rights and privileges of the State were suspended. Under such circumstances, it would be absurd to claim the right to representation in Congress. Instead of having that right, "the government and the citizens of the State, refusing to recognize their constitutional obligations, assumed the character of enemies, and incurred the consequences of rebellion." Just what, under

²⁰7 Wallace, 726-727.

²¹*Ibid.*, 727.

the Constitution, were the nature and prerogatives of the State, in such a condition, the court did not feel it necessary to specify. The opinion presented the curious phenomenon of an abstract entity, a State, remaining in the Union, while devoid of loyal government and inhabitants. To this extent, the court adopted the forfeited rights theory of the status of the States.

It has been seen that the court required the State to meet certain requirements before it could take advantage of the original jurisdiction. These were spoken of by the court in vague and general terms. No specific rule was laid down by which it would be possible to determine with certainty whether or not a particular political body, purporting to be a State, possessed the prerequisites which made such an invocation legal and proper. In the first place, it was asserted that there must be a government competent to represent the State in the national government. It was not required that this government actually have representatives in good standing at Washington,—only that it be capable of having them there. A state government in rebellion against the United States could not sue in the court, but this inhibition did not extend to other governments of proper allegiance which might under different circumstances be organized.²² Instead of announcing a definite criterion by which the claims of a State might be judged, each case must be decided upon its own merits by the court.

5. Restoration and Reconstruction

The duties of the United States when confronted by the extraordinary conditions of 1861 were twofold: the first was the suppression of the rebellion, and the second was the restoration of the erring States to their former relations. The authority for the first, said the court, is provided by the Constitution in the power to suppress insurrection and carry on war; and, for the second, in the obligation of guaranteeing a republican form of government to each State. The latter power is the natural and necessary complement of the former. The application of these very clear powers and duties would have been simple enough had the task not been complicated by an additional element—the great

²²This opinion, for example, would not have prevented the Peirpoint government of Virginia from suing in the court.

social change in the status of the negro which resulted from the success of the Union cause. In accordance with the Emancipation Proclamation, as it was interpreted in military circles, the negro slaves became freemen whenever the federal forces obtained control of certain Southern States and districts.²³ This application of the war power was later confirmed by the ratification of the Thirteenth amendment to the Constitution. According to the Chief Justice, all these acts from the beginning made it clear that there "must be complete enfranchisement" of the freedmen.

The new freedmen necessarily became a part of the people, and the people still constituted the State; for States, like individuals, retain their identity, though changed to some extent in their constituent elements. And it was the State, thus constituted, which was now entitled to the benefit of the constitutional guaranty.²⁴

Although this was a *non sequitur* of the most flagrant type, its annunciation denoted how far revolutionary ideas had invaded the court room. It may be safely said that, since the formation of the government, the States had retained the right to determine the suffrage qualifications. Here it is implied that any government which debarred the negro from equal participation in the privileges of its citizens was not truly republican in form. This idea was not expressly stated, but the implication is so strong that it is impossible to doubt what was in the mind of the court. It showed how far the judiciary had traveled from the interpretation of Daniel Webster and the *ante bellum* lawyers of his school. Madison, in the *Federalist*, had declared that this clause had imposed upon the United States the duty of guaranteeing the continuity of the systems of state governments then in existence, or, in other words, that it was an insurance against the destruction of that form of government which was in vogue at the time of the adoption of the Constitution and which was most certainly considered republican.²⁵ The primary aim was to prevent the in-

²³Dunning, *Essays*, 133-135; Schofield, *Forty-six Years in the Army*, 370.

²⁴1 Wallace, 728-729.

²⁵See No. 43 of the *Federalist* (Lodge Edition), 270 *et seq.* There, in discussing the guaranty clause, he says, "In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations." The members, therefore, of the Union should have their republican governments "*substantially* maintained." This protection and authority extend no further, said Madi-

introduction of monarchical elements which might subvert the existing order.

Webster, in his great argument in the case of *Luther v. Borden*, had said,²⁶

The law and the Constitution go on the idea that the States are all republican, that they are all representative in their forms, and that these popular governments in each State, the annually created creatures of the people, will give all proper facilities and necessary aids to bring about changes which the people may judge necessary in their constitutions.

A corollary of this doctrine is that when the governments of the States are changed the alteration must be accomplished in accordance with the amending clause of the constitution of the State. The duty of the United States was to protect the State against changes of any other character or by any other method.

In the leading case of *Luther v. Borden*, above mentioned, Chief Justice Taney held that the guaranty clause was an obligation for Congress to fulfill. "Under this article of the Constitution it rests with Congress to decide what government is the established one in the State. For as the United States guarantee to each State a republican form of government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican in form or not."²⁷ When Congress decides, the decision is binding upon every other department of the government. The executive authority, also, has a certain power in the matter. In case of domestic violence within the State, Congress must provide means for meeting the exigency. The method of procedure had been provided in the act of February 28, 1795, by which the President, on application of the State authorities, could suppress an insurrection. The President, there-

son, than guaranteeing the continuance of the pre-existing governments. The States might change their governments, but in the process of substitution and alteration, they must take care that the product be republican.

This clause should be taken in connection with those which protect the State against foreign invasion and against domestic violence. All of these provisions are aimed to maintain the stability and integrity of the State government. Thus Madison treats the subject in that number of the *Federalist*. For the views of the Constitutional Convention, see Hunt (editor), *Madison's Works*, III, 93, 144, 469-471.

²⁶McIntire (editor), *Webster's Works*, VI, 217 *et seq.*; *Dunning, Essays*, 132.

²⁷Howard, 42.

fore, is empowered to decide whether the conditions call for interference; and, since he must act on the demand of the state authorities, he must decide which is the legal government of the State. Thus both branches of the political power have a part in the recognition of State governments and in guaranteeing to them a republican form. Such a recognition by the political power made the government legal in the eyes of the judicial department.

Such was the accepted interpretation of the guaranty clause before the war period.²⁸ The first indication of the use to which the clause was afterwards put was furnished by the famous Sumner resolutions of February 11, 1862, in which he claimed for the national government the power to set up within the territory of the recreant States new governments, in the organization of which should be included those ideas of political science of which he was so conspicuous a protagonist. In that case Congress, in accordance with the injunction of the Constitution, should assume jurisdiction of the territory which was formerly occupied by the States now in rebellion against the Union, and should proceed to establish republican governments.

At the time of its announcement, this idea, in connection with others equally revolutionary, so shocked the conservatives that the resolutions were never debated. In January of 1864, however, a bill was introduced by Representative Henry Winter Davis to guarantee to certain States a republican form of government, when the ideas of Sumner were made use of. This bill was immedi-

²⁸There had, indeed, been intimations of a different conception of its meaning, but they had not received any very general approval. Of this nature were the comments of Senator John Forsyth, of Georgia, in 1833, when the bill for the enforcement of the collection of revenue duties, a measure to deal with the South Carolina difficulty, was being debated. At the same time, Calhoun's resolutions defining the nature of the Union were being considered. Forsyth, one of the most distinguished of the Jackson administration leaders in the Senate, declared that the United States had the power to enter a State and change its government so as to make it conform to the accepted idea of a republican form of government. This daring utterance aroused the immediate and vehement opposition of Calhoun, who said that he was amazed to hear such a doctrine announced by a Southerner in whose State there existed a peculiar institution which might be declared incompatible with a republican form of government by its enemies. (Crallé (editor), *Calhoun's Works*, II, 308; *Annals of Congress*, 1833, Vol. 9, Part 1, p. 774.) Although it seems from the meager reports of this debate that the declaration of Forsyth did not attract great attention, it nevertheless stands as a precedent for the radical interpretations given to the clause during the war period.

ately occasioned by a message of President Lincoln's which had been submitted during the previous month. A part of the message was devoted to a statement of reasons for the reorganization and restoration of those States from which the Confederate forces had been expelled to their normal relations with the national government. The procedure for this had been announced in his proclamation of amnesty and reconstruction of the same day, December 8, 1863, on which the message was sent to Congress. One basis for his action was the guaranty clause, and it was appealed to as justification for protecting the loyalist element of Louisiana and Arkansas. "This section of the Constitution contemplates a case wherein the element within a State favorable to republican government in the Union may be too feeble for an opposite and hostile element external to, or even within, the State; and such are precisely the cases with which we are now dealing."³⁰ This statement referred to the constitutional provision for the protection of the State against invasion and domestic violence. The result of the message was the bill already mentioned. In reference to the guaranty clause, Davis, speaking for the bill, remarked,³¹

That clause vests in the Congress of the United States a plenary, supreme, and unlimited political jurisdiction, paramount over courts, subject only to the people of the United States, embracing within its scope every legislative measure necessary and proper to make it effectual; and what is necessary and proper, the Constitution refers, in the first place, to our judgment, subject to no revision but that of the people. It recognizes no other tribunal. It recognizes the judgment of no court. It refers to no authority except the will of the majority of Congress, and of the people on the judgment, if any appeal from it.

He contended that there could be no republican government in the State which refuses to obey the Constitution, or in that State whose government the President and the Congress of the United States do not, on their part, recognize as legal. Since the Southern States were not so recognized by Congress, and had no republican governments, it was the imperative duty of Congress to supply them with such. Congress could organize a government, in

³⁰Nicolay and Hay (editors), *Lincoln's Works*, II, 454-455; McCarthy, *Lincoln's Plan of Reconstruction*, 225 *et seq.*

³¹Congressional Globe, appendix, part IV, 1 Sess., 38th Cong., p. 82 *et seq.*

accordance with its ideas of what that government should be, and then recognize it as legal and established. And there was no power under the Constitution which could gainsay the act. This elaborate argument was made in order to provide a means for the Congressional abolition of slavery, and, later, for an assurance of the civil rights of the freedmen. While it was admitted that this was a power which could be called in activity only by a dereliction of the States, it was claimed that, when once invoked, there was no legal limitation upon it.³²

The *Texas v. White* case was the first instance in which the Supreme Court was called upon to construe the guaranty clause since the introduction of the new and unhistorical interpretation of that clause. The opinion in this regard,—*obiter dictum* though it was,—reflected the revolutionary spirit of the time, and went far toward endorsing the radical view. By implication, the opinion would make it obligatory upon the United States to institute the change when the State government does not conform with the ideal entertained by the federal government. This necessitated a violent shifting of the center of political gravity from the States to the federal government, and a consequent centralization of power in the latter. In requiring admission of the freedmen to the electorate as a *sine quâ non* to the possession of a republican form of government, the reasoning of the court reminds one of that of Sumner, who solemnly assured the Senate that prior to the ratification of the Thirteenth amendment, there had been, with the possible exception of Massachusetts, no republican governments in our States, that slavery and such a form were incompatible.³³ He argued, moreover, that to debar the negro from the suffrage would be tantamount to a loss of republican form to any government so excluding him.

In applying these general views, the court, to some extent, passed opinion on the legal propriety of both the Presidential and the

³²This was the famous Wade-Davis bill, which, after a long discussion, passed the House by a vote of 73 to 59. In the Senate, it was championed by Wade, of Ohio. There it was adopted first by a vote of 26 to 3, and later by 18 to 14. The measure was enacted on the last day of the session, and was carried to Lincoln only a short while before adjournment. It received the pocket veto of the President. His proclamation, defending his action, and reaffirming his determination to adhere to his own plan, caused the issuance of the Wade-Davis manifesto.

³³Dunning, *Essays*, 134; McCarthy, *Lincoln's Plan of Reconstruction*, 209.

Congressional plans of restoration and reorganization. The President's action in establishing provisional governments was upheld as being a power properly derived from his authority as commander-in-chief of the army and navy. He had found the State of Texas deprived of civil government and had supplied it until the people could reorganize one for themselves.

So long as the war continued, it cannot be denied that he might institute temporary government within insurgent districts, occupied by the National forces, or take measures, in any State, for the restoration of State governments faithful to the Union, employing, however, in such efforts, only such means and agents as were authorized by constitutional laws.³⁴

Whether he had been in the right in superintending the entire process of restoration without consultation with the legislative department, the court did not consider it necessary to state. This was as far as the Supreme Court would go in support of the President in his controversy with Congress. Thus far, however, the support was definite and thorough-going, for it was declared that the organization of the provisional governments was within his power. But it was stated that he was in error in arrogating to himself the authority and function of guaranteeing a republican form of government to the State. In reference to this power, the court said,

The power to carry into effect the clause of guaranty is primarily a legislative power, and resides in Congress. Under the fourth article of the Constitution, it rests with Congress to decide what government is the established one in a State. For, as the United States guarantee to each State a republican form of government, Congress must necessarily decide what government is established in the State, before it can determine whether it is republican or not.³⁵

The action of the President, it was alleged, must be considered as purely temporary and provisional. It was within the constitutional competency of Congress to declare it to be so or to be final and complete.

As to the acts of Congress, when setting in operation its own plan of reconstruction, there was nothing in the case which de-

³⁴7 Wallace, 730.

³⁵The words of Taney in the case of *Luther v. Borden*, 7 Howard, 42.

mandated that the court should decide whether they were constitutional or otherwise. It was only necessary, for the purposes of the case, to ascertain whether or not these acts had recognized the existing governments as established. This, in the opinion of the court, the Reconstruction Acts had done. These acts had pronounced the governments illegal, and had made them subject to the military authority and, finally, to the paramount authority of the United States. As a matter of fact, the district commanders had, in numerous cases, superseded the State authorities, and had, in the case of Texas, removed the governor. This showed a very doubtful respect for the Johnson governments, but a respect, in the eyes of the court, sufficient to warrant the assumption that they had been recognized by the political power. In denouncing the government as illegal, the law had mentioned the name of that government. It had, therefore, recognized it as existing and established. It may be said, furthermore, in development of this ingenious idea, that, although the destruction of these governments was threatened and provided for, Congress had not actually destroyed them. When the State government of Texas, also, had been superseded and the governor removed, the successor had been recognized by the agent of Congress, General Sheridan. The political power of the government, through him, had taken action, and the court was estopped from further inquiry. That government, so organized, represented the State of Texas, and had given its sanction to the efforts of the attorneys who were prosecuting the case; and "the necessary conclusion is that the suit was instituted and prosecuted by competent authority." Texas, having been declared a State despite the vicissitudes undergone, had a government capable of representing its interests. The plea of a lack of jurisdiction was, therefore, dismissed.

In this elaborate opinion, the Supreme Court had adopted the forfeited-rights theory in practically all the decisive arguments concerning the status of the Southern States. In answering the question, whether Texas, in consequence of her rebellious course, ceased to be a State in the American Union, the desire to preserve the historic continuity of legal development involved the court in logic of questionable soundness when it came to reconcile the action of Congress with the theory it chose to adopt. "Historic continuity" was merely a high-sounding name, however, for

the theoretical continuity of the Union and the existence of the States had nothing to do with the practical disruption of relations between that Union and the States. The court was wrestling with the problem, in the first place, of acquiescing judicially in the results of the Congressional Reconstruction as accomplished facts, which it would be politically unwise to disturb; and, in the second place, of rescuing the States from the position of hopeless inferiority, which the Congressional policy seemed to portend for them. Among those who desire a continuation of the federal system, this opinion should, therefore, be held in regard. Inconsistent, however, with this end was the interpretation placed upon the phrase "republican form of government." In this regard the words of Chief Justice Chase read more like the political pamphlet of the agitator than the calm, dispassionate opinions popularly supposed to be the result of judicial reasoning. Like the political pamphlet, its significance was lost sight of as soon as the stress of the issue which occasioned its production was relieved.³⁶

³⁶Inclusion of the negro in the suffrage was particularly agreeable to Chase as a politician. He had been as radical as any in demanding the enfranchisement of the freedmen, and, therefore, had been greatly disappointed when the Johnson governments had declined to extend the ballot to them. A letter to John Russell Young is interesting in connection with this general subject. "I start with the premises that Congress has full power to govern the rebel States until they accept terms of restoration which will insure future loyalty, the fulfilment of national obligations, the repudiation of all rebellion and the obligations of rebellion; and the security of all rights for all men; and that the acts of Congress must be construed with reference to these ends, liberally; . . .

"I don't want to see Congress set aside the provisional State governments. It would be a very mischievous measure in its effects on private rights, and lead to much litigation, and very seriously retard, I fear, the restoration of order and prosperity to the South. Congress may well provide that the military commander may remove State officials who put themselves in the way of reconstruction; and that their successors may be elected by *Universal suffrage*, but I would not have military commanders authorized to appoint their successors, unless temporarily;" . . . See also letter to Gen. Schofield, May 7, 1865, *Forty-six Years in the Army*, 373. Letter to Justice S. J. Field, endorsing the work of the Committee on Reconstruction. Warden, *Chase*, 526; Hart, *Chase*, 339, 340.

The opinion of the court, in this particular connection, has not had, as yet, any noticeable effect upon subsequent legal history. So far as the writer is aware, it has not been referred to for a controlling precedent in any later case. On the other hand, there have been opinions and decisions which have gone far to overthrow the doctrine which Chief Justice Chase here enunciated. The opinion, indeed, in *Minor v. Happersett* is, in effect, contradictory. In this case, decided in 1874 (21 Wallace, 162), the plaintiff, a woman, denied that the government of the State of Missouri was republican in form because it restricted the elective franchise to males, thus debarring without cause many eligible citizens. Chief Justice Waite,

The Matter of the Injunction

From the questions concerning authority and jurisdiction, the court turned to a consideration of the merits as presented by the pleadings and evidence. At the time of the secession of the State from the Union, the Indemnity Bonds, or so many of them as remained in the State Treasury, were indisputably the property of Texas. As its property, the State, in the opinion of the court, had the right, and from the first exercised it, of imposing certain restrictions upon the transfer and alienation of the bonds,—restrictions which the holders must accept and abide by on receipt. A disregard of the State law, therefore, worked forfeiture upon

supported by the unanimous court, declared, in this case, that "The guaranty is of a republican form of government. No particular government is designated as republican, neither is the exact form to be guaranteed, in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended.

"The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had governments when the Constitution was adopted. In all the people participated to some extent, through their representatives elected in the manner specially provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is, therefore, to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form, within the meaning of that term as employed in the Constitution."

Here is a more or less direct return to the historical interpretation of the clause, and, in addition, a general statement as to the nature of a republican form. The idea seems to be entertained that a representative government is republican in form. Whether or not this is the only form that is republican, the court does not state, but that the framers had such a conception of the nature of a republican form, the court was then convinced.

In the matter of *In re Duncan* (139 U. S., 449; also *Crampton v. Zabriskie*, 101 U. S., 601), an appeal from the State of Texas in which it was declared that on several grounds the laws of that State were incompatible with a republican form of government, the court, speaking through Chief Justice Fuller, emphatically endorsed the argument of Webster in the controlling case of *Luther v. Borden*. There is also, in this case, a further development of the idea of the nature of republican government which was held, to some degree, in *Minor v. Happersett*: "By the Constitution, a republican form of government is guaranteed to every State in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves; but, while the people are thus the source of political power, their governments, National and State, have been limited by written Constitutions, and they have themselves thereby set bonds to their own power, as against the sudden impulses of mere majorities." In this and all other cases in which this subject has been involved, there is consistent opinion to the effect that the duty of guaranteeing to the

the bonds transferred. The court held that the repealing act was inoperative and void, since it was adopted at a time when the State government was in armed hostility to the government of the United States. The contract, also, between the Military Board and White and Chiles was without standing in law, since it was made in deliberate furtherance of the Confederate cause.

The court admitted the argument that the State government of Texas was, at least for some purposes, a *de facto* government which could transact legal business and pass valid laws. As the only government in the State, it had performed the ordinary functions of administration, and its acts were, to a certain extent,

States republican forms of government is reposed in the political power. In *Minor v. Happersett*, however, the idea is presented that the States must provide the government which it desires the United States to guarantee. In the last case mentioned, *In re Duncan*, the court states that representative governments have been considered republican in form. This idea was reiterated with enthusiasm, in 1900, when the matter came up in the case of *Taylor and Marshall v. Beckham* (178 U. S., 548). The entire question of republican form of government came up for review in the unique cases of the *Pacific States Telephone and Telegraph Company v. Oregon* and of *Kiernan v. The City of Portland* (223 U. S., 118, and *Ibid.*, 151). The legal points involved in these cases were precisely the same to the extent that the judgment rendered in one sufficed for the other. It was claimed by the plaintiffs that the adoption of the initiative and referendum amendment to the State Constitution of Oregon had rendered the government of that State unrepresentative in form since it had converted it from a representative government to a pure democracy. In a masterly opinion, Chief Justice White adopted practically *in toto* the reasoning of the court in *Luther v. Borden*, and declared that the enforcement of the guaranty clause resided in the political department of the government. He asserted that an attempt on the part of the judiciary to decide whether changes made in a State government were republican or not would result in anarchy. If the political power recognized the change as republican, the decision was binding on the courts. As regarding the idea of the court assuming jurisdiction, he said, "The suggestion but results from failing to distinguish between things which are widely different, that is, the legislative duty to determine the political questions involved, in deciding whether a State government republican in form exists, and the judicial power and ever-present duty whenever it becomes necessary in a controversy properly submitted to enforce and uphold the applicable provisions of the Constitution as to each and every exercise of government power." The power of Congress, as granted by the Constitution, was carefully recognized and respected. Unquestionably the legislative department has the ultimate and the real power of enforcing the guaranty clause. A State may change its government or that government may be changed from whatever cause and in whatever manner, and the change *per se* will be valid if Congress so decides. But the acts of the changed government and of Congress must conform to the provisions and restrictions of the Constitution. If unconstitutional acts are committed by virtue or result of the change, or by Congress in enforcing the guarantee of republican government, the court can and, according to the Chief Justice, will, rectify them.

effectual and legal. The law in this regard was considered by the court to be as follows:

That acts necessary to peace and good order among citizens, such for example, as acts sanctioning and protecting marriages and the domestic relations, governing the course of descents, regulating the conveyance and transfer of property, real and personal, and providing remedies for injuries to person and estate, and other similar acts, which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual, though unlawful government; and that acts in furtherance or support of rebellion against the United States, or intended to defeat the just rights of citizens, and other acts of like nature, must, in general, be regarded as invalid and void.³⁷

Having arrived at these conclusions, the court made short work of the arguments of the defendants that the law creating the Military Board was a legal measure for the legitimate defence of the State, and that the contract with White and Chiles was a humanitarian act. The law of the State was held to be outside the constitutional rights of the States to take measures to defend themselves against foreign invasion and domestic violence. The court, also, refused to sustain the contention that the contract was negotiated with innocent purpose, and held throughout that it was made in support of the cause of rebellion. It was, therefore, the decision of the court that the title of the State of Texas had not been divested by the contract entered into by the agents of the insurgent State government.

The contract being illegal, and White and Chiles being unlawful possessors of the bonds, it was held that no one could make a valid purchase of them from these parties, if it was known that these holders had no defensible title. The doctrine had been laid down in the case of *Murray v. Lardner*³⁸ that a *bona fide* purchase of bonds, in fair exchange, was a lawful transaction; and

In none of these cases is the attempt made to define exactly and precisely what constitutes a republican form of government. It would seem that the earlier attitude was that, in some way, the representative element must be maintained as essential to the form. If such was the conception of republican government, it did not, at the time of the formation of the Constitution, secure an expression in that instrument. The matter, *per force*, is left to the decision of each generation, although that decision is restricted by constitutional forms.

³⁷ Wallace, 733.

³⁸2 Wallace, 118.

that, to be successfully challenged in court, it must be proved that the element of good faith was absent. The State must, therefore, establish the fact that those who had purchased the bonds had had notice of the defective title of White and Chiles. These were the rules to be observed in case the bonds had been transferred from the original owner before maturity. The contract between the Military Board and White and Chiles had been executed after the bonds had matured, or, at least, had become redeemable, a distinction, in this case, without effect. According to the law, the purchasers of such bonds had no other right or title than that of those from whom the purchase was made.³⁹ White and Chiles, having no legal title, it followed that the other holders had none. The court, furthermore, held that due notice had been given in the New York newspapers that White and Chiles were in unlawful possession of the bonds. Those who bought bonds of them, therefore, had done so despite this warning. They had purchased them without good faith, and had no legal title. The injunction, therefore, was granted against the persons named in the bill.

The Effect of Payment by the Treasury

As to the effect produced in law by the payment of the bonds of some of the defendants by the United States Treasury, it was decided that this action "could not affect the rights of Texas as a State of the Union, having a government acknowledging its obligations to the National Constitution." The determination of the exact effects of the payment by the Treasury Department was left to a future hearing,—the matter was not cleared up in either the opinion of the court or in the decree.

The Dissenting Opinions

The decision of the court was rendered by a vote of five to three, the court then having eight members. With the Chief Justice were joined Justices Clifford, Davis, Field, and Nelson; and, in opposition, were Justices Grier, Miller and Swayne. Messrs. Swayne and Miller thought that Texas was incapable, in her condition then, of maintaining and prosecuting a suit in the

³⁹*Goodman v. Simonds*, 20 Howard, 343.

Supreme Court. In addition to denying Texas the right of invoking the original jurisdiction, which would have dismissed the case, they thought that it was a question in which the court was bound by the action of the legislative department of the government. It is to be presumed, perhaps, that the Justices had in mind the enforcement of the guaranty clause. Congress by declaring the existing governments in the Southern States to be illegal had refused to recognize them as being established and republican in form. The court, according to this presumption, would be debarred from admitting a suit from a government of such questionable standing. On the merits of the case, these Justices concurred with the majority of the court. Mr. Justice Grier, however, objected to the decision on all the points raised. His dissenting opinion is a very interesting and spirited document.

To the question: Is Texas one of these United States? he answered a decided negative. "This is to be decided," he said, "as a *political fact*, not as a *legal fiction*. This court is bound to know and notice the public history of the nation." He maintained that after considering the history of Texas during the time intervening between the attempt at secession and the filing of the suit, he failed to discover, at any part of that period, the attributes of Statehood. The common sense view, he maintained, was outlined in the case of *Hepburn & Dundass v. Ellzey* by Chief Justice Marshall, and he claimed that the test supplied in that opinion for the ascertainment of the nature of a political community in the American Union was applicable to this case. When Marshall's definition was applied to the facts of Texas history, it proved definitely that that commonwealth was not a State in the Union, since there were no representatives in Congress accredited to her, and since the pretended State had not participated in the last election of president. Instead, she was governed as a conquered province by military power. The legislative power, furthermore, had declared that Texas was a "rebel State" without legal and republican government. What was the difference, he inquired, between her status and that of the territories or the Indian tribes. In the absence of organized rebellion, they were essentially alike in the fact that they were similarly governed, and in that justice was administered by the United States courts. The fact that the federal courts were in operation was no test of

the existence of the State. "Dacotah is no State," he said, and yet the United States courts administer justice there.

He argued that *as a fact* Texas was not *politically* in the Union. In summing up his opinion, he said,

I do not consider myself bound to express an opinion judicially as to the constitutional right of Texas to exercise the rights and privileges of a State of this Union, or of the power of Congress to govern her as a conquered province, to subject her to military domination, and keep her in pupilage. I can only submit to *the fact* as decided by the political position of the government; and I am not disposed to join in any essay to prove Texas a State in the Union when Congress have decided that she is not. It is a question of fact, I repeat, and of fact only. *Politically*, Texas is not *a State in this Union*. Whether rightfully out of it or not is a question not before the court.

Justice Grier, therefore, in strict logic and with judicial consistency, refused to join in the attempt to harmonize the Congressional plan with the public law.

Whether, conceding the continued existence of the State, she had the right to repudiate her contracts, he considered irrelevant to the present case. The payment of the bonds by the United States would have assisted the agents of the rebellion. "It is a matter of utter insignificance to the government of the United States to whom she makes the payment of these bonds. They are payable to the bearer." On this point, the justice was at variance with all his brothers of the court and with the policy of the United States government. It had become a well established principle that acts done in assistance of the insurrection against the United States were void, and that property dedicated to such purposes was liable to seizure and confiscation. The dissenting Justice was, perhaps, on stronger ground, when he said, in defense of the main contention:

Having relied on one fiction, namely, that she is a State in the Union, she now relies upon a second one, which she wishes this court to adopt, that she is not a State at all during the five years that she was in rebellion. She now sets up the plea of *insanity*, and asks the court to treat all her acts made during the disease as void.

On the contrary, he claimed that the act of secession was the

sovereign act of a sovereign State; that the government of the State during the period when the question of the right to secede was being decided by war was as much the government of the State as that State had had before the crisis; and that the war, while deciding the question of secession, had not decided that the State could repudiate contracts made with her own citizens for food, clothing, and medicines. This was a contest between Texas and her own citizens, and, in case there had been fraud or illegal practice, the State had recourse to her own courts. But her representatives should not set up a plea of illegality on the part of the *de facto* government which made the contract.

The same "organized political body," exercising the sovereign power of the State, which required the indorsement of these bonds by the governor, also passed the laws authorizing the disposal of them without such indorsement. She cannot, like the chameleon, assume the color of the object to which she adheres, and ask this court to involve itself in the contradictory positions, that she is a State in the Union and never out of it, and yet not a State at all for four years, during which she acted and claims to be "an organized political body," exercising all the powers and functions of an independent sovereign State. Whether a State *de facto* or *de jure* she is estopped in denying her own identity in disputes with her own citizens.

The Justice refused to follow the court in declaring that for some purposes the *de facto* government of Texas was legal and its acts valid, and, for other purposes, illegal and void.

In the case of Hardenberg, he insisted that the purchase of the bonds was *bona fide* and for a full consideration. He said that the argument of the court, in granting a judgment in favor of Texas, was as follows:

these bonds, though payable to the bearer, are redeemable fourteen years from date. The government has exercised her privilege of paying the interest for a term without redeeming the principal, which gives an additional value to the bonds. *Ergo*, the bonds are dishonored. *Ergo*, the former owner has a right to resume the possession of them, and reclaim them from a *bona fide* owner by a decree of a court of equity.

Aside from the fact that the Justice here held his brethren up to rather severe ridicule, the statement was unimportant, since it did not reveal a full comprehension of the issues involved. On

this point, however, as on the others, he opposed to the decree of the court this epigrammatic statement,

A court of chancery is said to be a court of conscience; and however astute may be the argument introduced to defend this decree, I can say only that neither my reason nor my conscience can give assent to it.

The Decree

The decree, after some preliminary and formal considerations, declared the contract between the Military Board and White and Chiles, made January 12, 1865, to be null, void, and of no effect; and ordered

that the said White and Chiles, and their agents and attorneys, and all others claiming to act in their behalf, be perpetually enjoined from asserting any right or claim under the same; and that the complainant is entitled to recover and receive the bonds and coupons mentioned in the said contract, as having been transferred or sold to the said White and Chiles, which at the several times of service of process in this suit were in the possession or control of the defendants respectively, and any proceeds thereof which have come into such possession or control with notice of the equity of the complainant.⁴⁰

It was ordered more specifically that the defendants were enjoined from setting up any claim to the bonds mentioned as having been actually transferred by the Military Board, that is, to the 135 bonds transferred to White and Chiles, or to the seventy-six bonds in the hands of Droege & Company, of Manchester, England. Such of these bonds as were then in the possession of the defendants were declared the rightful property of the State of Texas, and the holders were ordered to restore them. In pursuance of this decree, the court decided upon the number of bonds the various defendants were accountable for—

Birch, Murray & Company, 8;⁴¹ George W. Stewart, 4; Birch, Murray & Company, 4;⁴² John A. Hardenberg, 34.

The effect of the redemption of certain bonds by the United

⁴⁰25 Texas (Sup.) Reports, 618. The preceding paragraph of the decree decided the matter of the authority of the prosecuting attorneys.

⁴¹These were the eight bonds on deposit in the United States Treasury.

⁴²These bonds and those of Hardenberg had been "redeemed" by the Treasury.

States Treasury was reserved by the court for later decision. In order to facilitate a rapid settlement of the various interests involved, and, as yet undecided, the court promised to entertain requests for advice and direction from either or both sides.⁴³

⁴³The decree is to be found in an abridged form in the Supreme Court report of the case, 7 Wallace, 741. In its full form, it is reproduced in Paschal's Texas (Supp.) Reports, 25, pp. 617-620.

HARRIS COUNTY, 1822-1845

ADELE B. LOOSCAN

IV. THE BEGINNINGS OF HOUSTON

The town site of Harrisburg at the junction of Buffalo and Bray's Bayous offers so pleasing a view, its facilities for navigation and drainage are so superior, by comparison, that the question is often asked, why the chief city of the county was not built there instead of at Houston. The following statement tells briefly the chief causes for the establishment of a city at a point which offered no natural advantages, and whose successful upbuilding was long regarded as extremely problematical.

Notwithstanding the litigation over the estate of John R. Harris, still pending in the courts when the revolution broke out, the town of Harrisburg was flourishing at that time. The additional prominence given to it by the Provisional Government of the Republic of Texas in making it the seat of government, for a few weeks before the battle of San Jacinto, contributed to its destruction. Santa Anna, foiled in his attempt to capture the Texas cabinet, who had their headquarters at the home of Mrs. Jane Harris, avenged himself upon the town by setting fire to every house, whose owners had fled when the Government, thanks to a timely warning retreated to New Washington.¹

The destruction of Harrisburg was so complete and the probability of a final settlement of the lawsuit which involved the title to its land so remote, that the idea of founding a new town in its vicinity on Buffalo Bayou immediately took form in the minds of two enterprising New Yorkers, Augustus C. and John K. Allen, who had been living for several years at Nacogdoches. They lost no time in taking steps toward the purchase of a tract of land on the Bayou, five miles north of Harrisburg, where they laid off a town and called it Houston, in honor of the victorious

¹The only house spared by the Mexicans stood on the edge of the prairie about one-eighth of a mile south of the present intersection of the Galveston, Harrisburg & San Antonio Railroad track with that of the Galveston, Houston & Henderson. It was known to the old settlers as the "Farmer house," and to its friendly shelter Mrs. Jane Harris repaired, when, returning after the battle of San Jacinto, she found here the only vestige of the lately thriving town.

General. News of the projected town spread rapidly, many people were homeless, and they flocked thither, especially from Brazoria and Harris Counties. In fact, it became a town of tents and clapboards before the Allens had purchased the land.² It was located on an original grant from Mexico to John Austin, dated July 20, 1824, and was inherited by his widow, Elizabeth E. Austin, who became the wife of T. F. L. Parrott. "In August, 1836, Messrs. A. C. and J. K. Allen bought of Mrs. T. F. L. Parrott the south half of the lower of the two leagues granted to John Austin, near the head of tide water on Buffalo Bayou. The deed is dated August 26, 1836, the consideration expressed, five thousand dollars. It declares, after the peculiar manner of the deeds of that day, 'that the above price is the just value, and should it be hereafter worth more, she makes a donation of the excess to the purchases be it more or less.' It was recorded in Harrisburg County record of deeds, November 8, 1837."³ The deed on record from the Mexican Government to John Austin (1824) mentions the occupancy of a part of the league by George Robinson, another first settler, of whom little is known.

By the time the first congress of the Republic assembled at Columbia, in October, 1836, the Allens were prepared to offer sufficient inducements to the government, not only to secure for the new town the title of capital of the Republic, but also to make it the county seat of Harrisburg, afterwards Harris, County.

The first map of Houston seems to have been made by G. and T. H. Borden, and was used for advertising the new city. It was announced in the *Telegraph and Texas Register* of November 19, 1836, that it could be seen in the Senate chamber at Columbia. A lithograph copy of it, which was the property of Robert Wilson, is made a part of this history, and the newspaper clipping attached and forming a part of it shows that advertising methods were, at that date, fully up to the present standard of the most enterprising real estate agents.⁴

²See "Reminiscences of Mrs. Dilue Harris," *THE QUARTERLY*, IV, 182.

³Burke's *Texas Almanac* for 1879, p. 83.

⁴This advertisement formed a part of the first map of the city of Houston:

THE CITY OF HOUSTON.

"Situated at the head of navigation on the West bank of the Buffalo Bayou, is now for the first time brought to public notice, because, until



FIRST MAP OF THE CITY OF HOUSTON, 1836.

<http://stores.ebay.com/Ancestry-Found>

The first session of the congress of Texas, having adjourned on December, 1836, met at the newly laid out city of Houston, on May 5, 1837. All roads now led to Houston. Frame buildings sprang up almost by magic, and in an incredibly short time numerous stores, hotels, boarding houses, and saloons gave evidence that the town had come to stay. Among the first needs were a court-house and jail, and a block of ground had been set aside by the Allens to serve these purposes. The contract for building a two story frame court-house and a log jail was awarded to Dr. Maurice L. Birdsall and work upon both buildings was industriously carried on, but many obstacles were encountered, and the court-house had not been completed when the first term of court was held, in March, 1837. In fact it was scarcely more than begun, so the branches of some pine trees which had been cut down served as an assembly room for the first grand jury.

now, the proprietors were not ready to offer it to the public, with the advantages of capital and improvements.

"The City of Houston is located at a point on the river which must ever command the trade of the largest and richest portion of Texas. By reference to the map, it will be seen that the trade of San Jacinto, Spring Creek, New Kentucky and the Brazos, above and below Fort Bend, must necessarily come to this place, and will at this time warrant the employment of at least One Million Dollars of capital, and when the rich lands of this country shall be settled, a trade will flow to it, making it beyond doubt, the great interior commercial emporium of Texas.

"The City of Houston is distant 15 miles from the Brazos river; 30 miles a little north of East from San Fillipe; 60 miles from Washington; 40 miles from Lake Creek; 30 miles Southwest from New Kentucky, and 15 miles by water and 8 or 10 by land from Harrisburg. Tide water runs to this place and the lowest depth of water is about six feet. Vessels from New Orleans or New York can sail without obstacle to this place, and steamboats of the largest class can run down to Galveston Island in 8 or 10 hours, in all seasons of the year. It is but a few hours sail down the bay, where one may take an excursion of pleasure and enjoy the luxuries of fish, fowl, oysters and sea bathing. Galveston Harbor being the only one in which vessels drawing a large draft of water can navigate, must necessarily render the Island the great naval and commercial depot of the country.

"The City of Houston must be the place where arms, ammunition and provisions for the government will be stored, because, situated in the very heart of the country, it combines security and the means of easy distribution, and a national armory will no doubt very soon be established at this point.

"There is no place in Texas more healthy, having an abundance of excellent spring water, and enjoying the sea breeze in all its freshness. No place in Texas possesses so many advantages for building, having Pine, Ash, Cedar and Oak in inexhaustible quantities; also the tall and beautiful Magnolia grows in abundance. In the vicinity are fine quarries of stone.

"Nature appears to have designated this place for the future seat of

The City of Houston was originally laid off entirely on the South side of Buffalo Bayou, near its junction with White Oak. As shown by the first map, a space averaging one hundred feet in width along the Bayou bank was designated Water Street. The streets running from Northwest to Southeast were as nearly parallel with the banks of the stream as its sinuous course would permit, and were named respectively, Commerce, Franklin, Congress, Preston and Prairie; bisecting streets were named Brazos, Smith, Louisiana, Milam, Travis, Main, Fannin, San Jacinto, Carolina, Austin and Lamar. These completed the limits of the City on the date its projectors and owners obtained the votes of Congress necessary to make it the temporary seat of government.

These first street names show that the city had its birth just after the struggle for independence, and that its founders were neither unmindful of the sacrifice of life within the bounds of Texas, nor of the noble spirits in the States, who, with counsel and money aided the cause and contributed to its success. Their names were household words. Every body knew that Senator W. C. Preston of South Carolina was one of the best friends Texas had, and it was fitting that not only his own name, but that of his State, should be commemorated, in the capital of the Republic.

A later map bore the name of Alcée La Branche, Chargé d'affaires from the United States. He was very popular, and the street that had first been called Lamar was changed to La Branche, and is so called today. As the influence of Lamar was thrown in

Government. It is handsome and beautifully elevated, salubrious and well watered, and now in the very heart or center of population, and will be so for a length of time to come. It combines two important advantages: a communication with the coast and foreign countries, and with the different portions of the Republic. As the country shall improve railroads will become in use, and will be extended from this point to the Brazos, and up the same, also from this up to the head waters of San Jacinto, embracing that rich country, and in a few years the whole trade of the upper Brazos will make its way into Galveston Bay through this channel.

"Preparations are now making to erect a water Saw Mill, and a large Public House for accommodation, will soon be opened. Steamboats now run in this river, and will in a short time commence running regularly to the Island. The proprietors offer the lots for sale on moderate terms to those who desire to improve them, and invite the public to examine for themselves.

"A. C. Allen for A. C. Allen and J. K. Allen."

"N. B. Since the above has been in press we have learned that Houston has become the seat of Government."

favor of the location of the capital at Austin, it is well known that he was not a favorite in the city of Houston. However, as the city grew, his name was again placed on its enlarged map, to designate one of its chief streets. Joseph Tucker Crawford, who visited Texas in 1837 to report on the condition of the country for Great Britain,⁵ was popular with the citizens of Houston, and the second map of the town shows his name on one of the streets.

It was evidently the first intention to locate the government buildings on the block marked "Congress Square" and the adjoining unmarked block, shown on the map as lying between Congress and Prairie streets, and bounded on one side by Travis and on the other by Milam. Besides the Borden map there were others made and used by the Allens in disposing of the townsite, and several different plans seem to have been devised for the location of the Capitol building, which were not adopted. The National Building was to occupy the center of four city blocks, and the broad avenue leading to it was Capitol Avenue. Circumstances, of whose detail we have no record, determined upon another location for the Capitol.

Governor F. R. Lubbock, in his memoir, *Six Decades in Texas*, says,

The Allens had undertaken to provide a capitol building for Houston, but fearing they might not have it ready for the meeting of congress on the first of May, erected on Main Street a one story building covering the front of an entire block. At one corner of the block a large room was constructed for the Senate, and on the other corner a larger one for the House of Representatives, and the space between partitioned off into rooms for the department offices. Col. Thos. W. Ward was the Capitol Contractor under the Allens.

This crude substitute for the capitol building was soon superseded by a two story structure covering about two and one-half lots on the northwest corner of Main Street and Texas Avenue, which was built for the Allens by Thomas W. Ward, of lumber brought from Maine. The Republic of Texas paid a yearly rental of \$5000, beginning the twenty-fifth day of September, 1837.⁶

⁵See THE QUARTERLY, XV, 202 ff.

⁶After the removal of the capital to Austin in 1839, this building was converted into a hotel and was long known as the "Old Capitol." Several pictures of the building made while it served this purpose have been pre-

The presence of State officials, of ministers and other representatives from foreign countries invested the place with an importance out of harmony with its general character and primitive environment.

The need for a supply of drinking water for the large number of people who frequented the capital was keenly felt. One of the first acts of Congress, approved December 18, 1837, authorized F. R. Lubbock to procure cisterns for the use of the capitol building, to contain 10,000 gallons. On December 15, 1838, a meeting of citizens was held to organize the Houston Water Works Company, Beauchamps Springs on White Oak Bayou to furnish the supply. The water of these Springs, about two miles distant, was considered pure, and as the wooden tanks, attached to the dwellings and other houses, did not hold sufficient rain water, this water was sold by the gallon and carted about town. The Water Works Company, so far as records show, did not progress farther than the meeting, and the election of Wm. Lawrence as Chairman and A. F. Woodward, Secretary. It was more than forty years after this date that a waterworks company became a real factor among Houston enterprises.

In the founding of the city much stress had been laid upon its being at the head of navigation, and its citizens from the beginning strove faithfully to make this true. They fully realized that it would require great efforts, and the ball then set in motion has not ceased to roll with increasing momentum up to the present time. Harrisburg had heretofore been regarded as the head of navigation on Buffalo Bayou, and it required a great deal of labor and time, expended in cutting away logs, brush and trees, before a yawl boat could be rowed up to Houston. Four days were consumed in its passage from Harrisburg to that city. On January 26, 1837, the first steamboat, called the *Laura*, Thomas Granger,

served; it remained practically unchanged for many years, except for additions at the back. In 1882 the wooden structure was entirely demolished and A. Groesbeck erected on its site a handsome brick hostelry, and named it the "New Capitol Hotel." This eventually passed into the hands of Wm. M. Rice, and as part of the property bequeathed by him to the Rice Institute, was, through its Board of Managers, replaced by a splendid building, eighteen stories high, called the "Rice Hotel." Thus did the best known landmark of Houston lose its historic title, and receive in its stead that of an old citizen, who laid the foundation of his fortune in the first years of its settlement.

Captain, landed at Houston, and on April 21, of the same year, the first sailing vessel, the *Rolla*, arrived, just in time for many of the passengers to attend there, the first anniversary ball of the battle of San Jacinto. Navigation between Harrisburg and Houston was always extremely difficult, and on that account many people believed that it would be impossible to build a town at Houston.

As early as May, 1839, *The Morning Star* mentions the names of the committee which had been appointed to make improvements in Buffalo Bayou,—J. D. Andrews, President; William M. Bronaugh, Secretary; Henry Kesler, William Pierpont, William M. Cook and George Allen, committee. It is probable that the work consisted mostly in cutting away the branches and dense foliage of magnolia and other trees which overhung the stream.

The first two years in the life of Houston were marked by great activity in the organization of societies of various kinds. There were grave minds among the first settlers, as evidenced by the existence of a Philosophical Society before the close of the first year. The original constitution of this society was in the possession of Mrs. Jane Gray, widow of Judge Peter W. Gray, and was read by her at the celebration of Texas Independence Day held at my home, March 2, 1892. Unfortunately this interesting document, embracing also the names of the first members, was soon afterwards lost or misplaced by its owner.⁷

As in most early settlements of the South and West, the love of horses and horse racing held sway in Harris County. Old settlers have told that meetings in neighborhoods for this sport would hold for several days; there would be races by day and dances by night. While the aspiring new city had a Philosophical Society in its first year, the desire of the sporting citizens for a regularly organized society for the proper conduct of "the races" was recorded in the next. On October 31, 1838, the Jockey Club came into existence, and for many years the newspapers containing notices of the races under its management formed a feature of interest as absorbing to the community as are the records of base ball today.

⁷In the *Houston Post* of March 3, 1893, Mrs. A. H. Mohl's report of the celebration mentioned, gives the names of some members of the Philosophical Society.

Histories of the churches of Houston show that several congregations of different denominations were formed in 1838. A tablet on the inside of the front wall of Christ Church (Episcopal), corner of Texas Avenue and Fannin Street bears this lettering:

"In memory of the First Vestry of Christ Church, elected April 1, 1838. Wm. F. Gray, Senior Warden; E. S. Perkins, Junior Warden; D. W. C. Harris, Clerk.

VESTRYMEN

Geo. Allen, Memucan Hunt, Todd Robinson, John D. Andrews, Charles Kessler, James Webb, John Birdsall, Wm. Pierpont, A. F. Woodward."

While Chaplain of the Senate 1837-1838, Rev. Littleton Fowler (Methodist) preached for the citizens, and obtained from A. C. Allen a deed to half a block of ground on Texas Avenue, on which was afterward built the first Methodist Church, called Shearn Church, in honor of Charles Shearn, a prominent citizen and leading member.

Rev. W. Y. Allen of the Presbyterian Church arrived at Houston on March 31, 1838, and bore an important part in building up a Presbyterian congregation, and in organizing a Sunday School and Bible Society. Newspaper records show that the Bible Society had among its officers citizens occupying high positions in the State and County.

The members of the Baptist Church held regular meetings, and had advanced so far, on August 25, 1838, as to procure a bell, which, it was announced, would ring at the proper time for assembling.

The Roman Catholics were ministered to by two Missionary priests, Father Timon and Father Odin, who were sent out from the Lazarus House of St. Louis, Missouri.

The religious services of the Protestant denominations were held for several years, sometimes in the Senate chamber and often in the court-house.

The first temperance society of which there is any record in Texas was organized at the capitol on February 20, 1839. Speeches

were made by many prominent citizens, and General Houston made a strong argument in favor of temperance.

Meantime the carpenters, whose services were in great demand, united, and established a bill of prices for work; they organized as "Master Carpenters," in February of the same year, and their example was soon followed by the printers, who formed the Texas Typographical Association.

Beside these evidences of progressive organization, which signalized the momentous year of 1839, Houston could boast of a Fire Company and Fire Engine No. 1; a Board of Health, and a corps of City Hospital Surgeons; merchants, who advertised to have constantly on hand a supply of ice (although it was brought by sailing vessels from New England), and others who had schooners ready to carry passengers or freight from Houston to New York. There was "A Young Men's Society" which met in the Senate chamber, and debated such questions as, "Ought duelling to be punished as a Capital Crime?"^s There was a dancing and waltzing academy, where the latest dances from New York were taught, a fancy bakery on Main Street, where fine cakes were made and sold. Select military balls were given on the anniversary of the battle of San Jacinto, when only the officers of the army and navy, their families, with others specially invited, were allowed to be present. Public dinners, given to distinguished visitors, whom business or curiosity called to the capital, were marked by after dinner speeches of rhetorical merit worthy to rival those on similar occasions in older and more pretentious cities.

The cause of education was represented by several private schools, but was chiefly centered in the "Houston City School," conducted on broad lines, which made it virtually open to rich and poor. A tuition fee of three dollars per month was charged, but the children of parents unable to pay this amount were admitted free. The course of study embraced all branches taught in first class academies, and its business affairs were under the management of a school committee.

There was, however, one serious drawback to improvement, and the increase of population in Houston, which was lightly touched upon by the newspapers of that day, and which limited knowledge

^s*The Morning Star*, June 4, 1839.

of sanitary laws rendered the people powerless to prevent, namely: the almost yearly prevalence of yellow fever. This dread disease, in some years, literally decimated the population, and accounts in large measure for the slow growth of the city at this period, and for many years afterward. There were no professional, or trained nurses, and kind hearted residents forgot all selfish interests, turned their homes into hospitals for afflicted friends, and, in many cases for strangers, and devoted themselves to the needs of the sick. Details of countless instances of Christian devotion, well known to old citizens, would fill volumes illustrating the large hearted character of Houston's first settlers. The very name "yellow fever" carried the suggestion of mortality, and was not used by the press, when it could be avoided, and never until the disease was known to be raging with great virulence. The fall of 1839 witnessed a very fatal epidemic of this plague.

Houston had made steady advances during its two years as capital of the Republic. When this honor, the source of its distinction, and in large measure of its prosperity, was withdrawn, a cloud of gloom gathered and spread. Congress, in 1839, decreed that Austin should henceforth be the capital. After this law went into effect, and the removal of the archives took place, Houston had the air of a deserted town. A census, taken a short time before, stated that the resident population was 2073,—males 1620, females 453—amount of property assessed \$2,405,865. The prosperity then existing was shown by the fact that there were two theatres, several hotels and boarding houses, to say nothing of business houses, and five steamboats were plying regularly between Houston and Galveston. It was the largest town in Texas, and its citizens were of a character to overcome obstacles. However, during the period of depression following the removal of the capital, some of them, recognizing the superior natural advantage of Harrisburg (viz: good navigation), removed thither. The lawsuit which had been pending between the Harrises and Wilsons had been settled by compromise, and the property owners felt that, if a railroad could be built to the Brazos, the facilities for shipping at Harrisburg would at once build up the town. Several leading families devoted themselves to this enterprise, and moved from Houston to Harrisburg. A sharp rivalry sprang up between the towns, which were only five miles apart in a straight line, though

the many curvings of the Bayou more than doubled the distance by water. The idea of railroad transportation from the head of navigation to the rich cotton lands of the Brazos opened a vista of future prosperity, and resulted in the initial railway enterprise of Texas, the Harrisburg and Brazos Railroad, which was projected in 1839, and actually begun early in 1840. A contract for railroad ties was entered into between A. Briscoe, proprietor of the railroad, and Maurice L. Birdsall, on the 28th day of February, 1840.* One of the provisions of the contract shows the unsettled state of the country. It was expressly stated "that, should the country be invaded by a foreign foe, from the time that said foe shall enter the limits of the Republic till they shall depart beyond said limits, all obligations of either party by this contract shall be suspended, and shall commence again on the departure of said enemy." Attached to the contract are receipts issued to Ely and Ager, subcontractors at different times, in amounts of one hundred and fifty dollars each, cash payment, in Texas promissory notes. Some of the receipts are dated May 8, 1840. A considerable number of the ties contracted for were delivered along the graded road-bed, which extended for about two miles out from Harrisburg, toward the Brazos River. The grades were still to be seen within the memory of the writer. Handsome certificates of stock were printed, and are in my possession, relics of the first railroad enterprise in Texas.

A paper marked, "California Railroad" in the papers of A. Briscoe, offers a complete plan for the building of a railroad to San Diego on the Pacific Coast. The line proposed, was to go by

*Birdsall agreed "to take from the woods and deliver within thirty feet of the line of said railroad three thousand pieces of post oak or cedar timber, in a sound state, seven feet in length, clear of the chip or kerf, and from eight to twelve inches in diameter, hewn straight on one side, and that said timber shall be deposited five sticks or pieces to every twenty-five feet of the road; also that five hundred pieces shall be delivered within one month from the first day of March of the current year, and that the remaining twenty-five hundred shall be delivered within four months thereafter, at the discretion of the said Birdsall." Birdsall was to receive payment of fifty cents lawful money or its equivalent in promissory notes of the government, for each piece of timber so delivered. Among other provisions of the contract, was one that Birdsall should receive certificates of railroad stock for any balance due him after the payment of all expense incurred by him had been met. Certificates of stock were to be issued when the road should be vested in a chartered company, or when it should be completed to the Brazos timber.

the way of Richmond, to Prairieville, Fayetteville, through Rock Island, through Washington County to Austin; thence to El Paso, by the most direct route. The practicability of this route was largely based upon a report made by Major Neighbors, and other immigrants. It was also urged as possessing advantages over any other, because work could be carried on at all seasons of the year, not having to lie by for snow and cold weather.

The plans for selling town lots as the road progressed was one of the schemes for raising revenue. And but for the unsettled condition of the country due to threatened invasion, this initial railroad to the Pacific might have taken permanent form.¹⁰ This vision became a reality with the completion of the Southern Pacific in 1883.

But, those citizens of Houston who had invested all their fortunes, however small, in the future of that place, determined also to have a railroad to the cotton fields. As early as April 25, 1839, The Houston and Brazos railroad, with A. C. Allen as president of the company, appeared from time to time in the advertising columns of the *Morning Star*. It was designed to run *via* Brazos City to Austin, and notices over the signature of James S.

¹⁰*The Morning Star*, Friday, March 20, 1840, contains a report of the surveyor of this pioneer railroad, also the report of a committee that had been appointed to select the route. The report is signed by Stephen Richardson and Wm. P. Harris, committee, and by A. Briscoe, Trustee for Jacob Rothans, Engineer, Harrisburg, March 18, 1840, with the request that, the "Galveston Civilian and Richmond Telescope will copy and forward account."

About one year afterwards the same parties were operating under the charter of the Harrisburg Railroad and Trading Company. Its Board of Directors was A. Hodge, Stephen Richardson, Andrew Briscoe, Robert Wilson and D. W. C. Harris. They organized by electing A. Briscoe President pro tem., Lewis B. Harris, Secretary pro tem., and John P. Borden, Treasurer pro tem. Subscription books were opened at Harrisburg by Stephen Richardson and D. W. C. Harris, at Galveston by John S. Sydnor and A. M. Jackson, and at Fort Bend by John P. Borden and James B. Miller.

The failure of the first attempt at railroad building did not dishearten the people of Harrisburg, and after annexation gave assurance of the safety of investments in Texas, largely through the efforts of General Sidney Sherman, one of its citizens, they began to enlist the interest of Boston capitalists. By this means the first railroad built in the State, The Buffalo Bayou, Brazos, and Colorado Railroad, was chartered February 19, 1850, and the company organized June 1, 1850. Construction went forward steadily and in a few years cotton was transported by rail from the Brazos plantations to the wharf at Harrisburg—forming a large part of Texas commerce. For a more extended account of this railroad see *THE QUARTERLY*, VII, 279.

McGahey, who had contracted to grade ten miles of road, were inserted occasionally in the papers, up to April, 1842. Whether any work was actually done on this road is not known.

The city of Galveston having been incorporated, February 5, 1840, an act requiring the postmaster general to contract for having the mail carried twice a week between Houston and Galveston, was passed by the third Congress and approved by President Lamar on the same date, February 5, 1840. Soon after this, regular mail packets began running between Houston and Galveston; the appointed hour for leaving Houston was 10 a. m. The boat was expected to spend one day of twenty-four hours in going, and the next in returning. The steamboat *Albert Gallatin*, Captain Sterrett, and the *Dayton*, Captain S. B. Eves, were among those early packets, which greatly promoted the business interests, and the comfort of the traveling public. They afforded the quickest means of transportation; yet, the shallow waters on Redfish and Clopper's Bars obstructed navigation in the bay, so that, during the prevalence of northers, boats were often obliged to await a change in the weather, to avoid being stranded for many days on these bars.

Weekly mails had been received by carrier from Austin since soon after the establishment of the seat of government there; western mails *via* Richmond, Columbia, Brazoria, Columbus, Matagorda, etc., eastern, *via* Montgomery, Washington, Nacogdoches, San Augustine and Red River County; those to the United States and Europe were *via* Galveston by steam packets, according to the days of their arrival and departure. It was occasionally noted in the Houston press at this time that, "nearly a month had elapsed since the receipt of mail from the United States," and many letters and important documents were conveyed by private hands or special messengers.

A few spasmodic efforts were made to induce immigration. One of these, by which the property holders of Harrisburg again sought to build up their town and its environs was by the introduction of a French colony under the auspices of Snider de Pellegrini.¹¹ He

¹¹Papers of the Harrisburg Town Company record that, on July 23, 1842, in the city of Galveston an agreement was entered into between "M. Snider Pellegrini, Knight of the Great Cross of the Order of Jerusalem, Director of a society of Colonization established in France, and of which the central office is in Paris, and residing now at Galveston, Texas, on the one part,

agreed to bring in French immigrants, establish a large bank, warehouse, and store, import merchandise from France, and settle the town and adjoining lands with thrifty Frenchmen. The scheme promised well. The laws of Texas allowed free importation of French wines, etc. Pellegrini built an immense warehouse at Harrisburg. In it he gave a grand ball, at which choice wines and costly French confections were served. Preparations were made for furnishing the immigrants with lands, on which to establish vineyards, as in France. But immigrants did not come in large numbers, and most of those who availed themselves of Pellegrini's inducements fell victims to malarial and other climatic diseases. They were unaccustomed to the hardships of primitive modes of life, and the brilliant enterprise having resulted in failure, its originator was denominated "a mad castle builder."

and Mr. Wm. P. Harris, one of the principal proprietors of the town of Harrisburg, Harris County, and residing on his farm, Harris County, Texas, on the other part for himself and in the name of the other proprietors of the town of Harrisburg."

The agreement is written in both French and English; its terms are very liberal towards Pellegrini, ceding to him certain blocks of lots, and lands, the free use of timber on other lands, and all the bricks then in the brick kiln at Harrisburg. It further provides that, "the exclusive right and privilege of banking which the proprietors of the Town of Harrisburg may have either as a corporation or in virtue of their charter for the Harrisburg Railroad and Trading Company shall be given to Pellegrini. One third of all the advantages which may hereafter accrue by virtue of said charter shall accrue to the said Pellegrini."

"It is also agreed that two leagues of land shall be reserved in the vicinity of Harrisburg during five years, to be sold in lots to emigrants at an average of five dollars per acre, and a commission of ten per centum shall be paid to Mr. Pellegrini for such sales."

Pellegrini on the other hand obligated himself "to establish at Harrisburg, there to remain at least five years from the date of this instrument, his principal commercial House, and his principal office for the issue, circulation, and redemption of his paper money. To secure the redemption of which he shall have one third of the amount of circulation in specie and an agency in New Orleans. The said Commercial House shall, after the expiration of four months employ a capital of at least fifty thousand dollars."

Pellegrini agreed "to direct to Harrisburg the greater part of the emigrants which the Society of which he is the Director shall send to Texas." The last clause of the document stated that, "It is agreed that if any alteration shall be deemed important to the general interest to alter the present plan of the town of Harrisburg it shall be effected according to the wishes of Mr. Pellegrini, and among said alterations a water street of the width of sixty feet shall be made on each side of the river."

The document is signed in duplicate by Snider de Pellegrini and Wm. P. Harris, and witnessed by D. W. Clinton Harris, J. S. Huttner, S. T. Leger, D. M. P., and Coisy. The original contract is in my possession.

The prosperity of the country was continually interfered with and set back by threats of Mexican invasion; all the able bodied men were expected to respond at short notice, and equip themselves for military campaigns of uncertain duration, while their business interests were neglected, and in many instances abandoned.

History has never given an adequate idea of the deadly stagnation of business enterprises, in the Republic, nor of the excitement caused both within and without its borders by the Mexican occupation of San Antonio in September, 1842. The frequent call "to arms," sounded the death knell of many business ventures. Foreign promoters of immigration societies, as well as friendly capitalists in the United States, were wary about risking investments where conditions were so unstable.

The citizens of Houston had not allowed themselves to be disheartened by the loss of the seat of government. It was believed by many, that the location of the capital at Austin would not be permanent, that the authority by which it had been removed thither, might, in a short time, decree its return; these hopes were temporarily realized in 1842, when a session of congress was again held at Houston. But, the practical business men did not rely upon such a contingency; they realized that proximity to the best cotton growing lands, and to water transportation, constituted the real basis upon which Houston could be made a city, and the great cotton market of Texas. With concerted action they encouraged business by every honorable means practised in larger cities. One of the first steps taken, was to obtain a charter for a chamber of commerce, which was done early in 1840, and the spirit of combination begun at this time was systematically followed by Houston's business men.¹²

In 1842 the merchants offered a prize of a silver cup for the first five bales of cotton of that year's growth, and a gold cup for the first twenty thereafter. Both prizes in that year were won by

¹²The act which granted a charter for the chamber of commerce was passed by the first session of the Third Congress, and approved January 28, 1840. The names of the incorporators were: Thomas M. League, Henry R. Allen, William D. Lee, J. Temple Doswell, T. Francis Brewer, George Gazley, E. Osborne, Charles J. Heddenberg, John W. Pitkin, Charles Kessler, E. S. Perkins, DeWitt Clinton Harris,—all merchants of the city of Houston.

L. W. Groce.¹³ The gold cup is still in the possession of the Groce family at Hempstead, Texas. It is interesting to note that he was a son of Jared E. Groce, one of the largest cotton planters of early Texas, who is said to have established a cotton gin on the Brazos river in 1825, the second in Texas, the first having been owned by John Cartwright in the "Redlands" of East Texas.

At this time the Masonic fraternity and the Independent Order of Odd Fellows were both firmly established in local lodges, and, besides, Houston was the seat of their grand lodges. Houston had its chamber of commerce, its board of health, its medical and surgical society, its philosophical society, a German society organized for philanthropic purposes, its committee for the improvement of navigation on Buffalo Bayou, its typographical association, its crack military company, the Milam Guards,¹⁴ and its newspapers endeavored to create an impression that they were located, not only in a real, but a very important city.

The boat landing at the foot of Main Street was the center of commercial activity, which was shared by the business houses for two or three blocks on Main, and to a limited extent on Commerce and Franklin Streets. Nearly every merchant handled cotton, hides, and peltries. Cotton was truly king.¹⁵ It was not unusual to see in the newspapers proffers "to sell a likely negro boy or several of them for cash or cotton." Long trains of many yoked ox teams hauled the staple from plantations on the Brazos and Colorado Rivers, and delivered it to these stores at the lower end of Main Street, and there awaited their return loads of merchandise for planters and settlements in the interior. Weeks were consumed in effecting these long hauls over bad roads.

The cotton receipts at Houston steadily increased. A statement of the amount of cotton actually shipped from Houston from

¹³A. S. Ruthven to L. W. Groce, August 12, 1842, in *Telegraph and Texas Register*, August 14, 1842.

¹⁴For a sketch of Captain Joseph Daniels, organizer and first captain of the Milam Guards, see *THE QUARTERLY*, V, 19.

¹⁵According to official records of cotton production in Texas, kept in the office of the State Department of Agriculture, the total cotton yield in the year 1830 (which is the first record), was 335 bales. When we note that the preceding year Groce had contracted to deliver to John R. Harris and Zeno Phillips at Harrisburg, from ninety to one hundred bales, probably one-third of the whole cotton crop of Texas, it is evident that Harris County established its position as a cotton market, at a very early date.

September 1, 1844, to August 31, 1845, shows 11,359 bales, and an estimate was made in November, 1845, that at least 16,000 bales would be shipped that season.¹⁶ Contrast these figures with the report from the State Department of Agriculture, furnished by the secretary of the cotton exchange at Houston for the cotton year 1912-1913, which shows shipments of 3,324,553 bales; then compare the first cotton contract entered into at Harrisburg in 1829,* with the shipments of Weld and Neville, from identically the same spot, during the period June 1, 1912, to June 30, 1913, of 211,195 bales. One sees here a fulfillment of the aspirations of those early settlers who strove to establish on the banks of Buffalo Bayou one of the great cotton markets of the world. But, with the realization of this early dream of mercantile power, the second and third generations have taken the place of the first, the nineteenth century superseded the twentieth; to look through the long vista of thronging, eventful years, and see Harris County as it was then, presupposes a mass of historic knowledge and many a treasured tale of traditional lore.

Following the newspaper records we see that previous to the month of November, 1845, a few large brick buildings had been erected, and some brick sidewalks built in the business part of the city of Houston, a daguerrean gallery had been opened by H. R. Allen on the east side of Main Street near the wharf. These items illustrate the small limits of the town, whose chief activities were near the boat landing.

From travelers notes, and from newspaper jottings, we learn that, the only trade, except cotton, showing much life from 1842 until annexation, was that of politics. Public interest in the affairs of the United States was centered exclusively upon the all absorbing topic of "annexation." The ultimate fate of Texas, whether she would be admitted as one of the United States, or continue her independence under the protectorate of England, or of England and France combined, was an all absorbing subject. The recent publication of "Correspondence from the British Archives Concerning Texas" in *THE QUARTERLY*, throws a strong light upon this period. Under the conditions thereby portrayed,

¹⁶See *Telegraph and Texas Register*, October 8, and November 5, 1845.

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one wonders, not at the lack of progress in Houston and Harris County, but rather that any progress at all was made anywhere in Texas. News of the passage of the annexation resolution by the United States Congress caused an immediate rise in the value of Texas bonds and notes, and its effect on all commercial interests was shared by Harris County. It was not, however, until after the Mexican War had brought a feeling of perfect security that enterprises of any magnitude were undertaken.

On April 21, 1845, the citizens of Houston expressed their ardent wish for annexation by assembling at the Presbyterian Church, passing resolutions in its favor, and recommending "the several counties in the Republic to meet in primary assemblies to express their will on the subject, and to take such measures to accomplish the matter as they may deem most advisable." M. P. Norton presided over this meeting. Geo. H. Bringham and A. M. Gentry were secretaries. The committee which drafted the resolutions was composed of J. W. Henderson, Francis Moore, Jr., William McCraven, F. R. Lubbock, J. Bailey, A. Wynne, I. W. Brashear, T. B. J. Hadley, T. M. Bagby, William M. Rice, C. McAnnelly, M. T. Rodgers, M. K. Snell, H. Baldwin, S. S. Tompkins and John H. Brown.

Harris County elected as delegates to the convention, which framed the constitution of 1845, Isaac W. Brashear, Alexander McGowan and Francis Moore, Jr. All measures necessary for the ratification of the terms of annexation having been complied with, and a date appointed for an election of officers to govern the State of Texas, Harris County chose P. W. Gray and J. N. O. Smith members of the House of Representatives, and Isaac Brashear State Senator.

The following statement in regard to the number of votes cast at this period, undoubtedly one of absorbing interest, affords a very slight, uncertain basis for computing the citizenship of the county seat and county: "In the presidential election of 1844, Harris County cast 686 votes, and in the election of delegates to the convention of 1845, 734 votes, of which 469 were polled in Houston."¹⁷ The same authority gives the following figures on the vote upon the adoption of the constitution framed by the con-

¹⁷Burke's Texas Almanac, 1879, 88-90.

vention mentioned above, together with the question of annexation. This vote, which was taken in Harris County on October 13, 1845, stood "For Annexation," 324, of which 241 votes were cast in Houston; "Against Annexation," 50, of which 44 were cast in Houston; "For the Constitution," 299; "Against the Constitution," 68. The *Telegraph and Texas Register* states that very little interest was manifested, as an impression seemed to prevail that a large majority would be given for the Constitution and annexation, and many voters neglected to attend the polls.

In the election of state officials, which took place on December 15, 1845, there was much more interest. The largest vote was polled for the representatives. The records of the *Telegraph and Texas Register*, published a few days later, state that 995 votes were cast in Houston, 117 at Lynchburg, and 77 at Harrisburg (other voting precincts were not given), making a total of 1189 votes.

No official estimate of the population of the county or city seems to have been made until the census of the United States was taken in 1850, four years after Texas had been admitted to the Union. The county is therein accredited with 4668 population, of whom 2396 resided in the city of Houston, and 905 of the total population were negroes. When we consider that, in 1839, a canvass to determine the number of residents in the city of Houston had shown that there were 2073, at that time, it is plain that the actual increase during these eleven years had been extremely small.

The fluctuating character of much of the population, changing continually as favorable or unpromising conditions arose, many men never staying long enough to acquire the privilege of franchise, makes the voting strength of the town or county an unfair criterion of the real number of people living within their precincts. It is certain that the proportion of families was small when compared with the number of single men, so that an estimate based upon the scholastic population would not be at all applicable for that time. It is evident, however, that the advocates of annexation were disappointed in their expectation that an immense flow of immigration would immediately result from the realization of that measure. Families came, but not in large numbers. Many towns were planned and platted in early days which never had half

a dozen residents. Nearly every large landholder on the bayou and bay shore aspired to be the founder of a town. Among those were Hamilton, on Buffalo Bayou, opposite Harrisburg, which was soon merged into the latter place. Buffalo, near the mouth of Vince's Bayou, which was also short lived; Louisville, a few miles below Lynchburg, failing to become a town, was known as Scott's Place. New Washington soon took the name of its founder Colonel James Morgan, and is today Morgan's Point, San Leon was located at Edward's Point. None of these developed as their founders anticipated, but the two last named have in recent times become favorite summer resorts. San Jacinto was laid off on the San Jacinto River opposite Lynchburg, and for many years these two places were rivals in the business of boat building, most of the sailing craft and row boats being built there, and the steam boats were overhauled, repaired and repainted by their town workmen. But for the disastrous storms which submerged and destroyed their improvements at different times, they would be of great importance today.

Houston attained its position as a regularly incorporated town in 1837, and neglected no opportunity to assert and maintain its rightful claim to be a leading town. Unfortunately the original records of the city administration were destroyed by fires which consumed the market house and city hall. The files of two newspapers, *The Telegraph and Texas Register* from 1838 to 1856 (incomplete) and *The Morning Star*, April 8, 1838, to October 26, 1844, together with a book representing much valuable research, called *A Historical Review of Southeast Texas* by Hardy and Roberts, have been called into service for a compilation of the list of City officials.¹⁸

It seems that both Houston and Harrisburg were included in an act of Congress of June 5, 1837, incorporating the town of Nacogdoches.¹⁹ That the citizens of Houston speedily held the necessary meeting for availing themselves of the powers therein granted is evident from the following item: "On June 22, fol-

¹⁸Articles in the *Houston Post*, June 25, 1901, contain reprints from the *Daily Telegraph* of July 9, 1876, recording the fire of the preceding day, and an account of the second fire which occurred June 24, 1901.

¹⁹Laws of the Republic of Texas, October 25, 1836, to June 12, 1837, pages 238-239.

lowing the passage of this act there was held a citizens meeting with Robert Marsh, President, and Thomas W. Ward, Secretary. . . . The *Telegraph*, September 29, 1837, gives notice of a special election signed by Jas. S. Holman, Mayor, to fill vacancies left by Hugh McCrory and Herman Kelcey, deceased."²⁰ No other city official is mentioned, but the need of a city government in a town which had grown almost in a night, and the brief record given, leaves no doubt that such existed so soon as the requisite authority for creating it could be carried into effect.

On January 25, 1839, an act to incorporate the city of Houston²¹ provided for the enlargement of the city limits, for the collection of city taxes, and gave to the authorities duly elected full powers to regulate and control everything necessary for the convenience and safety of the public. It was under this act of incorporation that Francis W. Moore, who has generally been regarded as the first mayor, went into office.

Newspapers of April, 1839, give the names of city officials in attendance at the meeting of the council in that month as follows:

Francis W. Moore, mayor; Asa Brigham, J. W. Moody, A. Ewing, W. Pierpont, Robert Miller, J. G. Welchmeyer, aldermen. On October 4, 1839, the following officials were given: Geo. W. Lively, mayor; C. J. Heddenberg, J. W. Moore, John Carlos, George Stevens, Thomas M. League, A. Wynne, aldermen. To these are added the following officials compiled from the volume mentioned above: D. W. Babwell, recorder; J. W. Bergen, secretary; J. H. Brown, treasurer; Thomas Stansbury, Jr., marshal; James Way, constable; Thomas E. Graws, market master; Isaac Reed, sexton; Geo. H. Bringhurst, surveyor; Cruger and Moore, printers.²²

²⁰Hardy and Roberts, *Historical Review of Southwest Texas*, I, 230, 281, 282.

²¹Laws of the Republic of Texas, First Session, Third Congress, I, page 84.

²²Hardy and Roberts, *Historical Review of Southeast Texas*, I, 237-238, gives the following list from 1840 to 1845:

1840.—Charles Bigelow, mayor. Aldermen: First ward, H. R. Allen, Edmond Osborn; Second ward, William M. Carper, John Carlos; Third ward, George Stevens, John W. Moore; Fourth ward, F. Gerlach, A. Wynne. Recorder, D. W. Babwell; secretary, J. W. Bergen; treasurer, J. H. Brown; inspector, T. F. Graves; marshal, D. Busby; surveyor, G. W. Bringhurst; Constable, W. F. Moody.

1841.—John D. Andrews, mayor. Aldermen: First ward, M. De-Chaumes, Barry Carraher; Second ward, Francis Moore, Jr., C. McAnelly;

Houston had three official postmasters during the period of the Republic of Texas. The first was Thomas M. League, the second, Thomas William Ward, and the third Martin K. Snell. The post-offices were kept at different places, at one time at the Houston House, a leading hotel, then in Cruger and Moore's building, described in old records as on Main Street opposite the White House.²³

A great many families of Houston, usually reckoned among the first settlers, and whose names have been perpetuated by descendants, still living, did not become citizens until some years after the period here dealt with, and on the other hand a large proportion of those whose names are recorded in these pages left no children and are to the present citizenship comparatively unknown. Changes in population were frequent; many became discouraged

Third ward, George Kimball, George Fisher; Fourth ward, Thomas Stansbury, C. W. Buckley. Recorder, R. R. Wilkins; secretary and treasurer, H. Hyland; marshal, D. Busby; deputy marshal, James H. Clark; constable, H. T. Woody; wharfmaster, Charles Gerlach; marketmasters, E. H. Haines, Jacob Rothaus; surveyor, Charles Bowen; sexton, Michael Connelly.

1842.—John D. Andrews, mayor. Aldermen: First ward, M. DeChaumes, T. Donnellan; Second ward, Charles Shearn, A. S. Ruthven; Third ward, George Kimball, George Gazley; Fourth Ward, Thomas Stansbury, E. S. Perkins. Recorders, John Scott, William G. Evans; secretary and treasurer, J. H. Clark; marshal, D. Busby; constable, H. T. Woody; marketmaster, Charles Bowman; wharfmaster, D. Wheeler; surveyor, Jacob Rothaus; sexton, Michael Connelly.

1843.—Francis Moore, Jr., mayor. Aldermen: First ward, T. Donnellan, R. P. Boyce; second ward, John Church, J. W. Schrimpf; Third ward, Jesse R. Randell, A. McGowan; Fourth ward, E. S. Perkins, H. Baldwin. Recorder, George Fisher; secretary and treasurer, John Fitzgerald; marshal, D. Busby; constable, H. T. Woody; marketmaster, Charles Brown; surveyor, Jacob Rothaus; sexton, S. D. Staats; printer, James Cruger.

1844.—Horace Baldwin, mayor. Aldermen: First ward, M. H. Shyrock, R. Levenhagen; Second ward, E. B. Nichols, W. J. Hutchins; Third ward, J. DeCordova, A. McGowan; Fourth ward, C. R. Hopson, H. S. Bachelder. Recorder, Justin Castanie; marshal, James A. Young; constable, William Smith; secretary and treasurer, John Fitzgerald; marketmaster Charles Bowman; wharfmaster D. Wheeler; sexton, S. D. Staats.

1845.—W. W. Swan, mayor. Aldermen: First ward, J. A. Harris, B. Carraher; Second ward, W. J. Hutchins, T. M. League; Third ward, J. DeCordova, B. A. Shepherd; Fourth ward, C. R. Hopson. Recorder, James Bailey; marshal, W. H. Smith; secretary and treasurer, John Fitzgerald; marketmaster, C. Bowman; wharfmaster, D. G. Wheeler; surveyor, Jacob Rothaus; sexton, R. W. Ridgway.

²³The residence of the President was given this imposing title in imitation of the parent Republic's white house at Washington.

and moved away on account of sickness or business depression, while fatal diseases cut off the lives of hundreds every year.

Among the names of citizens not otherwise recorded in this sketch, who, in their several professions and avocations contributed towards building up the city during the period of its infancy and maintaining its status until annexation gave assurance of future prosperity, are the following: A. C. Allen, John K. Allen, Samuel L. Allen, William M. Rice, F. A. Rice, Thomas William House, William J. Hutchins, E. B. Nichols, George H. Bringham, Benjamin Fort Smith, Francis Richard Lubbock, John Woodruff, Robert Wilson and J. T. D. Wilson, Charles Shearn, Henry Francis Fisher, George W. Kimball, Lodowick Justine Latham, Cornelius Ennis, Henry Whitney Fontaine, John Houston, Alexander McGowan, Thomas M. Bagby, Isaac Wright Brashear, H. M. DeChaumes, Colonel Francis W. Johnson, Jacob Cruger, William R. Baker, T. B. J. Hadley, Paul Bremond, E. W. Taylor, Henry Sampson, Robert P. Boyce, B. A. Shepherd, Bering Brothers, O. J. Cochran, H. D. Taylor, John Kuhlman, Captain John F. Sterrett, Captain Frederick Wilmot Smith, James Rather, Dr. Alexander Ewing, Dr. J. E. Jaeger, Dr. Ashbel Smith, A. J. Burke, E. Mather, Alexander Thurston, William Fairfax Gray, and his sons, Peter W., William Fairfax, and A. C. Gray, Stephen F. Noble, Edward P. Noble, Stephen Richardson, Dr. I. S. Roberts, Dr. William A. Elliot, Captain Joseph Daniels, Daniel T. Fitchett, Dr. Francis Moore, S. P. Christian, John W. Schrimpf, N. T. Davis, Peter Bauman, George F. Baker, Peter Gable, Alan-son Taylor, John Kennedy, Burchard Miller, Dr. John L. Bryan, Patrick C. Jack, Horace Baldwin, Robert F. Campbell, Benjamin F. Tankersley, J. Shackleford, Jr., J. D. Groesbeck, Moseley Baker, Thoms T. Bailey, Samuel H. Frost, A. S. Ruthven, C. F. Duer, Joseph A. Harris, L. S. Perkins, J. F. Torrey, Newton Carson, John P. Morris, N. Davis, Charles Stephens, F. W. Robertson, John H. Brown, William Needham, B. Levenhagen, Colonel James F. Reilly, H. Runnels, J. Castanie, J. Fitzgerald, Dr. Hart-ridge and Dr. H. D. Cone, George Gazley, C. A. Morris, J. M. Robinson, J. W. Pitkin, J. W. Scott, Francis Gassiot, Thomas Davidson, T. R. Taylor, R. R. Wilkins, J. V. Cowling; Claude Nicholas Pillot came with his family to Houston in 1837, and lived there a short time, removing thence to Willow Creek, twenty-

six miles to the north of the town, where he opened a farm. Members of his family subsequently moved to Houston, where their descendants now live.

Members of the medical and surgical society in 1840 were William M. Carper, Robert Watson, C. Herman Jaeger, A. Ewing, J. Hervey Price, S. Pleasant Baskin, D. H. Leach, Fletcher Dovey, F. L. Lambert, E. Tucker, M. Forest, J. R. Gardener.

Moritz Tiling in his history of the German element in Texas says, that "By the year 1840 Houston counted among its inhabitant more than seventy-five German families and single men." The German Society of Texas organized at this time (November 29, 1840) began with fifty-three members, viz: George Fischer, Theodore Miller, Henry F. Fischer, Charles Gerlach, Conrad Franke, Robert H. Levenhagen, Henry Levenhagen, Jacob Schroeder, J. Hermann,²⁴ Joseph Sandman, Gottlieb Gasche, Martin Rumpff, William Schroeder, Gustav Erichson, Jacob Buchmann, I. L. Knoll, A. Jung, Emil Simmler, Friedr. Otto, Ch. Rienitz, Charles Baumann, Henry A. Kuykendall, Wendelin Bock, Ulrich Fischer, Karl Fischer, John H. Mueller, Friedr. Schiermann, John Koop, Daniel Super, Joseph Ehlinger, Johann Buhn, Anton Brueggemann, William Ewald, Casper Gerlach, Friedr. Lemsky, Friedr. Barthold, K. Hermann Jaeger, Abraham Brodbeck, Johann Grunder, Christian A. Kasting, Peter Dickmann, William Weigand, Ant. E. Spellenberg, Peter Bohl, Johann William Schrimpf, I. Anton Fischer, Dr. De Witt, A. Shanten, Johann Schweikert. Its officers were George Fischer, president; Harry Levenhagen, first vice-president; Theodore Miller, second vice-president; Henry F. Fischer, secretary, and John Koop, treasurer.

Mr. Tiling has in his possession the original minutes of the first meeting of this society—the first German Society of Texas. Mr. Tiling also mentions that among the German families who arrived at Galveston in the brig *North* on Christmas day, 1839, the fam-

²⁴J. Hermann was a native of Switzerland and the father of George Hermann, who, having accumulated a fortune here, left at his death, which occurred on October 20, 1914, a bequest of about five million dollars for the founding of a Charity Hospital for the city of Houston. He had previously donated valuable acreage for a city park to be known as the Hermann Park. Through these benefactions the name of this early emigrant will be forever endeared to the people of Houston.

ilies of Usener, Schweikart, Habermehl, Bottler, and Karcher, and a single man named Schnell settled in Houston.

The German element in Houston and Harris County has always been accounted a valuable asset, and one which has contributed a large share towards the upbuilding of the county. Some of the descendants of these early German settlers are still living in the city and are among its leading citizens.

The foregoing chronicle of the period of small beginnings in Harris County would be incomplete without special mention of some of the distinguished citizens who dwelt on the shores of Buffalo Bayou and Galveston Bay. That they should have chosen homes on these shores excites no surprise in the minds of those who knew these delightful home sites at a time when nature with a free hand distributed her bounties. Such a wealth of forest trees, magnolias, wild peach, bays, laurels, cedars and pines as lined the bayou banks and bay shores to the very water's edge! Such festoons of yellow jasmine and coral honeysuckle, binding in a bower of sweet perfume the flowering ash, dogwood, and hawthorne of the early spring time. The convenience of water transportation, and accessibility to the base of supplies offered a very practicable argument in favor of such locations, and, when to these are added the abundance of fish and game that were close at hand, it is easy to see that the first settlers chose well.

Burnet and De Zavala dwelt near Lynchburg, where Burnet's Bay and Zavala's Point still preserve the identity of their homes. Dr. Ashbel Smith, after living for a few years at Houston, retired to his country place on the eastern bayshore, to "Evergreen," nearly opposite Morgan's Point. His distinguished service to the Republic of Texas in representing the government at the Courts of St. James and St. Cloud are well known, as are his devotion to the interests of the state during the whole of his long life. His great learning earned for him at home the deserved title "Sage of Evergreen," while his cultured manners and diplomatic talents caused him to be known abroad as the "Benjamin Franklin of Texas."

At Cedar Point,²⁵ on the eastern shore of Galveston Bay, General

²⁵Cedar Point is not within the limits of Harris County, being near the left bank of Cedar Bayou, the boundary between Harris and Chambers, but the intercourse by sail boats between all bay shore settlements was frequent.

Houston passed the first year or two, after the beginning of the war between the States. In this quiet retreat, surrounded by his family, but saddened by the failures of his efforts to prevent the severing of the tie which bound Texas to the Union, he witnessed the organization of military companies, and the enlistment of his eldest son, under the command of his friend and neighbor, Dr. Ashbel Smith. His life was drawing to its close, when the family returned to their old home at Huntsville.

Colonel James Morgan's home at New Washington, or Morgan's Point, was well improved as early as 1836. His orange groves were laden with ripe fruit in the fall of that year, and the evening meal of his family and guests was sometimes spread under their shade.

General Sidney Sherman chose Crescent Place, which took its name from a curve of the shore on San Jacinto Bay, and thither he came with his bride within a year or two after the conclusion of the war of 1836. An incident, connecting their private lives very closely with the history of Texas, seems appropriate in this place. When General Sherman, then Captain of a troop of cavalry, was ready to march from Kentucky to help the Texans fight their battle for liberty, a grand reception was given them at Newport, Kentucky. Ladies fair and patriots generous and chivalrous attended this last meeting with the gallant volunteers. A beautiful silk flag was to be presented to the company, and it was agreed that the lady to make the presentation should be no other than Miss Isabella Cox, the bride of Sidney Sherman. This banner, with a goddess of liberty painted on its white field, and bordered with gold fringe, was the only flag known to have been used on the battle field of San Jacinto; and after the battle it was sent by the secretary of state of the Republic of Texas to Mrs. Sherman. Its frayed remains now rest in a glass-covered case in the State Library at Austin.

Francis R. Lubbock, who served the public almost from the time he set foot on the shore of Texas up to the last days of his ninety-odd years, was one of the first residents of the city of Houston. A few years later, he owned and cultivated a farm and raised cattle on Sims' Bayou, about seven miles from Houston, riding back and forth almost every day, while holding the office of district clerk. His later distinguished position as gov-

ernor of the state of Texas, and state treasurer, succeeded by service on the board of pardons, rounded out a stainless life devoted to the public good.

Another of the early residents of Houston, who enjoyed the distinction of serving as governor of Texas, was J. W. Henderson, who, having been elected lieutenant-governor, succeeded to this office, when Governor Bell was elected to the United States Senate. He was a leader in the politics of his State as long as he lived.

Colonel James F. Reilly, who first won distinction as a military man, while Captain of the Milam Guards, was selected to represent the Republic as chargé d'affaires at Washington. The diplomatic talents of this cultured gentleman so identified him with Texas, that, in later years, when President Buchanan wished to honor the State by a foreign appointment, he made Colonel Reilly minister from the United States to Russia.

The names of William M. Rice, W. A. Van Alstyne, James H. Stevens, B. A. Shepherd and W. J. Hutchins, all merchants of the city of Houston before the period of annexation, are to be found on the board of directors of the first successful railroad built in Texas, The Buffalo Bayou, Brazos and Colorado. They all accumulated fortunes; they were men of liberal views, who saw beyond the boundary of their own immediate business and knew that combination was necessary for the enlargement and development of the State's resources.

One of these, who built the nucleus of a fortune in the early days when Houston was a very small town, left the bulk of his immense estate, to be expended in building, equipping and maintaining The Rice Institute. This noble foundation which commemorates its founder, William M. Rice, opened its doors to the public in October, 1912, and has begun its educational work, although several years must elapse before the completion of the grand pile requisite for so large and costly an institution of learning.

To attempt a contrast between the past and the present would draw me too far afield. It is apparent to all that the day of small things, which has been my theme, is gone. Especially in writing of the city of Houston, have I sought to bring forward the public spirit that animated her citizens; how it prompted them from the

very beginning to unite for the public good, how they worked together in the midst of adverse, often most discouraging, conditions, especially after the first two years, but were always determined to get deep water, to have a ship channel, and to make of Houston a great cotton market. Always believing that the future held the prize, they despised not the day of small things, while constantly striving to attain the great ones.

LOCAL GOVERNMENT IN THE SPANISH COLONIES AS PROVIDED BY THE RECOPIACION DE LEYES DE LOS REYNOS DE LAS INDIAS¹

O. GARFIELD JONES

Geographical and historical conditions caused the actual local government in the Spanish colonies to differ so much in different places that it is impossible to determine from a history of these colonial municipalities just what kind of a local government the crown wished to establish there. Historical studies like Blackmar's *Spanish Institutions of the Southwest* describe the local government in such vague and varying outline that American students are inclined to think local government was not as highly developed in the Spanish as in the English colonies. A study of Spanish colonial public law, however, shows how complete was the local government provided for by the crown, and in order to bring out this completeness I have limited this paper to the purely civil forms of local government that are provided for in the *Recopilación*. Although this study has to do solely with the government "on paper," those conversant with the actual local government of the Spanish colonies will be struck by the identity of the two rather than by their differences.

To exhaust the *Recopilación* on the subject before us would require a painstaking examination of most of the laws in it, because the titles are neither clear nor comprehensive, and because two or more distinct laws on different subjects may be found under one title as one law.² The purpose of this study, however, is not to

¹This paper is based upon the edition of 1791. It was prepared in the seminars of Professors Barrows and Bolton in the University of California.

²An illustration is found in Libro 3, título 3, ley 53. The title is "Que los Vireyes puedan mandar abrir caminos, y hacer puentes donde conviniere, y repartir las contribuciones." The law provides both for opening roads and for local taxation, as follows: "Permitimos á los Vireyes que en las partes y lugares donde conviniere abrir y facilitar caminos, calzadas, hacer y reparar puentes para el uso y comercio de las poblaciones, puedan hacer los gastos que fueren mas precisos y necesarios, con la menos costa que sea posible, y que contribuyan para el efecto, los que gozaren del beneficio, conforme á las leyes de estas reynos de Castilla. . . . Y mandamos, que las Ciudades y Concejos no puedan echar contribuciones á

delineate the local government as is done in a municipal code, but rather to arrive at a comprehension of the ideas and ideals of the Council of the Indies and the Crown as expressed in the *Recopilación* with regard to local government for the people of the new world. For this purpose, which is psychological rather than legal, the present study may be adequate. The mission and the presidio governments have been ignored because they are not essentially civil governments.

ESTABLISHING A SPANISH PUEBLO³

Two methods of colonization were provided for. One was aristocratic in its nature, providing for a proprietor (poblador principal), who was to receive a four league grant of land, with both civil and criminal jurisdiction in the first instance for himself and his heirs⁴ on condition that he establish a town of thirty families on this land. His "capitulacion" with the king required that he provide each of these thirty citizens with a house, ten breeding cows, four oxen, one breeding mare, one breeding sow, twenty breeding sheep of Castile, six hens and a rooster. He had also

españoles ni Indios por los gastos que se causaren en la policia." The one specific law relating to taxation for police purposes is appended to a law whose title and content make no reference to local or to police affairs.

³Spanish terms are used in this paper because the corresponding English terms have a wrong connotation. For instance, the term pueblo or municipalidad is sometimes translated county, sometimes municipality. The pueblo or municipalidad is the local unit of territory (like our county), together with its government, which exercises all of the functions that ordinarily belong to three different governing bodies in the United States, the township, the county, and the municipality. In the United States a municipality is a separate political entity *within* the county but not *under it*, an "imperium in imperio," and this municipality may embrace parts of two or three different townships. Such a thing is incomprehensible to the Latin-American mind. In those large cities of the United States where the municipal boundaries have been made to coincide with those of the county and the municipal and county governments have been merged into one organization, we have a municipality of the Latin-American type, and this type originated with the Roman municipium.

⁴4:5:11, Felipe II. This form of citation, which will be used throughout the paper, is translated: *Recopilación*, libro 4, título 5, ley 11, Felipe II; the name of the king or a date indicating the time of enactment of the law. In subsequent citations two dates separated by a comma (1532, 1585) indicate that the law was enacted twice; two dates connected by to (1532 to 1586) indicate that it was enacted more than twice, the two dates in this case showing the time of the first and last enactment. No dates later than the reign of Carlos II (1665-1700) have been found in the 1791 edition of the *Recopilación*.

to provide a priest, and a church with all of its accessories, and he had to give a bond as security for the fulfillment of the terms of the contract. If he failed he lost both his bond and the land grant.⁵

The other form of colonization was democratic, providing that a group of persons could receive the four league grant of land if they would found a town⁶ at least five leagues from any other town.⁷ In this group of people there must be at least ten married men.⁸ Under either system, before setting out to found the new town, the town officials had to give a description of the persons and property of the prospective colonists to the escribano (secretary) of the town from which they were starting. The law prohibited the drawing off of land-owning citizens from one town to found another.⁹ The officials of the prospective town had to make an invoice of the property for use in the new town that each colonist had on hand before starting.¹⁰

A host of laws relate to the locating of the town in a healthful, pleasant spot, advantageous from both an economic and a military standpoint.¹¹ The plaza mayor was to be the first thing laid out. It was to be one and a half times as long as wide, and from two to eight hundred feet in length.¹² The number and arrangement of streets, their width,¹³ the size and style of houses,¹⁴ the location of the church, the cabildo, the stores, and the arrangement of the water front were all provided for in minute detail.¹⁵

The grants to these towns by the crown could not be changed by the viceroy,¹⁶ but the classification of the new town as a "cuidad, villa ó lugar" was made by the governor of the district in which it was established.¹⁷ This same official had to see that the proper government was established.¹⁸ A metropolitan city was to have a juez with the title of adelantado, alcalde mayor, corregidor, or alcalde ordinario, who should exercise jurisdiction jointly with the regimiento of the town or city. The regimiento was to consist of two or three officials of the hacienda real, twelve regidores, two fieles executores, two jurados from each parish, a procurador gen-

⁵4:5:6, Felipe II.⁶4:5:10, Felipe II.⁷4:5:6, Felipe II.⁸4:5:10, Felipe II.⁹4:7:18, Felipe II.¹⁰4:7:19, Felipe II.¹¹4:7:1 to 17, Felipe II.¹²4:7:9, Felipe II.¹³4:7:10, Felipe II.¹⁴4:7:17, Felipe II.¹⁵4:7:8, Felipe II.¹⁶5:2:2, Carlos II.¹⁷4:7:2, Felipe II.¹⁸4:7:2, Felipe II.

eral, a mayor domo, one escribano de consejo, two escribanos públicos and one escribano de minas y registros, one pregonero mayor, one corredor de lonja, and two parteros. In the case of a diocesan or sufraganeity city there were to be only eight regidores. The villas and lugares were to have an alcalde ordinario, four regidores, an alguacil, one escribano de consejo, an escribano público and a mayor domo.¹⁹ The viceroy or other colonial officials could not give the right to establish a new town, as this right was jealously reserved by the Council of the Indies.²⁰

PARTITION OF LANDS IN THE FOUR LEAGUE GRANT

First the land needed for town lots (solares), the strip of commons surrounding the town (exido),¹ the common pasture land (dehesas and tierras de pasto), and the municipal lands (propios),² were laid out. The remaining land was divided into four parts, one part to go to the poblador principal, the proprietor of the colony, and the other three parts to be divided equally among the colonists as arable fields (suertes).³ One law provided that each settler (poblador) was to receive from the poblador principal a town lot, land for pasture, and land for cultivation not to exceed five peonías for the unprivileged pobladores or three caballerías for the privileged members.⁴ A peonía was a town lot fifty by a hundred feet, a hundred fanegas of tillable land for wheat or barley, ten fanegas of corn land, two huebras of garden land, eight huebras for upland woods, and pasture land for ten hogs, twenty cows, five mares, one hundred sheep and twenty goats.⁵ A caballería was a

¹⁹4:7:2, Felipe II. Most of these terms, which it is impracticable to translate, will become clear as this paper proceeds.

²⁰4:8:6, 1627, 1629.

¹⁴4:7:12-13, 1680.

²⁴4:13:1, 1523. Public lands as a translation for propios is quite misleading. Public lands in the United States are lands held by the state or national government for other than revenue purposes. Propios are municipal lands and are held for revenue purposes only. A Spanish municipality had public lands (exidos and plazas) similar to our commons or parks, but propios were tillable lands given by the Crown to the municipality to be rented to the highest bidder and thus furnish revenue for the expenses of the local government. In theory, at least, the ordinary expenses of a Spanish municipality in the colonies were to be met by means of an endowment from the Crown in the form of tillable lands called propios.

⁴⁴4:7:7, Felipe II.

⁴⁴4:5:9, Felipe II.

⁵⁴4:7:1, Felipe II.

town lot one hundred by two hundred feet, plus the other items of a peonía multiplied five times.⁶

The law-making officials in Spain liked to talk of equality and non-privilege at times, but other laws usually obliterated the principle of equality in such matters as the distribution of lands or eligibility to office. Thus, according to one law the solares were to be given out by lot, and an equal amount and quality of land was to be in each allotment.⁷ But another law said that in apportioning the land, a difference should be made between the escuderos (gentlemen) and the peones (foot-soldiers, laborers), also between the meritorious and the non-meritorious.⁸ In fact, the very terminology for the two kinds of land grants, peonía and caballería, indicates at least a traditional difference in apportionment.

The viceroy or the governor was supposed to make the apportionment of the land with the assistance of the procurador of the town⁹ and the advice of the cabildo.¹⁰ In case there was any difference in the parcels of land given out, the best were to go to the regidores.¹¹ The viceroy was also given general power to grant land to any settler who would live on it.¹² A petition for a private grant of land went to the cabildo where two regidores were appointed to look after the matter, and confer with the viceroy.¹³ Like homesteads in the United States, these grants of land required that the grantee build a house on his solar, plant his suertes and stock his tierras de pasto with the designated live stock within a certain time.¹⁴ After four years the grantee got a clear title to his land,¹⁵ except that he was forbidden to sell it to any ecclesiastic or to any religious organization.¹⁶ The right of "composición de tierras"¹⁷ treated of in six different laws seems to relate to other than the land acquired under this original four league grant.¹⁸

⁶4:7:1, Felipe II. A *fanega* of land is the amount required to plant a fanega, or Spanish bushel, of grain. A *huebra* is the amount of ground plowed by an ox team in an average day.

⁷4:7:11, Felipe II; and 4:7:14, 4:7:4.

⁸4:12:1, 1513 to 1596.

⁹4:12:6, 1523, 1534.

¹⁰4:12:5, 1532 to 1596.

¹¹4:12:5, 1532 to 1596.

¹²4:12:4, 1568 to 1596.

¹³4:12:8, 1563.

¹⁴4:12:3, Felipe II.

¹⁵4:12:1, 1513 to 1596.

¹⁶4:12:10, 1535.

¹⁷Literally, adjustment of lands.

¹⁸4:12:15-21, 1586 to 1646.

VECINOS

The vecinos, or citizens, of the new pueblo were to be the first settlers, "nuevos pobladores," and their descendants, of whatever degree, who were the heads of households.¹ The proprietor (poblador principal), and his legitimate descendants were to be hijosdalgos with all the honors and "preeminencias" of the hijosdalgos and caballeros of Spain itself.² All citizens and other persons were forbidden to leave the province without license from the governor under penalty of losing their offices and property.³ The pobladores and their descendants were always to receive special consideration in the election or appointment of officers and in the sale of offices.⁴

ELECTIONS

Most of the municipal offices were sold, but to those that were elective only resident citizens were eligible. Resident householders were citizens.⁵ Close relatives could not nominate or elect each other to office,⁶ nor could debtors of the real hacienda (royal estate) vote in the elections.⁷ Neither the governor nor the alcalde ordinario could solicit votes in person or through an agent for himself or for anyone else.⁸ The two oldest regidores and the escribano de cabildo were to be present at the counting of the votes.⁹ The higher officials were not to interfere with the free election, nor interfere in any way to help one or the other candidate.¹⁰ There was no re-election to any municipal office till after two years, and in the case of re-election of alcaldes ordinarios a three year interim was required, although they could be elected regidores after two years.¹¹

SALE OF OFFICES

Since early in the sixteenth century¹² practically all of the municipal offices except those of alcalde and regidor had been subject to sale rather than election. A law of 1620 prescribed that owing to the inconveniences resulting from the election of regidores in accordance with the custom in Spain and the Indies, that office in

¹4:5:8, Felipe II.²4:6:6, Felipe II.³5:1:17, 1534.⁴4:6:3 to 7, 1531, 1595.⁵4:10:6, 1554.⁶4:10:5, 1603.⁷4:9:12, 1624.⁸4:9:10, 1613.⁹4:9:10, 1613.¹⁰4:9:7, 1625, Carlos II.¹¹4:9:13, 1609.¹²8:19:1, 1522 to 1645.

the Spanish towns of the Indies was to be sold at auction in the prescribed manner, consideration being had for the most capable person and especially for the first settlers and their descendants.¹³

The income from the sale of municipal offices belonged to the crown,¹⁴ not to the pueblo, and the details of sale were in the hands of the officials of the real hacienda,¹⁵ who made a report of the same to the proper minister.¹⁶ The ordinary conditions of the office were implied when the office was sold,¹⁷ and any special conditions or changes had to be specified in the title, no matter whether the changes were due to the buyer or to the government, as for instance, if a buyer was under age and intended to have the office filled by his father or uncle.¹⁸ Merit rather than price was to determine the successful bidder.¹⁹ In this connection it was required that the successful bidder must meet the approval of the magistrate (*justicia*).²⁰

The office to be sold was advertised for sale every week by the governor with the assistance of the fiscal.²¹ Once sold, no allegation of deceit or misrepresentation could be made by either the vendor or the vendee.²² During the acceptance of bids no promises were to be made by the officials having charge of the sale,²³ although the fiscal of the audiencia and the officials of the real hacienda of the district were to inform themselves extrajudicially as to the value of the office to be sold, in order that the real hacienda might not be defrauded.²⁴ A report of the evaluation and sale of an office was to be given to the council by the governor. In the Audiencia of Guadalajara an oidor (judge) was appointed by the viceroy to look after the evaluation, and sale of offices through the instrumentality of the officials of the real hacienda in the various localities. The credentials of office were issued by the viceroy himself.²⁵ The royal revenue was evidently the chief consideration in the sale of these offices, many protestations to the contrary notwithstanding. Thus it was provided that although a city as a corporation might buy an office, the office in question had to be held under the name of some individual who would in time die or

¹³8:20:7, 1620. ¹⁴8:20:1 and 23, 1522 to 1645. ¹⁵8:20:23, 1636, 1638.

¹⁶8:20:15, 1631.

¹⁷8:20:9, 1609.

¹⁸8:20:25, 1619, 1620.

¹⁹8:20:8, 1607.

²⁰8:20:6, 1581.

²¹8:20:13, 1595.

²²8:22:12, 1602 to 1627.

²³8:20:10, 1617.

²⁴8:20:14, 1663.

²⁵8:20:23, 1636, 1638.

vacate the office and thus permit the hacienda real to collect the usual fee for such an occurrence.²⁶

RENUNCIATION OF OFFICES

All offices purchased escheated to the real hacienda on the death of the owner, but during his lifetime he could renounce the office in favor of another person on payment of a certain amount.¹ The bargain which the first owner made with the person to whom he sold it was apparently of no concern to the crown so long as the vendor paid the regular fee of one-half the original cost to the real hacienda at the time of transfer. For any further transfers of the office from one to another by renunciation, one-third of the original value of the office had to be paid to the real hacienda. In the case of the offices requiring education, "oficios de pluma," the fee for renunciation was one-third of the original cost during the first ten years and one-half of the original cost after that time.²

The renouncer (renunciante) must live twenty days after the date of renunciation and present the renunciation to the viceroy, audiencia or governor within seventy days.³ If the renunciante did not live twenty days beyond the date of renunciation, the office escheated to the real hacienda the same as though he had died without making any renunciation in favor of another party.⁴ The escribano de cabildo (cabildo scrivener) and the officials of the real hacienda were to notify the viceroy of any salable offices that should become vacant.⁵ Even though an escribano secured his office by renunciation, he could not exercise it until he had received his proper credentials from the royal authorities.⁶

The evaluation of the offices renounced was verified by the fiscal to prevent fraud.⁷ For the act of renunciation to be held up awaiting an evaluation of the office, the act must be of benefit to the real hacienda and certified proof to that effect must be sent to the Council of the Indies.⁸

All offices sold or renounced had to be confirmed by the Council of the Indies, six years being allowed for confirmation in the most distant parts and five years for the others.⁹ If the purchaser of

²⁶8:20:19, 1627.

¹8:21:1, 1604, 1606.

²8:21:1, 1604, 1606.

³8:21:4, 1606.

⁴8:21:6, Felipe III.

⁵8:22:2, 1652.

⁶8:21:25, 1547.

⁷8:21:14 and 15, 1587, 1606.

⁸8:21:24, 1619.

⁹6:19:6, 1627 to 1646.

the office did not secure confirmation within the time limit, he must pay one-third the original value of the office to the real hacienda or else give up the office and receive back only two-thirds of the price that he paid for it.¹⁰ The buyer or seller (*comprador* or *renunciatario*) of an office had to secure a commission from the viceroy or governor within four months in order to exercise official authority. These commissions served as credentials until confirmation by the Council of the Indies could be secured.¹¹

THE CABILDO

The officials of the *cabildo* must be land owners of the town,¹² and the viceroy and governor were forbidden to appoint officials *ad interim* to the *cabildo* in the absence of its proprietary members.¹³ In the capital city, if the governor or his lieutenant (*teniente*) did not appear at the meeting of the *cabildo*, the *alcalde ordinario* must act as chairman and the session proceed as usual.¹⁴ The meetings were to be held in the town hall and no place else except under urgent necessity, and after summoning all the members.¹⁵ Under no pretext could the governor have the *cabildo* meet in his house or let any military minister interfere with that body.¹⁶ When the governor was in the *cabildo* his *teniente* could not enter.¹⁷ The governor had to see that no *regidor* served in the *regimiento* without proper authority.¹⁸ When the *cabildo* was considering a question of personal interest to some one of its members, that member had to absent himself at once and stay away until the question was settled.¹⁹

The *cabildo* also had judicial functions. Cases involving no more than a hundred dollars went from the *alcalde ordinario* to the *cabildo* on appeal, and this body could exercise jurisdiction in cases up to a hundred and fifty dollars.²⁰ Appeals from the *fieles executores*, functionaries akin to probate judges, went to the *cabildo* if the fines did not exceed seventy-five dollars, otherwise they went to the *audiencia*.²¹ Such cases involving no more than a hundred dollars did not admit of appeal or petition to the *audiencia* from

¹⁰8:22:7, 1606.

¹¹8:22:3, 1606 to 1640. ¹²4:10:22, 1618.

¹³4:8:8, 1637, 1656.

¹⁴4:9:5, 1540.

¹⁵4:9:1, 1528 to 1572.

¹⁶4:9:2, 1538 to 1642.

¹⁷4:9:3, Felipe IV.

¹⁸4:9:2, 1538 to 1642.

¹⁹4:9:14, 1525.

²⁰5:12:17, 1538 to 162

²¹5:12:19, 1590, 1596.

the cabildo and the fines of the cabildo were executory.²² A city could only appeal a civil case for its consejo when the case in question arose or had its principal cause within its own jurisdiction.²³

All officials of the cabildo were subject to residencia.²⁴ A penalty of one hundred dollars was imposed on any one except members of the cabildo who should sit on the benches placed in the church for that body,²⁵ but the cabildo was forbidden to upholster these benches in any manner whatsoever.²⁶ If presidio officers were present, the cabildo chose which side it would occupy and the presidio officials then took the other side, they being prohibited from using either chairs or cushions.²⁷

THE REGIDORES

The inconsistency of the various public laws of the *Recopilación* is well illustrated in the matter of regidores. One law, already cited under the founding of towns, provided for twelve regidores for the metropolitan city, eight for the others, and four for the villas and lugares.¹ Another law dealing specifically with regidores provided twelve for the principal cities, and no more than six for other cities, villas and pueblos.² The regidores were to be elected, in case the power of appointing them had not been given to the adelantado, the number to be elected being determined by the governor in conformity with the laws on the subject.³

The regidores were forbidden to have an interest in any public occupations such as the carnicería (slaughter house), and in case they were entrusted with any public funds they had to give sufficient bond.⁴ They were forbidden to have any sort of a retail establishment in the town even though it was to sell the products of their own farm.⁵ They were all to be land owners as stated above in the section on the cabildo.⁶ In case a regidor desired to report a certain evil to the royal authorities, the complaint had to be made first in the cabildo and acted on there by all the members

²²5:12:20, 1634, Carlos II.

²³5:12:18, 1558.

²⁴5:15:15, 1556. A residencia was an investigation of one's official conduct at the end of his term.

²⁵3:15:83, 1591 to 1633.

²⁶3:15:87, 1630.

²⁷3:15:102, 1640 to 1613.

¹4:7:2, Felipe II.

²4:10:2, 1523 to 1610.

³4:10:3, 1523.

⁴4:10:10, 1613.

⁵4:10:12, 1528 to 1587.

⁶4:10:22, 1618.

before it was sent on to the authorities of the Crown.⁷ Regidores who were appointed to serve with an *alcalde* as *fieles executores* were subject to *residencia* by an *oidor* (judge) appointed annually by the viceroy or president of the *audiencia* for that purpose.⁸

A law giving the regidores special preference in the allotment of lands has already been cited.⁹ Another law provided that they should only be imprisoned in a decent jail (*cárcel decente*).¹⁰ All the officials of the *cabildo* were enjoined to attend its meetings regularly, but in case the governor and the *alcalde ordinario* should be absent, the oldest regidor, as lieutenant of the *alcalde ordinario*, was to be chairman and ranking member, even though the *alguaciles mayores* of the *audiencia* or the *oficiales reales* should be present and members of that body.¹¹

Under the head of "sale of offices" is a law of 1620 which makes the office of regidor salable instead of elective, the avowed purpose being to correct certain abuses arising from these elections.¹²

THE ALCALDE ORDINARIO

No city could have more than two *alcaldes ordinarios*.¹³ This official had to be a citizen, but could be a military man if he was also a resident land owner of the city.¹⁴ The *alcalde* must be a capable, honorable man, able to read and write and possessed of the other necessary qualifications for such an office.¹⁵ In the filling of this office, preference was to be given to the "first discoverers, conquerors, and settlers" (*primeros descubridores, pacificadores y pobladores*) and their descendants, provided they were able and suitable for the office.¹⁶ Officials of the Crown could not be elected to, nor exercise the office of *alcalde ordinario*.¹⁷ Debtors of the real hacienda were disqualified for this office.¹⁸

The viceroy, president, and judges were not to interfere in any way whatsoever with the free election of the *alcalde ordinario*.¹⁹ The incumbent *alcaldes ordinarios* were to assist in conducting the election, and were to remain in the *cabildo* until the new

⁷3:16:5, 1642, 1647. ⁸5:15:11, 1563 to 1640. ⁹4:12:5, 1532 to 1596.

¹⁰4:10:13, 1622 to 1630. ¹¹3:15:83, 1641, 1648. ¹²8:20:7, 1620.

¹³4:10:1, 1630.

¹⁴5:3:8, 1554.

¹⁵5:3:4, 1534.

¹⁶5:3:5, 1595.

¹⁷5:3:6, 1584, 1620.

¹⁸5:3:7, 1620 to 1624.

¹⁹5:3:2, 1536 to 1581.

alcaldes were installed.²⁰ As alcaldes ordinarios were not eligible for re-election till after two years, the ordinary danger of such an arrangement was lacking. They had to pass the first residencia also before they were eligible for re-election.²¹ The election of alcaldes ordinarios had to be confirmed by the viceroy or governor.²² To a certain extent the jurisdiction of the alcalde ordinario was settled by custom.²³ In pueblos where there was no governor or lieutenant (teniente) of the governor, the two alcaldes ordinarios had jurisdiction in first instance in all cases (negocios, causas, y casos), both civil and criminal, over which the governor had jurisdiction.²⁴ Appeal from this jurisdiction was to the cabildo, governor or audiencia, depending on the character of the particular case to be appealed.²⁵ In certain places suits between an Indian and a Spaniard came within the cognizance of the alcalde ordinario, although in the main, cases involving the Indians were not subject to the jurisdiction of the officials of the Spanish towns.²⁶ The alcalde ordinario must hold court in the casa de cabildo or municipal building at the accustomed hour, even though a sale of offices by the governor and oficiales reales should be held at the same time.²⁷ Special laws governed the jurisdiction of the alcaldes ordinarios in the great capital cities like Lima, Mexico, or Manila.²⁸ In the cities containing an audiencia the alcaldes ordinarios were not to give assistance invoked by the ecclesiastical courts against the Indians or other persons.²⁹

In important cases the alcaldes de hermandad were to turn their prisoners over to the alcaldes ordinarios,³⁰ and in the absence of the alcaldes de hermandad, the alcaldes ordinarios were to take over their functions.³¹ In general, cases involving less than twenty pesos were to be settled by the escribanos without their going to the alcaldes ordinarios.³²

The gobernadores and alcaldes mayores could take cognizance of cases before the alcalde ordinario only upon appeal.³³ The presi-

²⁰5:3:3, 1612.²¹5:3:9, 1535, 1619.²²5:3:10, 1559 to 1648.²³5:3:19, 1578.²⁴5:3:1, 1537.²⁵5:12:17, 5:12:12-13.²⁶5:3:16, 1561.²⁷5:3:22, 1626, 1630.²⁸5:3:23-25, 1596 to 1636.²⁹3:1:2, 1573 to 1595.³⁰5:4:5, 1591, 1618. Alcaldes de hermandad represented the cabildo in matters outside the limits of the municipality.³¹5:3:18, 1544 to 1578. ³²5:10:1, 1563.³³5:12:12, 1519.

dents and oidores (judges) of the audiencia could not interfere with the jurisdiction in first instance of the *alcaldes ordinarios* in their respective districts, nor were the *presidentes* and *oidores* to give citizens the right to complain against the *alcaldes ordinarios* before the Council of the Indies.³⁴ Suits against municipal officials were not to go before the audiencia in first instance except in criminal cases or large civil suits.³⁵ Suits against one *alcalde* were brought before the other one, when the governor was not there to hear the case.³⁶ Suits against the other municipal officials came before the two *alcaldes ordinarios* sitting together *en banc*.³⁷ When the audiencia confirmed the sentence given by the *alcaldes ordinarios*, they were returned to these *alcaldes* for execution.³⁸ The *alcalde ordinario* was not to liberate a prisoner if an appeal had been made from his decision.³⁹

The *alcaldes ordinarios* had a vote in the *cabildo*⁴⁰ and in the absence of the governor or his lieutenant the senior *alcalde* was chairman of that body.⁴¹ When the governor was serving as chairman of the *cabildo*, the *alcaldes ordinarios* could not enter.⁴² Where there was no resident governor, the *alcaldes ordinarios* could visit the markets and stores and fix prices at a just rate.⁴³ They could not trade in those things under their control or have any interest in them.⁴⁴ The *alcaldes ordinarios* were to have nothing to do with the bids for or sales of supplies as these were duties of the governor and the *fieles executores*.⁴⁵

In the absence of the governor and his *tenientes* (lieutenants) from office and until such time as the office could be filled by the viceroy, the *alcalde ordinario* of the capital city of the province was to serve.⁴⁶ When the office of *alcalde ordinario* became vacant before election, the oldest *regidor* was to serve.⁴⁷

THE ALGUACIL

The governor as *jefe politico* (political chief) of the *pueblo* he lived in, appointed the *alguaciles*, but in the other towns the *alcaldes*

³⁴2:15:70, 1570.

³⁵2:15:71, 1541.

³⁶2:15:71, 1541.

³⁷2:15:71, 1541.

³⁸5:12:21, 1552.

³⁹5:12:33, 1560.

⁴⁰5:3:15, 1557 to 1627.

⁴¹5:3:12, 1557 to 1627.

⁴²5:3:14, 1573.

⁴³5:3:17, 1538.

⁴⁴4:10:11, 1572.

⁴⁵5:3:11, 1573.

⁴⁶5:3:12, 1557 to 1627.

⁴⁷5:3:13, 1535 to 1590.

ordinarios appointed them.¹ The alguacil was the executive officer of the court and the police officer of the town.² He usually had tenientes and with their aid he executed the orders of the court, be it *alcaldia ordinaria*, or *audiencia*.³ He policed the streets day and night, and both his tenientes and his slaves were permitted to bear arms for the execution of these duties.⁴ The *alcaldes* and the prison were under his charge and he could remove his tenientes or the *alcaldes* for legitimate cause.⁵ The *justicias*, *escribanos*, and *alguaciles* jointly administered the justice of the district.⁶ The alguacil was allowed to enter the *cabildo* bearing arms.⁷

The alguacil got a certain per cent of the executions that he carried out, the exact amount varying from place to place.⁸ But in collecting fines or other executions that accrued to the royal treasury, he was not allowed to collect any fee,⁹ and he was not permitted to rent his own office or that of his tenientes.¹⁰ The alguacil mayor could not hold another office,¹¹ could not be served by *alguaciles menores*,¹² nor engage in business.¹³ In public functions, he was placed next to the *gobernadores* and *justicias* and above the *regidores*.¹⁴

The *alcaide* had to reside in the *carcel* and look after it.¹⁵

The *procurador* was to be elected by the *regidores* in the regular manner and not by *cabildo abierto*.¹⁶ (The *cabildo abierto* was a town meeting, a *junta magna*. The use of the term "*cabildo abierto*" here must indicate that there was a tendency toward the election of certain officials by popular vote, but that this was opposed by the Council of the Indies.) The *procurador* was to assist in the business transactions, "*negocios*" of the city, defend the city before the *audiencia* or other tribunals, and secure for it justice and the protection of its rights and pretensions.¹⁷

THE ESCRIBANO

The *escribano* was a sort of combined notary public and clerk of court who wrote out and authorized by his signature *autos* and

¹⁵7:1, 1559.

²⁵7:8-15, Carlos II.

³⁵7:16, 1540, 1552.

⁴⁵7:8, 12, 16, Carlos II.

⁵⁵7:4, 1552.

⁶⁵8:33, 1568, 1635.

⁷⁵7:6, 1566.

⁸⁵14:10-11, 1540 to 1583.

⁹⁵14:13, 1596.

¹⁰⁵7:5, Carlos II.

¹¹⁵7:11, Carlos II.

¹²⁵7:3, 1568.

¹³²20:32, 1630.

¹⁴³15:84, 1563; 3:15:79, 1582; 3:15:80, 1610, 1618.

¹⁵⁷5:7, 1596.

¹⁶⁴11:12, 1623.

¹⁷⁴11:1, 1519 1528.

judicial proceedings as well as acts and contracts between parties.¹⁸ Ordinarily he had to be twenty-five years of age, with sufficient education for the office and four years experience under an escribano.¹⁹ There were five kinds of escribanos: reales, de número, de cámara, de cabildo, and de gobernación. An escribano real could exercise his office anywhere in the kingdom except where there were escribanos del número. These latter could exercise their profession only in the province or district to which they were assigned, but in that district they had exclusive jurisdiction. A specific number were assigned to certain provinces hence the name, escribano del número. The escribano de cámara was clerk of court for the audiencia and other high tribunals. The escribanos de cabildo were those who assisted the cabildo at its sessions, and authorized its acts and resolutions.²⁰ The writer has found no direct definition of escribano de gobernación, but that official seemed to be the escribano who served as notary and clerk for the governor or other executive head of the province.²¹

While it would seem that the escribano on the frontier of New Spain was conspicuous for his absence, still the laws relating to that office are so numerous and voluminous in the Recopilación as to demand considerable attention. The law providing for the establishment of the office was re-enacted twelve different times between 1564 and 1669, almost twice as many times as any other law noticed, indicating the importance which the Council of the Indies attributed to it.²² Evidently the crown expected this officer to check the legal and administrative affairs of the government much as the royal officials did the economic affairs.²³ The law establishing the office covers two pages and provides at the close that the appointment of escribanos shall lie only with the Council of the Indies.²⁴ Those to be appointed must have passed an examination under the audiencia,²⁵ and no mulattos or mestizos were eligible²⁶ nor could an encomendero be an escribano.²⁷

Where there were presidios, the escribanos were to have office

¹⁸Escriche, Dic. de Legis y Juris., 641.

¹⁹Lib. 7, Nov. Recop. de leyes de Espana.

²⁰Escriche, p. 642. ²¹5:8:13-14, 1565, 1645. ²²5:8:1, 1564 to 1669.

²³5:8:1, 1564 to 1669; 4:13:6, 1573.

²⁴5:8:1.

²⁵5:8:3-4, 1512 to Carlos II. ²⁶5:8:40, 1576, 1621. ²⁷6:9:34, 1590.

there rather than in the casa de cabildo.²⁸ Their duties were many and very important. They took the testimony of witnesses and thus to a slight extent, at least, served as a preliminary court.²⁹ They served papers on persons for the court,³⁰ and conjointly with the governors, justices, and alguaciles carried on the administration of justice.³¹ The proof in cases pending before the audiencia, was to be in the hands of the escribanos of the pueblo from which the case came, except where special receptores were appointed by the court for that purpose.³² In cases involving less than twenty pesos the escribanos were to make no record of it, receive no papers or petitions from the lawyers, and charge the litigants no more than half a peso each.³³ All papers, judicial records and registers passed to the succeeding escribano,³⁴ and in case an escribano de cámara absented himself he had to leave his records and registers with the escribano de cabildo.³⁵ All papers and records of the escribano had to be written out in full.³⁶

The escribano was to have a separate register in which to keep a record of the things and amounts deposited with or before him.³⁷ The escribano de cabildo also had to have a book to record the guardianships and estates put in the hands of guardians, together with the bond given by the same.³⁸ In case of an appeal from an interlocutory decree of a lower court, the escribano de número of the resident city of the audiencia had to go the next day to the court appealed from to secure the facts and make a report to the audiencia.³⁹ The method of appeal was to have some escribano bring the case before the higher court.⁴⁰ The escribanos and receptores examined witnesses on request or as a part of their official duty in both civil and criminal and in summary and plenary judgments.⁴¹

²⁸5:8:38, 1615.²⁹2:15:91, 1587; 5:8:34, 1562, 1596.³⁰2:15:90, 1587.³¹5:8:33, 1568, 1635.³²2:15:91, 1587; 5:8:34, 1562, 1596. ³³5:10:1, 1563.³⁴5:8:18, 1557.³⁵5:8:19, 1570, 1614.

³⁶5:8:21, 1595. "Los Escribanos guarden y tengan siempre en su poder registros de todas las escrituras, autos, e informaciones, y todos los demas instrumentos publicos, que ante allos se hicieren, y otorgaren, sin embargo de que digan, y consientan las partes a quien tocaren, o sus Procuradores, que no puede registro, pena de un año de suspension de oficio, y diez mil maravedis para nuestra Camara." 5:8-16, 1572.

³⁷5:8:15, 1568.³⁸5:8:6, 1581, 1586.³⁹5:8:22, 1595.⁴⁰5:12:28, 1563.⁴¹5:8:35, 1596.

Escribanos reales had to submit their credentials to the cabildo before they could practice their profession in the pueblo.⁴² The escribanos de gobernación were to look after the affairs of the Indians in accordance with the local custom.⁴³ The audiencia was to make up a list of fees for the various escribanos,⁴⁴ and this list was to be posted in the office of each.⁴⁵ The escribanos were never to charge any fee for services touching the patrimonio real⁴⁶ or the oficiales reales.⁴⁷ The escribanos for the ecclesiastical courts had to be laymen and they were subject to the same regulations as the other escribanos.⁴⁸ The Indians did not have to pay any fees, but caciques and communities of Indians had to pay half the regular fee for the services of the escribano.⁴⁹

ECONOMIC ADMINISTRATION

The citizens of the New World were specifically exempted from the interference of the corredor (exchange broker), except in the more important contracts and large dealings.¹ The prices of foods and drink were fixed by the alcaldes of the town and a regidor appointed for that purpose by the cabildo.² Property under litigation was put into the hands of a depositario who was under bond.³ The escribano de cabildo kept a record of these depositos as stated above in the section on the escribano.⁴ The cabildo checked the bond of these depositarios every year and if need be required a strengthening or increase in the bond.⁵ It was the duty of the audiencia to see that the depositarios returned these depositos to the rightful owners at the proper time.⁶

The officials of the real hacienda had a distinct jurisdiction from that of the ordinary civil officials, much the same as do the internal revenue officers or customs officials in a city of the United States. But there is this very important difference. The oficiales reales could and did deal directly with local affairs when ordered to do so by the crown. For instance, an oficial real might be ordered to keep certain records jointly with the alcalde ordinario.⁷ An

⁴²5:8:5, 1572.

⁴²15:179, 1596.

⁴⁵5:8:37, 1633.

⁴⁴4:9:22.

⁴⁴4:10:18, 1629.

⁴⁵5:8:13, 1625.

⁴⁵5:8:30, 1529.

⁴⁵5:8:25, 1551 to Carlos II.

⁴⁴4:10:16, 1630.

⁴⁴4:10:20, 1583.

⁴²15:178, 1528 to 1589.

⁴⁵5:8:31, 1532 to 1574.

⁴⁴4:10:23, 1567.

⁴⁴4:10:21, 1631.

⁴⁸4:30, 1575.

official real, however, could not hold any municipal office, nor could any of his near relatives.⁸ Also, the oficiales reales could not appoint a lawyer or procurador to defend the claims of the real hacienda at a regular salary. If such services were needed in a given case, a procurador was to be secured, and when the case was finished he was to be paid for his services in connection with that case.⁹ In certain instances to be mentioned later the oficiales reales did handle the finances of the civil government of a district,¹⁰ and they did make an annual report to the governor or viceroy on the financial condition of their respective municipalities.¹¹

REVENUE AND EXPENSES

The chief source of revenue was the lands (propios) of the pueblo, mentioned in connection with the partition of land in the four league grant.¹² These lands were rented out at auction for given periods and had to be knocked down to the highest bidder, regardless of whether he was the last tenant or not.¹³ The cities were not to spend the propios or appropriate money for salaries without a license to do so.¹⁴ Warrants for extraordinary expenses of the regidores were not to be paid until they were approved by the audiencia real or the special land officer, except where these warrants were for less than five dollars.¹⁵ The propios were not to be spent in receptions for prelates, presidents or other high functionaries who might visit the city.¹⁶

Some towns had a public granary where all grain for sale had to be stored.¹⁷ Even where a farmer owned a bakery, he had to declare how much grain he had on hand for use in his bakery.¹⁸ One law provided that no produce could be taken from this public granary for the use of oficiales reales or higher officials except in case of urgent necessity, and in the latter case, the amount used was to be scrupulously returned as soon as possible.¹⁹

The issuing of warrants upon and appropriation of the income from the lands for the uses allowed, was in the hands of the cabildo

⁸8:4:53, 1622.

⁹8:26:9, 1565 to 1619. ¹⁰5:15:9, 1638.

¹¹4:13:6, 1573.

¹²4:13:1, 1523.

¹³4:13:3, 1568, 1581.

¹⁴4:13:2, 1564 to Carlos II.

¹⁵4:13:2, 1564 to Carlos II.

¹⁶4:13:4, 1574 to 1627.

¹⁷4:14:1-6, 1583; 4:14:19, Carlos II.

¹⁸4:14:13, 1583.

¹⁹4:13:11, 1614.

and the *alcalde ordinario*, or the governor if he were a resident of the city.²⁰

The higher officials were forbidden to interfere in this financial administration except as provided by law in the matter of accounts and audits.²¹ Where the city income was not sufficient, a special decree from the crown was sometimes secured giving the city the privilege of retaining for its own use the fines collected for the royal exchequer.²²

For the building of roads, special assessments were levied by the governors upon the various cities and towns.²³ A *regidor* could be appointed superintendent of public works since some municipalities did not have any income with which to hire a special official for that purpose.²⁴ No excise tax or contribution could be levied by any person or community except where it was specifically provided for by law.²⁵ Also the cities were forbidden to levy taxes on either Spaniards or Indians for the maintenance of police.²⁶ The *audiencia* was instructed to prohibit assessments except where such were absolutely necessary.²⁷ The *alcalde ordinario* had authority to allow assessments up to twenty-five dollars. For larger sums up to two hundred dollars a special license from the *audiencia* was necessary, and for still larger sums the permission of the Council of the Indies was required.²⁸ The law further provided that the *audiencia* was to grant this license to levy taxes only for a limited amount, for a specified use, and in case the city had not sufficient money already for the purpose.²⁹ A special exception was made of taxes for the purpose of destroying the locusts. In this case both assessments and personal services might be demanded of ecclesiastics and *oficiales reales*, as well as of civilians, since the danger of locusts affected all alike.³⁰

Ordinarily Indians were exempt from excise and direct taxes, but in case of necessity the minimum assessment might be levied upon them in the form of personal service, produce, and money.³¹

In the case of an excise tax levied in the City of Panamá for the repair of the road to Porto Bello the treasury officials were

²⁰4:13:5, 1572.

²¹4:13:5, 1572; 4:9:21, 1596; 4:13:6, 1573.

²²4:13:9, 1597.

²³4:16:1, 1563; 4:15:2, 1531, 1558.

²⁴4:16:3, 1538.

²⁵4:15:1, 1563, 1610. ²⁶3:3:53, 1614, 1628.

²⁷4:15:3, 1530 to Carlos II.

²⁸4:15:3, 1530 to Carlos II.

²⁹4:15:4, 1563, 1596.

³⁰4:15:5, 1619. ³¹4:15:6, 1582; 4:15:7, 1560.

instructed to collect the tax and pay it out for this purpose under warrants from the president and judges of the real audiencia. The law states that the purpose of this special arrangement was to eliminate the evils and dangers of collection and administration. The money collected was to be kept entirely separate from that of the real hacienda.³² The accounts of a city containing the audiencia were audited by a judge (oidor) appointed for that purpose.³³ For the other places, the governors were instructed to take an annual account of the property of each pueblo through the instrumentality of the oficiales reales. This account was to be sent to the Council of the Indies in order that that body might review and understand the distribution and expenditure of said property.³⁴

RANCHERIA GOVERNMENT³⁵

In the fishing and pearl fishery country little communities of a temporary character sprang up, especially in the Cumaná region, and although some sort of local government was needed, the character of the population and surroundings made the dignified cabildo of the ordinary Spanish pueblo out of place.³⁶ It was provided, therefore, that the governor, together with the boat owners, should elect an alcalde ordinario and four regidores or diputados (deputies) for a term of one year or till their successors should be duly elected.³⁷ If the ranchería were included within the jurisdiction of two different provinces, two diputados were to be elected from one jurisdiction and two from the other, and the alcalde ordinario was to be chosen from the citizens of the one province one year and from the citizens of the other the next, the alcalde for the first year to be determined by lot.³⁸

The qualification for an election in the ranchería was the ownership of a boat that was duly armed and equipped with no less than

³²4:15:9, 1638.

³³4:9:21.

³⁴4:13:6, 1573.

³⁵In popular parlance, a ranchería was any Indian village, and in so far as it was distinguishable from the term reducción, it was an Indian village free from the supervision of the mission. The framers of the laws of the Indies had no interest in any Indian village government not under the control of the mission or the governor; consequently, this popular use of the term ranchería is not found in the Recopilación, even though it came into general use after the Recopilación ranchería had been forgotten by all but historians.

³⁶4:25:1, Carlos II.

³⁷4:25:3, Carlos II.

³⁸4:25:8, 1579.

twelve negroes.³⁹ The alcalde and the four diputados were to meet at least every two months and if, on petition or at the discretion of the alcalde ordinario, an open meeting of all the electors should be called, "cabildo abierto," the boat owners had to attend to discuss the important affairs that had occasioned the summons.⁴⁰

A fort (*casa fuerte*) was to be built in the *ranchería* as protection against the corsairs, and within this *casa fuerte* there were to be two rooms, one of which was to contain the treasury chest of the real hacienda with three keys. The other strong room was for the deposit of the oyster shells secured by the fishermen. All shells were to be brought here immediately and not opened for the extraction of the pearls except in the presence of the *oficiales reales*.⁴¹

The alcalde and four diputados were authorized to hire a chaplain at the expense of the *ranchería*, and if he turned out to be prejudicial to the community, he could be dismissed by these same officials.⁴² These five officials had to keep a record of their ordinances, decisions, etc., and these records were to be kept in a box with two keys, one key going to the alcalde ordinario, the other to the oldest diputado.⁴³

The alcalde of the *ranchería* could not be alcalde ordinario or regidor in any other place, and he had to reside where the major portion of the *ranchería* was located.⁴⁴ A procurator was elected to look after the things pertaining to the *ranchería* and to oppose the things that were prejudicial to it.⁴⁵ Also an *escribano real* of that jurisdiction was elected to authenticate autos, draw up contracts, etc., as occasion demanded.⁴⁶ Within a month after election the incoming officials were to take an invoice of the papers, property and equipment left by their predecessors.⁴⁷

The chief duties of the cabildo, and especially of the alcalde, were to discover new oyster beds, assigning certain persons to this specific task,⁴⁸ and to keep a sharp lookout for corsairs, special sentinels and lookouts being stationed on the coast for that purpose.⁴⁹ The cabildo had full jurisdiction over the ordinary affairs of the *ranchería* and no one was exempt from the *contribuciones* which they imposed for the good of the community.⁵⁰ Appeal from

³⁹4:25:7, Carlos II.

⁴⁰4:25:10, Carlos II.

⁴¹4:25:2, 1579.

⁴²4:25:14, 1495.

⁴³4:25:11, Felipe II.

⁴⁴4:25:4, Carlos II.

⁴⁵4:25:5, Carlos II.

⁴⁶4:25:5, Carlos II.

⁴⁷4:25:17, Felipe II.

⁴⁸4:25:15, Felipe II.

⁴⁹4:25:18, Felipe II.

⁵⁰4:25:19, Felipe II.

the decisions of the *alcalde ordinario* lay to the governor, and if the *ranchería* was within two jurisdictions, the appeal went to the governor of the province of which the *alcalde ordinario* was a citizen.⁵¹

The *cabildo* was to elect a receptor y *mayordomo* every year from among the boat owners. It was his duty to collect the fines and condemnations of the court, as well as the taxes imposed by the *cabildo*, and disburse the same with the advice and under the warrants of the *alcalde* and *diputados*.⁵² The *cabildo* determined the taxes to be levied and then the *alcalde ordinario* gave the orders for their collection.⁵³ The assessment of taxes was on the basis of property wealth and not on the number of negro fishermen that each boatman had. Appeal to the governor was the only recourse from this assessment.⁵⁴

Negroes were not to be sent to the *ranchería* except on business or to serve there, and to enforce this law the *alcalde ordinario* was empowered to inflict arbitrary punishment on slaves thus entering the *ranchería*.⁵⁵ No one was allowed to bring merchandise to the *ranchería* or deal in pearls, because this rendered unstable the price of pearls and caused loss to the royal exchequer through failure to pay the fifths. (*quintas*).⁵⁶

The boat owners were forbidden to have a *mayordomo* or boatman who was not armed according to law, and the *alcalde* was authorized to visit the houses when he pleased to see if they had the required armament.⁵⁷ Individual boat owners were forbidden to go out and settle alone without special license from the *alcalde mayor*.⁵⁸ Even Spaniards who were not boat owners or property owners there were forbidden to go to the *ranchería*.⁵⁹

INDIAN PUEBLOS: REDUCCIONES

If the Spanish municipality in America was a bad admixture of seigniorial, local and *realengo* jurisdiction, the government of the

⁵¹4:25:9, Felipe II. ⁵²4:25:6, Carlos II. ⁵³4:25:12, 1594.

⁵⁴4:25:13, Felipe II. ⁵⁵4:25:24, Felipe II. ⁵⁶4:25:23, Felipe II.

⁵⁷4:25:27, Felipe II. This was to guarantee preparedness for fighting off the corsairs who were particularly bad in the Cumaná region.

⁵⁸4:25:20, 1609. The insecurity of individual settlements was the cause of this law. The ruthless pearl fishers aroused the hostility of the Indians and were a tempting prize for corsairs.

⁵⁹4:25:22, Felipe II.

Indian villages was even more so. The viceroy, the governors, and the ecclesiastical courts all had original jurisdiction in the Indian towns.¹ Many attempts were made to guard the rights and customs of the caciques, although seigneurial jurisdiction was, in the main, denied them.² Such rights as they retained, however, were handed down from father to son.³ The ordinary provincial justices could not try a cacique for anything but a grave offence and even then a report of the case had to go to the audiencia.⁴ The caciques had criminal jurisdiction in minor offences.⁵

The governors were forbidden to put proprietary alguaciles mayores in the Indian towns, but they were authorized to appoint an Indian alguacil if they saw fit.⁶ The regular officials of a *reduccion* were to consist of the following,—all Indians: for the smaller villages, one *alcalde*; if more than forty houses, one *alcalde* and one *regidor*; if more than eighty houses, two *alcaldes* and two *regidores*, and in the very large pueblos two *alcaldes* and four *regidores*. These offices were elective as in the Spanish towns, but the elections were to be held in the presence of the curate.⁷

The Indian *alcalde* could only make inquiry, arrest the delinquent and take him to the prison of the Spanish town of that district. Where the delinquent was guilty of missing mass on a fiesta day, of getting drunk, or a similar offence, the Indian *alcalde* could punish him with a day in prison and eight lashes. In case of habitual drunkenness more severe punishment was permissible.⁸ The Indian *alcalde ordinario* could arrest and detain in prison for cause any negro or mestizo until a justice of the province could arrive to hear the case.⁹ This Indian *alcalde* was exempt from taxation and personal services.¹⁰

The assessment of the *mita* was left to the cacique, but the rest of the local government was in the hands of the *alcalde* and *regidores* in so far as it was not reserved to the provincial authorities.¹¹ Where there was a common chest (*caxa de comunidad*) the audiencia appointed a *cobrador* who handled the property of the community, and collected the *tercias* and *censos*.¹² He had to give a

¹6:1:1, 1580, Carlos II.²6:7:1-15, 1537 to Carlos II.³6:7:3, 1614, 1628.⁴6:7:12, 1549.⁵6:7:13, 1551, 1558.⁶5:7:17, 1631, Carlos II.⁷6:3:15, 1618.⁸6:3:16, 1618.⁹6:3:17, 1563.¹⁰6:5:20, 1618.¹¹6:3:16, 1618.¹²6:4:26, Carlos II.

bond for his office¹³ and make a monthly report of his dealings and collections to the oficiales reales.¹⁴ The collections were entered in the caxa and he gave a receipt to those who paid.¹⁵ An escribano was also appointed by the audiencia for the caxa de comunidad to authenticate papers connected with its affairs and take care of the judicial and extra-judicial autos touching on the same. He was to charge fees to the Spaniards but not to the Indians.¹⁶ An alguacil was similarly appointed to execute embargos, give summons, etc., as the judicial affairs connected with the caxa might demand.¹⁷

An encomendero was forbidden to enter the Indian pueblos¹⁸ or interfere in their government.¹⁹ He could, however, appoint a calpizque or mayordomo for each Indian pueblo to look after his interests, if a license to this effect were secured from the governor.²⁰ These calpizques had no judicial authority even though the village was under seigniorial jurisdiction, and any calpizque carrying the vara de justicia into an Indian pueblo was to be punished by the provincial authorities.²¹

Indians were exempt from paying the tithe (decima) in the case of executions, and in the case of other fees the administrators of justice were to proceed with moderation and keep in mind the well-being of the Indians.²² Indians were not permitted to go from one reduccion to another, and the penalty for so doing was twenty lashes for the culprit and four pesos fine on the cacique who permitted it: the four pesos to go to the church treasury.²³

LOCAL VERSUS CENTRAL GOVERNMENT

There was an essential difference in principle between the local government herein provided for and that of the larger units of the colonies. The local government was to be indigenous, growing naturally out of local conditions, officered by resident land owners, preferably those who had been there the longest time.²⁴ The local government was supposed to have no interest outside of its own jurisdiction. Family ties were favored, strangers were often excluded, and the local income was supposed to be from local sources. The attachment of the citizens and officers was to the soil.

¹³6:4:27, Carlos II.

¹⁶6:4:25, Carlos II.

¹⁹6:9:13, 1609.

²²5:14:15, 1596.

¹⁴6:4:28, Carlos II.

¹⁷6:4:25, Carlos II.

²⁰6:3:27, 1550, 1563.

²³6:3:18, 1618.

¹⁵6:4:30, Carlos II.

¹⁸6:9:14, 1550 to 1618.

²¹6:3:28, 1562.

²⁴5:3:5, 1595, Carlos II.

The provincial officials, on the other hand, were supposed to be detached from local ties and local support. The corregidores were forbidden to appoint tenientes who were natives of the city or property owners.²⁵ A governor or other provincial official was forbidden to marry any woman of his district²⁶ or appoint to office any relative as close as the fourth grade.²⁷ Under ordinary circumstances the governor was only to visit the towns of his district once during his term of office.²⁸ It was the intention of the framers of the laws of the Indies that their attachment should be to the crown, the Council of the Indies, and the viceroy.

CONCLUSION

This summary does not include all of the local officials mentioned in the *Recopilación*, but it does attempt to include all those whose functions are at all defined. The *alférez real* is twice mentioned as outranking the senior regidor,¹ but his *raison d'être* is not given, and in actual practise it seems that he varied all the way from an under officer in the civil militia in the Philippines to an honorary personality merged with one of the regidores in San Fernando de Béxar, Texas. The mayordomo is mentioned in an early law² but his functions are not suggested, although reference is made in another place to a special land officer who could approve warrants on the *propios*.³

This paper fails to leave that satisfactory feeling of definiteness, as to what are local and what are provincial functions, that we are accustomed to experience in the study of local institutions in England and the United States. This is due to the fact that no such cleavage existed in the Spanish colonies. The governor was ex-officio the chief municipal authority in the city of his residence.⁴ The officials of the chief city of a province had functions that pertained to the province as much as to the city.⁵ The *alguacil mayor* of the *audiencia* was often a regidor, and, on occasion, ranked as a local rather than a provincial official.⁶ The ordinary regidor

²⁵4:8:7, 1652.

²⁶5:2:44, 1582 to 1645. ²⁷5:2:45, Carlos II.

²⁸5:2:21, 1636.

¹5:3:13, 1535 to 1590; 4:10:14, 1591.

²4:7:2, Felipe II.

³4:13:2, 1564 to Carlos II.

⁴5:3:1, 1537; 5:3:14, 1573; 5:3:12, 1557 to 1627.

⁵4:12:8, 1563; 5:4:5.

⁶3:15:80, 79, 84, 1563 to 1618.

might become ex-officio the governor of the province,⁷ and the viceroy himself was ex-officio the governor of the province of Mexico and chairman of the cabildo of Mexico City. Perhaps the difference between city government in the United States and city government in the Latin countries may be expressed by the broad statement that city government in the United States is a creation of the state, while in Latin countries, traditionally at least, the city government created the state.⁸ The governments of Latin American cities were the lineal descendants of the government of the city of Rome. The French influence had not yet reached them, although that influence, together with other factors, had long since killed municipal life and uprooted historic institutions in the cities of the mother country, Spain.⁹

⁷5:3:12-13, 1535 to 1627.

⁸This is illustrated by the histories of Vera Cruz, Caracas, or Buenos Ayres.

⁹Danvila, *El Poder Civil En España*.

BRITISH CORRESPONDENCE CONCERNING TEXAS

XV

EDITED BY EPHRAIM DOUGLASS ADAMS

KENNEDY TO ABERDEEN¹

No. 16.

Her Majesty's Consulate.
Galveston, July 8th. 1844.

My Lord,

I have the honor to transmit herewith a Memorial addressed to Your Lordship by British Subjects resident in Texas, having reference to the Measures in agitation for Annexing Texas to the United States.

A considerable proportion of the Memorialists are known to me as persons respectable by position and character. They assign as a reason for the comparatively small number of Signatures, that it was deemed inexpedient, placed as the British residents are amidst a preponderating population from the United States, to hold public Meetings, or to make any open demonstration for the purpose of eliciting the opinions of their fellow-Countrymen

William Kennedy.

The Earl of Aberdeen, K. T.

RUTHVEN AND OTHERS TO ABERDEEN²

[Enclosure]

To the Right Honble. The Earl of Aberdeen Her Britannick Majesty's principal Secretary of State for Foreign Affairs.

The Memorial of the undersigned British residents of the Towns of Galveston and Houston in the Republic of Texas Humbly Sheweth:

That your Memorialists, the greater part of them are engaged in Commercial pursuits, selected Texas as a field for their industry and enterprize, under the belief that it would remain an Independent State, in which Capacity it has been formally recognized by Her Majesty's Govt. and the Governments of France, The United States and Holland.

¹F. O., Texas, Vol. 10.

²F. O., Texas, Vol. 10.

That regarding Texas as Politically Independent and looking forward to a pacification between her and Mexico, as not being remote, Your Memorialists, who in Common with the rest of the population have suffered from the unsettled Condition of Public Affairs are perfectly satisfied to remain in the Country Employed in their several pursuits, Not doubting that the future would in the ordinary Course of events bring them a fair return for Capital and Labour.

That, after having been led to entertain hopes of an adjustment between Mexico and Texas being speedily effected, and in a great measure through the friendly Mediation of Her Majesty's Govt acting in accordance with other Powers by whom the Independence of Texas has been recognized, Your Memorialists have learned with Surprise and regret that proceedings have been, and are now in active progress by persons Clothed with Authority for effecting the Annexation of Texas to the United States.

That, Your Memorialists while they cannot but view the projected measure of Annexation as wholly inconsistent with the treaty obligations to which Gt Britain and the Republic of Texas are mutually covenanting and assenting parties, necessarily Contemplate in it the virtual violation of an understood Compact with themselves, as residents in the Country, proposing as the Measure does, to substitute our Govt. for another, and to introduce principles of Commercial legislation at variance with their Mercantile Interests, and as they believe, with the interests of England and all other Manufacturing Countries of Europe.

That being likewise impressed with the Conviction, that the incorporation of Texas with the Federal Union would ultimately give to the United States the power to establish a Monopoly of North American Commerce, and transfer to them a complete ascendancy in the Affairs of this Continent.—Your Memorialists humbly hope that Her Majesty's Govt will adopt such Measures as they, in their Wisdom may deem most expedient to bring about an early and honourable Settlement of the difficulties existing between Mexico and Texas and to guard against the accomplishments of any project inconsistent with the Political Independence of the Republic and the treaty Stipulations existing between her and Gt. Britain.

A. S. Ruthven
 Thos. V. Mortimer
 Jno. Dickinson
 Wm. Thomson
 James Grant
 A. P. Thompson
 Wm. Wood
 John Newland
 James Smith
 D. H. McDonald
 W. N. Lyon
 H. M. Ganmell
 William Purviss
 John Collins, a resident
 of The County of
 Houston.
 W. G. Dyer
 Robertin Hannay

R. B. Hannay
 Wm. M. Hudson
 Angus McKenzie
 James Denny
 Henry Bryant
 A. Waddington
 G. B. Scott
 John Scott
 Wm. C. Byrne
 Saml. Hyatt
 David R. Robertson
 Charles Daniel
 Wm. J. Wright
 Thos. Cooper
 William Bollant
 Henry Stephenson
 J. H. Grieve

[Endorsed] In Mr Consul Kennedy's Despatch, dated 8th July.
 1844. (No. 16.)

KENNEDY TO ABERDEEN³

Private.

Her Majesty's Consulate
 Galveston July 8th. 1844.

My Lord,

In a letter marked "Private" which I had the honor to address to Your Lordship on the 18th Ultimo, I observed, that "Among a Republican democracy, political secrecy is next to impossible."—A (printed) correspondence herewith enclosed,⁴ between Her Majesty's Chargé d'Affaires and the Secretary of State of Texas, affords evidence that this observation is not ill founded. The correspondence was published in the Texan Newspapers within about two Months from the date of the first of communications which it includes.

The rejection of the Treaty of Annexation, by the Senate of the United States, has disappointed the expectations of many in this country, and has from some elicited signs of irritation. A

³F. O., Texas, Vol. 10.

⁴A cutting from *The Galveston Civilian*, June 8, 1844.

Galveston paper. (the *Civilian*), of Saturday last remarks—"We have not yet had time to see what effect the rejection of the Treaty and other Measures for the Annexation of Texas by the United States Congress, will have upon the minds of the friends of the Measure, in this Country generally, but, in Galveston, as far as we have heard them express themselves, the prevailing opinion seems to be that the question has been closed forever, and that for Texas to entertain it further would be a degradation not to be endured."—As I mentioned in my letter of the 6th May to Captain Elliot (of which I transmitted a Copy to Your Lordship) "the European residents form a considerable proportion of the inhabitants of this place."

A well informed Correspondent writes to me from New Orleans on the 29th. Ultimo.—"The Subject of Annexation will be taken up again soon, and agitated with redoubled vigour, and not without probability of success; provided Texas cannot, in the meantime, be induced to withdraw her consent." There are Americans, of some influence, at present, on a visit to Galveston, who, while they declare themselves warm supporters of Mr Clay's pretensions to the Presidency, speak of the Annexation of Texas to the United States as an arrangement all but certain. One of these persons, an extensive Merchant of New Orleans, is about to establish a Sugar plantation in this Country, and to remove thither Slaves employed by him on a plantation in Louisiana, on the presumption that Annexation will speedily take place.

I enclose an extract from the Government Journal⁵ published at Washington on the Brazos, announcing the arrival there of Officers bearing communications from General Taylor, now in Command of the American troops on the Texan frontier. I also enclose, and place in juxta-position with the preceding, a published letter⁶ from the Legation of the United States in Mexico. The Galveston paper, in which this letter appears, states that General Murphy has promptly communicated this information to his Government; and also that "he has strongly represented to his Government the absolute necessity of checking this hostile Movement of Mexico, evidently made with a view of putting an end to all hope of Annexation, and to take vengeance on Texas for favouring

⁵A cutting from *The National Vindicator*, June 29, 1844.

⁶A cutting from *The Galveston News*, July 6, 1844.

any Negotiation on that subject with the United States." In addition to these indications, I notice that the Texan Administration Journal at Washington intimates—that the late Indian inroads were stimulated and aided by the Mexican Authorities on the Rio Grande. From all the Movements, it would not be unreasonable to infer, that a *case of armed intervention was in progress*.

The departure of General Murphy, Chargé d'Affaires of the United States, will, it is announced, take place in a few days, his successor having been appointed.—According to the information derived from the private Secretary of the French Chargé d'Affaires, M. de Saligny, that gentleman is to arrive at Galveston by the next Steamer from New Orleans.

The United States Brig of War "Somers" arrived off Galveston from Vera Cruz, on the evening of the 30th Ultimo, and sailed, it was said for Pensacola, on the 2d Instant—

The Indians have been defeated on the frontier, and the borders are undisturbed at present.—A successor to General Houston in the Presidency of Texas is to be chosen in September, and there are two Candidates in the field.—General Burleson, celebrated as a leader against the Indians, and Mr Anson Jones, who is now in Office as Secretary of State. As yet, the electioneering Campaign proceeds but languidly,—the question of Annexation being paramount in the Minds of the people.

William Kennedy.

The Earl of Aberdeen, K. T.

P. S. Persons supposed to be in the confidence of the Texan Government say,—that propositions have been made offering to secure the independence of this Country within Sixty days, provided Mexico be guaranteed against "Annexation," and the Ports of Texas opened to free trade with Great Britain and France.

The same persons also say that General Henderson, the special Envoy from Texas to the United States, has written to Counsel the people of this Country against taking any precipitate step, as the prospect of accomplishing the Measure of Annexation is still favourable.

W. K.

ELLIOT TO ABERDEEN⁷*Private.*White Sulphur Springs
Virginia July 10th. 1844.

My Lord,

In a kind private letter from Mr Clay to me, dated on the 29th Ultimo, reproaching me for not paying him a visit on my way to these Mountains, he observes "My predictions as to the fate of the Texas treaty before the Senate were fully verified, the decision of that body will vindicate the good faith and honor of the U. States"

"The Author of the Negotiations has totally failed in the object which unquestionably moved him to open it" (Mr. Clay means here the disunion of the Whig party and he goes on to say) "It could not secure him even the nomination of the Democratic Convention, nor with the treaty exert any material influence on the existing canvass. I consider the success of the Whig cause is beyond all doubt."

It has occurred to me that Your Lordship would be pleased to hear these views, and I hope, therefore, to be excused for this intrusion. Your Lordship will have observed from my despatches that I did not consider it suitable to avail myself of the permission to return to Europe in the condition of affairs which had come about, by the time that it reached me;⁸ neither have I liked to do so till replies to the intelligence of the failure of the treaty shall have reached me, either directly, or through Mr. Pakenham. In the mean time I am glad to find that Mr. Pakenham agrees with me in thinking there is no need for my return to Texas till we shall be further instructed from England.

Your Lordship is aware that I am ready for any service that may be charged to me.

Charles Elliot.

The Earl of Aberdeen, K. T.

⁷P. O., Texas, Vol. 9.

⁸Elliot, though recuperating in Virginia, presumably knew by this time (through Pakenham) of the determination to which Aberdeen had come in May, 1844, of preventing the Annexation of Texas. The "Murphy Memorandum," an outline of a plan by which England, France, and Mexico were to act in concert in prohibiting annexation had been drawn up by Aberdeen and the Mexican minister, Murphy, in London, on May 29, 1844. For text of the memorandum, see Adams, *British Interests and Activities in Texas*, 168-169. For paraphrased translation, see Smith, *The Annexation of Texas*, 389.

KENNEDY TO ABERDEEN⁹*Private.*Her Majesty's Consulate
Galveston July 29th. 1844.

My Lord,

In reference to a portion of my letter of the 18th Instant, marked "Private," and addressed to Your Lordship, I beg to communicate the following information, recently received from Mr Redmond, an English trader, resident at Corpus Christi.

It has been stated by Mr Redmond, that, in consequence of the unusually formidable character of the late Indian inroads, the residents of Corpus Christi had made urgent application for protection to the Government. The requisite assistance was promised, to enable them to repel any merely Indian incursion, and it was further intimated, by President Houston, to the party deputed to represent their situation, that if they had reason to construe the attempts upon Corpus Christi into a design originating in hostile dispositions on the side of Mexico, arrangements should be made for calling in a protective force from the United States.—Such are the leading points of the Statement furnished by Mr Redmond, who, notwithstanding his anxiety respecting the fate of his property at Corpus Christi, is too much opposed to "Annexation" to desire the presence of American troops within the limits of this Republic.

Captain Galan,¹⁰ a bearer of despatches from the Government of Mexico to the Government of Texas, arrived at Corpus Christi on the 5th Inst. He is still in this Country, the absence of President Houston in Eastern Texas having delayed his return to Matamoras.—I have been informed that the Communications of which he has been the bearer contain a formal Notice of the termination of the Armistice between Mexico and Texas.

The French Brig of War "Griffon," arrived off Galveston on the 17th Instant, some of her officers visited the town.—On the 21st Instant, the Brig went to sea again. The Chargé d'Affaires of France is still absent.

The United States War Schooner "Flirt," sailed from Galveston

⁹F. O., Texas, Vol. 10.

¹⁰Mentioned in July, 1843, as a bearer of communications from General Woll to President Houston. Garrison, *Diplomatic Correspondence of the Republic of Texas*, III, 1114, in *Am. Hist. Assoc. Report*, 1908, II.

on the 22d Instant. The officer in Command alleged that he had delayed her departure for the purpose of ascertaining the object of the "Griffon's" visit, and watching her movements.

General Murphy, late Chargé d'Affaires from the United States died in Galveston on the night of the 12th Instant, and was buried on the 13th. In compliance with the wishes of the provisional representative of the United States Government in this Republic. I attended the funeral as a pall-bearer. This is the third American Minister who has died in Texas within the last four years.

The project of placing a Consular Officer of the United States at Corpus Christi (mentioned in my "Private" letter to Your Lordship of June 11th) was favoured by General Murphy, and may, perhaps, with his decease, for the present pass away.

On Friday, the 26th Instant, General T. A. Howard, the newly-appointed Chargé d'Affaires from the United States to Texas, arrived here from New Orleans, by the Texan, Merchant brig "Rover."—I called upon General Howard, and was told that, apprehensive of his health, he had left the town, and had proceeded some Miles down the Island, where he intended to remain for a short time,—until, it is probable, the sickness now prevailing had abated.

The sickness prevalent has been pronounced Yellow Fever by Medical authority. It was—there is no room to doubt—brought to Galveston from Vera Cruz, by the United States War Steamer "Poinsett," when she entered this Harbour on the 7th of June, as reported in my "private" letter to Your Lordship of the 11th of that Month. Part of her crew were attacked by the disease at Vera Cruz, and some of them still suffering under it, were landed here—there being, as yet, no Quarantine Regulations for this Port. The result has been disastrous—There have been many deaths, and I have heard a Medical estimate that one out of every ten of the whole population has been stricken by fever. The United States Consul for Galveston,—who—some fourteen days ago attended with me the funeral of the late American Minister, expired at 6 o'clock on yesterday morning, and in the evening of the same day I followed his remains to the grave.

There are three British Merchant Vessels in Harbour, and sickness has pressed severely on their crews. The Master of one, and the carpenter of another have died. Medical attendance is very

expensive, and Nurses for the sick are difficult to be procured. For about twelve day's Medical attendance, Medicine, etc., during my illness, in the early part of the year, I had to pay above Sixty five pounds Sterling.—It might be well if Consuls, under such circumstances, were authorized to Contract for attendance on British ships.

With the exception of a female servant, all in my house have hitherto escaped the existing fever. Anxious, as I am, to leave no arrear in my official books, to lay a good foundation for the future conduct of the business of this Consulate, and to note the progress of events, at this seemingly critical period, I have, for the present, relinquished the idea of fixing any specific time for recruiting my strength at a distance from my post. I propose, therefore, to continue this correspondence, until otherwise directed, during the absence of Her Majesty's Chargé d'Affaires.

The Steamers that ply annually between Galveston and New Orleans, have withdrawn from the station, for the Season of Southern-Sultriness and inactivity. I cannot in consequence, calculate on possessing the means of transmitting intelligence from this place with equal regularity as heretofore.

William Kennedy.

The Earl of Aberdeen, K. T.

P. S. General Howard, the recently arrived Minister from the United States, has sent me a card, in return to mine by the Hanseatic Consul at this Port,—with expressions of regret, at his inability to return my call, in consequence of being obliged to leave Galveston by Steam-boat today for Houston, on his way to the seat of Government.

W. K.

BOOK REVIEWS AND NOTICES

A History of the Western Boundary of the Louisiana Purchase, 1819-1841. By Thomas Maitland Marshall, Ph. D. [University of California Publications in History, Volume II] (Berkeley: University of California Press, 1914. Pp. xiii, 266. \$2.00.)

This is a history of the diplomacy of the Louisiana-Texas boundary. The subject has been approached from various angles by numerous investigators, but this is the first consecutive survey covering the whole period from the emergence of the Texas question in United States history to the settlement of the boundary with the Republic of Texas in 1841. Three chapters review the boundary negotiations with Spain, closing with the treaty of 1819; and, despite the fact that Dr. Marshall is here following in the footsteps of Henry Adams, his treatment is quite the clearest and most detailed that we have. Seven chapters present the varied phases of our boundary relations with Mexico: that is, the negotiation of the unratified treaty of 1828; the efforts of Adams and Jackson to buy Texas; the activities of Colonel Anthony Butler, our unscrupulous chargé d'affaires in Mexico; the question of neutrality during the Texas revolution and the occupation of Nacogdoches by United States troops in the summer of 1836. The last two chapters trace the boundary relations between the United States and Texas—an aspect of the question that has been left heretofore almost untouched by historians. Thirty maps illustrate every diplomatic shift in the development of the boundary line.

In two paragraphs of the Preface the author indicates "some of the more important phases of the subject in which he has differed with accepted theory or in which he believes that he has added somewhat to the history of the subject. [1] He finds that Napoleon decided to sell Louisiana several months earlier than the date set by Henry Adams. [2] The conception of the size of Louisiana gradually developed in the mind of Jefferson; the conclusion which he reached became the basis of American diplomacy

for half a century; the evolution of this idea and its importance have not been fully appreciated. [3] The sale of Louisiana by France having been consummated, Spain carried out an effective plan for restricting the limits of the purchase; this has never received adequate treatment. [4] The reason for Wilkinson's betrayal of Burr and for entering into the Neutral Ground Treaty has been the subject of much discussion and various theories have been advanced; the truth of the matter seems to lie in the fact that Wilkinson sold his services to the Spanish government while he was stationed on the western frontier. [5] The activity of Spain in making a boundary investigation, which was carried on even during the Napoleonic occupation, has not previously received adequate notice. [6] Historians have usually accepted the view that the claim to Texas was given up in exchange for Florida. The writer believes that the purchase of Florida was a foregone conclusion from early in 1818, and thereafter Adams yielded the claim to Texas and advanced a claim to the Oregon country; it would perhaps be more correct then to say that Texas was given up in exchange for Spanish claims to the Oregon country.

"The writer disagrees fundamentally with the views of some historians regarding the purity of Andrew Jackson's motives concerning Texas. The operations of General Edmund P. Gaines on the Sabine frontier in 1836 have never before been examined critically. Lastly, the Sabine boundary question during the period of the Texas republic has heretofore been dismissed without comment."

These points are suggestive, but several of them seem to the reviewer to rest on insufficient evidence: It is always a safe assumption that Wilkinson sold his services to the Spanish government whenever he could induce it to buy them, but the anonymous letter (pages 30-31) from the *New York Spectator* of June 7, 1807, in Monette's Mississippi Valley hardly affords a conclusive explanation for Wilkinson's desertion of Burr. At best it seems to leave the question pretty much where it was before. Even granting its accuracy, why did Wilkinson now see the chance of greater profit in alliance with Spain than in pursuing his earlier plans with Burr? It is true, as Dr. Marshall shows (pages 58-59), that Adams tried to get the 41st instead of the 42d parallel for the boundary west of the mountains, and that the United

States in its negotiations with Great Britain in 1826-1827 and especially in 1845-1846 made a good deal of the title acquired from Spain; but it seems likely that Adams would have confided to his faithful diary or divulged in his later speeches any deliberate purpose to exchange our claims to Texas for those of Spain to Oregon. Dr. Marshall has examined with minute and critical care all the printed sources on President Jackson's relations to the Texas question. Some of this evidence is susceptible of interpretation unfavorable to Jackson's straightforwardness and uprightness, but in the opinion of the reviewer such interpretation requires somewhat forcible wrenching of the plain significance of the documents and often ignores the exigencies under which they were written. One or two illustrations of this must suffice.

Remembering that General Gaines on the Sabine frontier was from four to five weeks distant from Washington, it seems obvious that a large measure of discretion had to be allowed him—especially as the author shows, more clearly than has ever been done before, the real danger of Indian disturbances in that quarter. This being the case, it is difficult to find in Cass's instructions, quoted on pages 158-159, 164-165, and 167, the double meaning that Dr. Marshall perceives. It is perfectly true that Gaines had very little discretion, but he was the Commander of the Southwestern Division of the United States army, and his employment on the Sabine in 1836 does not prove the administration insincere in its protestations of neutrality. Moreover, Gaines himself does not seem to have held at this time that settled determination which the author suspects to use his position to promote war with Mexico and assist the Texans. His meagre correspondence in the Adjutant General's office of the War Department at Washington shows that during the whole summer he was momentarily expecting to ask for a leave of absence and turn over the command to some one else. Too much weight seems to the reviewer to be given David Lee Child's irresponsible statement of President Jackson's intention to seize Texas (page 115); a cautious person will not be disposed to contend that a declaration of war was "beyond the range of possibility . . . if Santa Anna had continued his victorious career in Texas" (page 199); but he would risk little in asserting that the book presents slight evidence that it was within the range of *probability*; and the order to Gaines to

enforce neutrality (page 201) would not be so amusing if we were told—as was the case,—that similar orders went to all officers, civil and military, wherever a violation of the law of April 20, 1818, seemed possible. Motives of governments, as of individuals, are rarely simple enough or transparent enough to permit dogmatic analysis, and it seems to the reviewer that Dr. Marshall may have failed at times to consider all the complex factors in the situation. The value of the book does not depend, however, on these matters of opinion. It is a comprehensive and scholarly survey of the whole Sabine boundary question, based on an independent evaluation of all the scattered printed sources. The work is well done and will prove alike useful to the general reader interested in the history of the Southwest and to college classes studying that section.

EUGENE C. BARKER.

The Political Shame of Mexico. By Edward I. Bell, formerly editor and publisher of "La Prensa" and "The Daily Mexican" of Mexico City. (New York: McBride, Nast & Company, 1914. 422 p. \$2.00.)¹

The author was editor of a daily newspaper, head of a considerable news-gathering system, and acquainted with most of the important figures of Mexico. His opportunities to know and intelligently interpret the past four years of troubled Mexican history have been unusual. His most important material was gotten "not from books, for none contain it, but from men." José Ives Limantour read proof of part of the book and discussed freely, but not enlighteningly, certain phases of the Diaz collapse; and the author has evidently been in close touch with some authorized spokesman of the Madero clan. The book is thoughtful, pungently written, suggestive, and fascinating. Mr. Bell knows his Mexico, where "things are never what they seem," and his picture is atmospherically correct. As a contemporary interpretation of an immensely intricate subject by a well-informed and evidently fair-minded observer who has made an effort to check his observations, the book ought to be a useful guide to future investigations.

¹This review is reprinted from *The Mississippi Valley Historical Review* of June, 1915.

In our present state of knowledge, however, many of its conclusions must be accepted simply as opinion, and some of them will be extremely difficult, if not impossible, either to prove or disprove.

As the author sees it, Mexico began to outgrow Diaz in the nineties, but business interests supported him because they thought him a good policeman. In 1910 they no longer trusted his ability, and the crash came. Many American and some Mexican business men hoped that the inevitable confusion would lead to intervention by the United States. The United States, recognizing the fact, and not the motive, of the general opposition, made no effort to save the Diaz régime. But Madero was an accident, due to the unexpected strength of an almost real popular opinion and to the mismanagement of Limantour, the strong man of the Diaz government. "Many stories have been printed and direct charges made that revolutionary capital to the amount of millions was furnished by American corporations to aid Madero. The stories were fables and the charges unfounded. There was logic behind them but no facts." The only foreign money used in the revolution was \$375,000, the first payment by a French company on a railroad concession that Gustavo Madero controlled in Zacatecas. No important business concern supported Madero before or after his election. All regarded him as impractical and unsafe. But neither they nor the active conspirators formulated any concrete plan for preventing chaos when Madero should fall.

It is not charged that any business corporation influenced the attitude of the United States government toward Madero, but it is pointed out that three great companies which had reason not to welcome the Madero ascendancy were in very close touch with the Taft administration. A corrupt connection need not have existed and is not implied. These corporations were certainly in a position to give information on Mexican conditions, may naturally have offered it, by request or unasked, and it would certainly have been unfavorable to the Madero government—a view which would not be modified by the official reports of Ambassador Wilson. As a result of misinformation from these or other sources, "the government at Washington, if one may judge by its acts, has seen on the far side of the Rio Grande nothing but a series of illusions." Sorely hampered though he was by the blundering movements of the United States, the nagging of Ambassador Wilson, and the

obstructive tactics of doctrinaire congressman, Madero almost succeeded. With very little well directed encouragement, or even with absolute non-interference, from the United States, he would have succeeded.

The author is convinced that the United States must ultimately come to forcible intervention, and thinks that it should have done so at Madero's fall. He is inclined to find excuses for the policy of the Wilson administration in the inheritance which it received from Mr. Taft. One closes the book with increased respect for Madero, and with assurance of the impractical nature of his Utopian dreams somewhat shaken; but the conviction of old Evaristo Madero, who died at the beginning of his grandson's revolution, is likely to be the verdict of history--"that old gentleman had seen Mexico grow from a chaotic mass to a well co-ordinated system, and he believed that another generation or two must pass before radical reforms could be introduced."

EUGENE C. BARKER.

Baegert's Nachrichten: Its Independent Authorship.—The last few decades have been a period of assiduity among the multitudes of historical collectors, yet there inevitably remain certain materials that escape the most conscientious workers. One of these is the work of Father Baegert, missionary and ethnographer. Though his career is fairly well known, his labors have hardly been accredited with the honor that is due them.

John Jacob Baegert was born at Schlesstadt in Lower Alsace on November 22, 1717. We learn from the Jesuit records that he came from a family which boasted of several members of religious orders. After studying philosophy, he entered the society of Jesus at Aschaffenburg in 1736, and, in the capacity of a missionary, departed for America thirteen years later. His field of work was in Lower California, where he remained until the expulsion of the Society in 1767. Baegert embarked at Loreto on his return journey, and after a short stay in the Spanish monastery of the Minorites retired to the Jesuit college at Neustadt, where his remaining days were spent. In 1772 he published a book which contains a description of the California Peninsula. This book, which is now very rare, bears the title, "*Nachrichten von der Amerikanischen*

*Halbinse! Californien: mit einem zweifachen Anhang falscher Nachrichten. Geschrieben von einem Priester der Gesellschaft Jesu, welcher lang darinn diese letztere Jahre gelebt hat. Mit erlaubnis der Oberen. Manheim 1772.*¹

There are a number of conflicting opinions concerning Baegert and the *Nachrichten*. We find that in Bancroft's mind there was uncertainty as to whether Baegert ever was in Lower California.² In this respect, it is sufficient to note that Baegert himself mentions in the text that he lived in California under 25 degrees, and 12 leagues distant from the Pacific coast, opposite the Bay of Magdalena. These descriptions lead to the conclusion that Baegert was at the Mission of San Ignacio. Moreover, there was no reason for Baegert to make an untrue assertion in this regard.

In the *Biblioteca Hispano-Americana Septentrional* of Beristain y Souza there is a note to the effect that the *Nachrichten* was printed in Monaco. Medina, in his *Biblioteca Hispano-Americana*, corrects the statement and points out that the book bears the inscription of Manheim. Medina, moreover, states that the *Nachrichten* is a translation of Venegas' *Noticia de la California*.³ This opinion he bases upon the catalogue of the British Museum, which, in fact, says nothing to that effect, but gives merely the title of the book.

That the *Nachrichten* is not a translation is shown by the contents, by the arrangement, and particularly by the criticisms of the *Noticia* in the *Nachrichten*. Baegert accuses the author of the *Noticia* of having given by far too favorable, and, in many instances, utterly incorrect accounts of the country, its productions, and its inhabitants. In another place Venegas mentions fishing nets made of a *pita* plant. According to Baegert no such plant exists in California, and the word "*pita*" only signifies the thread twisted from the aloe. In refuting Venegas, Baegert hardly ever refers to the original Spanish work, nor mentions the name of its author, but attacks the French translation, published in Paris,

¹Account of the American Peninsula of California; with a two-fold Appendix of false Reports. Written by a Priest of the Society of Jesus, who recently has lived there for many years. Published with the Permission of the Superiors. Manheim, 1772.

²Bancroft, *North Mexican States*, I, 469. See also page 478, where Bancroft makes the positive assertion that Baegert was in California.

³Andrés Burriel is the real author of the *Noticia*.

1767. He possibly did so through policy, the author of the *Noticia* also being a Jesuit. The mention of the "good and bad" principle as prevailing among the Pericues and Cotchimes is emphatically refuted by Baegert. Of the many more proofs that the *Nachrichten* is not a translation of the *Noticia* which might be given, one will suffice. To Father Baegert students may be thankful for having the philological interest to preserve and explain a specimen of the Waicuri language, something that does not appear in Venegas. The *Nachrichten* of Baegert has served to correct the over-favorable description of conditions in California. Not only is it the work of one who actually resided in Lower California, but it is also an independent and original contribution.⁴

JACOB H. HOFFMAN.

Reise-Skizzen in Poesie und Prosa. Gesammelt auf einer siebenmonatlichen Tour durch die Vereinigten Staaten von Nord Amerika. Von Peter August Moelling aus Neustadt a. W. Rheinpfalz, Bayern. Illustrierte Ausgabe. Galveston, Texas. Gedruckt in der Office des "Apologeten" und daselbst zu haben beim Verfasser.

This day, May 5th, I have found amongst a lot of old German religious books *Sketches of Travels (Reise-Skizzen)* by R. A. Moelling, published at Galveston, octavo, pp. 384. There is no indication of the year when this book was published; it evidently was not copyrighted.

From pages 1-16 are chapters relating to a trip from Galveston to New Orleans with a description of the latter.

The author occupied several pulpits while in the city. He went north as far as Minnesota, preaching as he went. There are many excellent portraits of ministers of his sect and a view of the Falls of Minnehaha. He traveled all over the Eastern States, then went to Indiana and Ohio, at which time he writes a poem on the Mason and Dixon line; he then returns to New Orleans by way of the river, and gives an account of the Lutheran ministers at that time preaching in the city.

Pages 328-343 are descriptive of this second visit; in the pages

⁴For numerous other examples of inaccurate reports on California consult pages 313-358 of the *Nachrichten*.

from 350-384 he describes a tour to Texas. The book is extremely interesting.

WILLIAM BEER.

The volume of *Proceedings of the Mississippi Valley Historical Association, 1913-1914*, is just from the press. Besides the official proceedings of the seventh annual meeting of the Association at Grand Forks, North Dakota, in May, 1914, the volume contains a number of articles dealing with various phases of Western history. Unfortunately, an article on "Texas Trails" is thoroughly inaccurate and unreliable.

The May number of *The Texas History Teachers' Bulletin* (Volume 3, No. 3) begins the publication of "Source Readings in Texas History" for children in the grades. The selections in this issue, edited by Eugene C. Barker, are descriptive of life in the early colonies and are taken from *A Visit to Texas* (anonymous), published in New York, 1834, and from David Woodman, Jr., *A Guide to Texas Emigrants*, Boston, 1835. The *Bulletin* is edited by the history faculty of the University of Texas, and is published by the University.

State Documents for Libraries is the title of a bulletin of 163 pages by Ernest J. Reece, published May, 1915, by the University of Illinois. It deals with the character, "distribution, and bibliography of the official literature of the various States." It will be extremely useful to librarians who are interested in keeping up their files of official State publications.

The Tennessee Historical Society has begun the publication of a quarterly, *Tennessee Historical Magazine*, edited by Professor St. George L. Sioussat of Vanderbilt University. The first number, which was issued in March, contains "Colonel Burr's First Brush with the Law," by W. E. Beard; "The Indian Policy of the Federal Government and the Economic Development of the Southwest," by Donald L. McMurry; and documents and historical notes and news.

The *Galveston News* of December 20, 1914, contains an article describing how the news of the victory of San Jacinto was carried to President Burnet at Galveston. It is a summary of a pamphlet written by Captain R. J. Calder and published by Master Gerald Waldo Hayes, Galveston, 1877. Its title is, *The Story of the Messengers of San Jacinto! How the News of the Battle that Freed Texas was Conveyed to President Burnet at Galveston. As told by Capt. R. J. Calder, one of the Messengers.*

Austin Yesterday and Today is the title of an excellent illustrated sketch of the city of Austin, Texas, by Pearl Cashell Jackson. It is issued with the compliments of the American National Bank of Austin.

"Local historical research in one public library" by Lillian Gunter is the title of a paper published in *Public Libraries* for May, 1915. It deals with the history of Gainesville and Cooke county, Texas.

NEWS ITEMS

Uriah Lott, builder of three of the principal railroads of Southwest Texas, died at Kingsville, March 29, 1915.

Harry Tracy died at Tulia, Texas, March 29, 1915. His name is successively identified with the Farmers' Alliance, the Populist Party and the Farmers' Union in this State. He was an effective stump speaker. A brief sketch of his life appeared in the *Dallas News* of March 31.

Judge T. J. Brown, Chief Justice of the Supreme Court of Texas, died at his home in Sherman, May 26, 1915. He was born in Jasper county, Georgia, July 24, 1836, and began the practice of law in Texas in 1857. He served two terms in the Legislature, 1888-1892, became Associate Justice of the Supreme Court in 1893, and Chief Justice in 1911.

Mrs. Mary Autry Greer died at Beaumont, Texas, May 26, 1915, at the age of eighty-eight. Her father, Micajah Autry, was one of the heroes of the Alamo. A brief sketch of Mrs. Greer may be found in the *Houston Post*, May 31, 1915.

The courthouse of San Jacinto county, a wooden building erected in 1878, was destroyed by fire March 31, 1915. The records in the offices of the county judge, tax collector, county attorney and county surveyor are reported destroyed; the deed records were protected by vaults.

THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XIX

OCTOBER, 1915

No. 2

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

ADMINISTRATIVE PROBLEMS OF THE CONFEDERATE POST OFFICE DEPARTMENT

I

L. R. GARRISON

I. ORGANIZATION AND RELATED PROBLEMS

When John H. Reagan, delegate from Texas to the Provisional Congress of the Confederate States, on March 6, 1861, accepted his appointment as postmaster-general in Jefferson Davis's cabinet, he was first confronted with the task of providing, in its entirety, a central office force for the general administration of the great postal system which had not yet been taken over from the United States government. The energetic Texan lost no time. On the way home from his meeting with the President, Reagan met H. P. Brewster, a lawyer of South Carolina, whom he immediately engaged to go to Washington on business concerning the organization of the post office department. That same day Brewster was sent to Washington with letters to various important persons, among whom were St. George Offutt, chief clerk in the office of the sixth auditor; Benjamin Clements, chief clerk to the postmaster-general; Joseph Lewis, head of the bond division in the post office department; Captain Schwartzman, head of the dead letter office; Mr. McNair, of the finance bureau; and Mr. Hobby, the third assistant postmaster-general. These men Reagan asked to accept positions in the Post Office Department of the Confederate States, and to bring South with them "copies of

the last annual report of the Postmaster-General and every form of the Department, together with postal maps of the Southern States."¹

After his appointment on March 6, 1861, Reagan had to procure offices and furniture for the use of the department.² The first office was a room in the Exchange Hotel in Montgomery, and for some time the office staff was composed of two assistants.³ Practically all the men from Washington came as requested, bringing with them the information necessary for the organization of the postal service in the Confederacy, including a postal map of Texas, the only Southern state for which a map of this kind could be procured.

The new men were assigned positions, and other necessary appointments were made. A school for the information of the officers and clerks of the department was then organized, holding sessions from eight to ten o'clock in the evenings. As soon as the books were at hand, the appointment books were made up,

containing the names of the postmasters . . . [in the Confederacy], with the amount of receipts of their several offices, and showing whether they were draft or collection offices, and also showing the names and addresses of the route and special agents of the Department and the amount of compensation.⁴

Complete organizations for the contract and finance bureaus were also prepared in proper detail.

In addition to the office of chief clerk, there were, as subdivisions of the post office department, five distinct offices or bureaus, headed by as able men as the postmaster-general could procure "from the most experienced men of Southern birth who had resigned office at Washington because of the accession of Lincoln."⁵ The duties of these men corresponded to those of the assistant-postmasters-general at Washington; but their offices were desig-

¹Reagan, *Memoirs*, 124-125; Reagan to John R. McPherson, March 7, 1861, Reagan to H. P. Brewster, March 9, 1861, copies in *Letter Book of the Postmaster General of the Confederate States*, No. I, p. 50.

²*Report of the Postmaster General of the Confederate States*, April 29, 1861, p. 1.

³Semi-Weekly *Richmond Enquirer*, Dec. 24, 1861.

⁴Reagan, *Memoirs*, 125.

⁵Semi-Weekly *Richmond Enquirer*, Dec. 24, 1861.

nated as the contract, appointment, inspection, and auditor's offices, and the finance bureau, in which were included the dead letter division and the division for the postage stamps and stamped envelopes.⁶ Of the progress of organization by the time Congress met again in May, Reagan says:

. . . I was able to state that the Post Office Department was as completely organized as that at Washington, with two proposed improvements, and that I was ready to inaugurate the postal service of the Confederacy.⁷

During the first months of the Confederacy's existence the postal system of the United States had remained intact in the seceded states and had continued its operations without hindrance on the part of the state or the Confederate authorities. For the new government to have interfered before it was ready to set up a fairly complete system of its own would have resulted only in grave inconvenience to both people and government without any compensating benefit. On May 13, 1861, Reagan issued his proclamation setting June 1 as the date on which the Confederate post office department would assume control of the postal service. He directed all postmasters, route agents, and special agents within the Confederacy "to continue in the discharge of their respective duties," under his direction "in strict conformity with such existing laws and regulations" as were not "inconsistent with the laws and constitution of the Confederate States of America" and such further instructions as might thereafter be issued by his direction. All the employees were directed to forward their names and position to the appointment bureau for new commissions. The postmasters were ordered to render to the department at Washington their final accounts and vouchers for postal receipts and expenditures up to May 31, together with all postage stamps and stamped envelopes belonging to the United States post office department. They were also required to retain subject to the order of the postmaster-general of the United States for payment of mail service in the Confederacy, all revenues accruing up to the first of June. The contractors were required to

⁶*Report*, April 29, 1861; *Semi-Weekly Richmond Enquirer*, Dec. 24, 1861.

⁷Reagan, *Memoirs*, 125-127; *Report*, April 29, 1861, pp. 1-4.

forward, without delay, the numbers of their route or routes, and the nature of the service thereon, the schedules of arrivals and departures, the names of the offices supplied for present services, together with their address, directed to the chief of the contract bureau.

And, finally, it was ordered that until a postal treaty should have been made between the United States and the Confederacy, postmasters should not be authorized to collect postage on mail matter to or from the United States; and that until postage stamps and stamped envelopes were procured for the Confederate postage, it should to be paid in money.⁸

All property pertaining to the postal service was ordered returned by June 1, except mail bags, and locks and keys. Reagan explained that

this measure was necessary, if any adjustments of accounts was to follow the termination of hostilities and the coming peace, and was also necessary in order that there should be no time when they [the postmasters] were not responsible to one Government or the other, and also because if they had not been held responsible in this way, the temptation to embezzle would have been offered and might have led to serious consequences.⁹

The attitude taken here shows not only Reagan's fine regard for precision and law, but also the tendency of the Confederacy toward strict and literal compliance with the rules of law and justice,—the special desire at this time of the new nation to retire from her old alliance with clean skirts. Whatever the views held by the North, it is significant that the postmaster-general of the United States chose to discontinue the postal service in the seceded states on June 1, the date which Reagan's proclamation had fixed for the assumption of control by his own department. Concerning this Reagan remarked:

Whether this was by accident or design, I am not informed, but I think it was most probably the result of a purpose to meet the equitable design mentioned in my proclamation, and in order to avoid a clash in the service and to maintain the responsibility and enforce the obligations of those connected with the service.¹⁰

⁸Reagan, *Memoirs*, 131-132; *Richmond Examiner*, May 24, 1861.

⁹Reagan, *Memoirs*, 132; *Report*, Nov. 27, 1861, p. 41.

¹⁰Reagan, *Memoirs*, 132-133.

In addition to the work of organization, and inseparably connected with it, there were practical problems of administration which needed to be attacked at the earliest moment possible. Advertisement had to be made for all kinds of postal supplies; facts had to be procured upon which to base estimates of revenues and expenditures, first on a peace basis, and next on a war basis; the work was greatly augmented by the addition of the last four states to enter the Confederacy; and the delay occasioned by the removal of the capital to Richmond added no inconsiderable burden to the already overtaxed shoulders of the young department. All these things had to be undertaken with a view to assuming control of the postal service on the first of June¹¹

The department did formally assume control of the postal service on the date announced; and so little did the people appreciate the difficulty of inaugurating such a sweeping change that complaints of irregularities of service appeared as early as June 18, some of them coming from so disrupted a portion of the country as that near Bull Run.¹² But while the general public was finding the faulty service a source of much irritation, the department was struggling with difficulties not generally comprehended until some time later. As a Texas newspaper expressed it:

When Mr. Reagan took the office of Postmaster-General, he had to make it up out of nothing. What information he could get from the General Post Office at Washington had to be got by stealth. This, of course, was necessarily meager, and unsatisfactory. . . . The Post Office Department is very justly said to be an institution that no one feels but in its failures. Is it to be wondered at that our Postmaster-General did not perfect a vast and intricate business in a day? Is it to be wondered at that it is not yet perfect? Has he not in fact accomplished wonders in bringing as much order as he has out of chaos?¹³

Reagan's own statements of his difficulties are no less interesting. The United States Congress failed to appropriate any funds for the last half of the fiscal year ending June 1, 1861, for the Southern contractors, and, accordingly, the contractors went un-

¹¹See Semi-Weekly *Richmond Enquirer*, April 6, 1861; *Report*, April 29, 1861, pp. 9-12, Nov. 27, 1861, p. 4.

¹²Semi-Weekly *Richmond Enquirer*, June 18, 1861.

¹³The *Houston Tri-Weekly Telegraph*, Jan. 6, 1862.

paid for six months. The postmasters were not so affected, as they deducted their own expenses and salaries before returning account to the United States Government. But the contractors, having exhausted their credit at the end of this time,

were compelled either to abandon their routes or perform imperfect service. . . . During the period which intervened between the secession of the several states and the assumption by the Confederate States Government of its postal affairs, the entire service became demoralized and partially broken up, as contractors found no certain provision made for the payment of their services during that period; and there was to a great extent, an absence of responsibility in the performance of the duties of both contractors and postmasters, as they do not recognize the authority of the United States Government, and the Confederate Government had no control of the service prior to the first of June.¹⁴

After Mr. Reagan proposed to continue all contractors in the Confederate service, many of them appeared desirous of remaining contractors, but without contracts, in order that they might leave the service as they pleased. At the same time they continued to demand pay, and sometimes higher pay, for which some expected to render an inferior service. Many routes ceased to be profitable, and numbers of stage contractors, being without contracts, abandoned their routes entirely. As these stage routes were frequently trunk lines, great confusion resulted. "In some cases advertisements for proposals . . . met with no response, or, if responded to, it was by bids so extravagant and unreasonable as to preclude their acceptance."

Numerous contractors, though exempted by law, joined the army, and left the service "in the hands of careless or incompetent agents"; and even where the service continued, great delay was encountered "in obtaining contracts to ensure its faithful performance. . . ." Frequently, no notification of a change was made, and postmasters and contractors were unexpectedly found in the army. In some cases, private means had been furnished; but not being under the control of the department, the service was "irregular and imperfect." Even where postmasters remained, it was hard to get from them the responses necessary to enable the department to reappoint them or to appoint others in

¹⁴*Report*, Nov. 27, 1861, p. 11.

their stead; and inaccuracy in the execution of their bonds delayed the issuing of commissions to many of those who received appointments.¹⁵ When so much of the service was out of direct control, and so many had failed to make contracts, it was impossible to give out the usual collection orders, for these were issued only to persons legally authorized as government agents. For some time, then, the department had trouble in collecting its revenues, and could not be quite sure how much they would amount to.¹⁶

Other routine business of the department was hampered by the scarcity of stationery and supplies. The very blanks to be used were procured with the greatest difficulty. When the postmasters applied for "letter balances," the central office could not supply them because they were not manufactured south of Boston. Paper was very scarce in the South, and well-equipped printing plants were hard to find. The first contract printer for the department, John H. Seals, of Atlanta, who obtained a contract in April, 1862, so embarrassed the department by repeated failures to fill orders, that his contract was annulled in November. Another contract was then let to Ritchie and Dunavant, of Richmond, who retained it to the end.¹⁷ In 1863, Postmaster-General Reagan sent the equivalent of ten thousand pounds to England to be used there for the purchase of stationery, marking stamps, and dies.¹⁸ In the Confederacy, twine and the paper for blanks and wrapping became almost unobtainable at the price which the department could spare from its insufficient revenues. Paper of certain grades rose from ten cents a pound in 1861 to one dollar a pound in 1863, and some of the mills asked even more. Consequently, the scarcity of blanks was such that the department could not supply the demand.¹⁹

¹⁵*Report*, Nov. 27, 1861, pp. 11-12, 19.

¹⁶*Report*, Feb. 28, 1862, p. 12.

¹⁷*Report*, Nov. 27, 1861, p. 19; Feb. 28, 1862, pp. 7-8; Jan. 12, 1863, p. 12.

¹⁸See below, under *Relations with the Treasury Department*.

¹⁹*Report*, Dec. 7, 1863, pp. 12-13.

2. POSTAGE AND POSTAGE STAMPS

The postal laws of the Confederacy were, in the main, identical with those of the United States. The Confederate Constitution required that the post office department should pay all of its expenses out of its revenues after March 1, 1863. The postage rates were somewhat higher than in the United States, and the franking privilege was practically abolished.²⁰

It was a comparatively simple thing to enact laws prescribing the rates of postage, authorizing the postmaster-general to procure postage stamps, and restricting the franking privilege; but it was another thing to put these legislative enactments into effect. Owing to peculiarities in business conditions, vexing questions of a practical nature, presumably crushed to earth, continued, like Truth, to rise again.

Foreseeing some difficulty in procuring postage-stamps and stamped envelopes, Congress provided that until they could be had, the postmaster-general might order the postage to be pre-paid in money, under such rules and regulations as he might adopt.²¹ But so rapidly was coin withdrawn from circulation in the Confederacy, that the payment of postage became very difficult. In August, 1861, Congress made treasury notes receivable, in sums of five dollars and upwards, in payment of postage stamps and stamped envelopes. This did not help matters much, for the first stamps were not delivered until October, and then, as we shall see, in insufficient quantities.²² Much dissatisfaction grew out of the exaction of gold and silver in payment of postage. Aside from the indignant demands for stamps, other results were: (1) a strong demand that treasury notes should be made directly receivable for postage, as well as for stamps and stamped envelopes; (2) charges of unfairness because postmasters and post office employees were receiving as salaries part of the coin paid in at the offices; and (3) the issuance by postmasters of private or local postage stamps.

²⁰*Report*, Nov. 27, 1861, p. 41; *The Constitution of the Confederate States of America*, Art. 7, Section 8; Schwab, J. C., *The Confederate States of America*, 247; *Acts Provisional Congress, C. S. A., 1st Sess.*, pp. 35, 36; 2d Sess., p. 110.

²¹*Report*, Nov. 27, 1861, p. 39.

²²*Report*, Nov. 27, 1861, p. 25.

In New Orleans it was argued that the treasury notes were receivable for other Government dues, and that certainly they should be received for postage. The postmaster there, Mr. Riddle, said that postage had never been considered as coming under the head of public dues, and that Congress alone had control of the matter. He referred to the law of August 30, but he said that no Confederate stamps had yet been furnished his office. As to misuse of specie, Riddle said he deposited that revenue with the assistant treasurer at the mint every Saturday afternoon. Over the payment of employees in specie there seems to have been some conflict of criticism. From Riddle's letter to the *New Orleans Bee*, November 27, 1861, one must assume that the *Bee* had charged the department with paying its salaries in treasury notes, while revenues were received in coin:

You are under the belief that the Post Office employees are paid in Treasury notes. The Fact is, they are invariably paid in specie; and have been so paid since the bank suspension. The contractors, route agents, and other outside agents of the Post Office Department, are paid by drafts on the Assistant Treasurer, and not by the Postmaster.

Then the *New Orleans Delta*, November 29, ignoring the implication in the last sentence quoted from Mr. Riddle's letter, demands the reason "why, of all work for the Government, only Postmasters and their employees, mail contractors, etc., are paid in gold and silver?" It adds: "The system is unreasonable, and inequitable, and there should be a speedy end of it." The *Delta* exonerates Riddle from misapplication of the specie paid in, but thinks

the public might reasonably ask why it is the Post Office Department compels them to discount the Government notes, and pay twenty-five per cent more for Dr. Riddle's private stamps than the Confederate stamps?²³

We have no satisfactory reply to this last query; and Judge Reagan, late in his life, made these statements:

No authority was conferred officially on the postmasters to issue

²³Quoted in the *Houston Tri-Weekly Telegraph*, Dec. 9, 1861.

stamps. Such stamps as were issued by them was done [sic] on their own responsibility.²⁴

Yet we find, in the middle of 1862, frequent warnings to Texas postmasters that their own stamps would not send a letter "a mile beyond the Mississippi."²⁵

Now, on the very day that Postmaster Riddle of New Orleans issued his letter defending the actions of the post office department, Postmaster-General Reagan asked Congress to make treasury notes directly receivable for postage. This Congress did, December 23, ordering the receipt of the notes for postage just as for postage stamps, and "for advance payment of such postage."²⁶ The last proviso was necessary because the postmaster-general had said the exchange must be limited, and that the postmasters and their customers must arrange between themselves for the change, and the department obviously could not be expected to give coin in exchange

on account of its scarcity, and because it would be wholly inadmissible to allow them to receive and use the small notes, issued by corporations and individuals, for change, partly on account of the general worthlessness of such notes; and the facility for counterfeiting them, and partly because whatever value they have is usually limited to some small locality which renders them wholly unfit for use as Confederate currency.²⁷

However numerous the private stamps were, it seems probable that the department considered them as a minor evil, for neither in his official reports, nor in the available portions of his letter book does Reagan make any direct reference to them.²⁸

The difficulties of the post office department in securing postage stamps was not at first known,—or, if known, was not taken into account by the general public. The tone of the impatient, but fairly polite, inquiry in the New Orleans *Bee* and *The Delta* was mild, indeed, in comparison with that of other newspapers,

²⁴Judge John H. Reagan to Mr. Bradley, Vice-President of the Texas Philatelic Association, in *The Dallas Morning News*, Feb. 24, 1899.

²⁵Houston *Tri-Weekly Telegraph*, July 21, 1862. Other papers were asked to repeat the warnings in their columns.

²⁶*Statutes at Large, C. S. A., Acts Prov. Congress, 3rd Session, 228.*

²⁷*Report*, Nov. 27, 1861, p. 25.

²⁸However, see below, p. 123.

which, of course, expressed the opinion of no small part of the people. The *Savannah Republican* of November 18, 1861, quotes from an editorial in the *New Orleans Commercial Bulletin*:

What is the reason the Post Office Department does not furnish the public with postage stamps? . . . The complaints have been growing louder and more general for several months, and they have at last given place to downright indignation. The plea originally put forth to . . . extenuate the neglect of duty that the Department had not time to prepare the stamps, no longer holds good—[it is] . . . a shame and a deception. . . .

The *Republican* adds in part:

. . . We re-echo the questions. In no department of the public service—not even in the Quartermaster and Commissary—have there been such gross inefficiency and neglect as in the Post Office. The public patience has been abused beyond endurance, and the popular clamor should be made to ring around the ears of Mr. Reagan until he retires from a post for which he has demonstrated his utter unfitness. . . .

Reagan was but human, and such stinging rebukes and “manifestations of impatience” evoked from him a long statement of the various efforts made by the department to procure stamps, “as well for the information of Congress as for the vindication of the department against charges of neglect of duty in that respect.”²⁹ The statement is so simple, direct and forceful, and withal so interesting, that one may well be pardoned for quoting the greater part of it.³⁰ The department was arranging to have stamps prepared before June 1, 1861, when the outbreak of the war stopped negotiations. The American Bank Note Engraving Company of New York in March sent dies for selection, without solicitation.³¹ But political changes interfered. On March 16, a “gentleman having the means and capacity” proposed to establish a house in Montgomery for the manufacture of stamps, and on being furnished designs for the various denominations of

²⁹*Report*, Nov. 27, 1861, p. 21.

³⁰The whole statement is to be found in Reagan's Report of Nov. 27, 1861, pp. 21-24.

³¹*Semi-Weekly Richmond Enquirer*, March 19, 1861.

stamps, he left to attend to the matter, but "nothing was heard from him afterwards."³²

On the 27th of March the Department advertised for proposals for furnishing stamps and stamped envelopes, in newspapers in the following cities, to wit: Montgomery, New Orleans, Charleston, Baltimore, Philadelphia, New York, Savannah, Columbus, Richmond, Memphis, and Louisville. No proposals in response to this advertisement were received from any establishment in the then Confederate States. The only proposals made in answer to this advertisement were one from Richmond and one from Baltimore, proposing to furnish lithographed stamps. The proposition from Baltimore was regarded as most favorable, both on account of the style of the work proposed to be done and the terms on which the supplies were proposed to be furnished. But the collision between the citizens of that city and the Federal troops, on the 20th of April, and consequent suspensions of communication with that city, prevented further negotiations on the subject.

Early in May a man contracted to manufacture the necessary stamps in the Confederate States, if he could get the machinery in from the United States; but in June he notified the department that he was unable to do this.

In July, a confidential agent was employed by the Department to procure the making of the required steel dies and plates for postage stamps, beyond our territory, and to furnish them to the Department as soon as they could be prepared, and also, if found practicable, to have the stamps made and furnished ready for use.

After receiving some encouragement, and after the work of making the steel dies had commenced, circumstances rendered the discontinuance of the work by the manufacturer necessary. And our agent then made an effort, at another point, to procure lithographed stamps of a superior style, and after some delay it became necessary to abandon that effort to supply the Department.

This brought us to September.

Efforts were made everywhere, and at last lithographed stamps were ordered as a temporary expedient. After delay, stamps were furnished, but so few in quantity, and so high in price for the quality offered, that a special agent was sent to Charleston and to Savannah to engage supplies. He came back on the fourth of November, saying that estimates would be submitted as soon as

³²Report, Nov. 27, 1861, p. 22.

the parties consulted could ascertain the cost of machinery and paper.

A proposal was received in due time from the Charleston firm, who said that ninety days would be required for the preparation of the machinery and plates. Concerning this firm the postmaster-general further reported:

This engraver proposes to furnish the stamps gummed, but not perforated, at a cost of one dollar per thousand, the paper to be furnished by the Department, whereas the United States Government paid but eighteen cents per thousand stamps gummed, perforated, and put up in tin and paper boxes and envelopes.

The engraver in Savannah says it will take sixty days to prepare the plates for each denomination, and the delivery of 400,000 stamps, and with his present force, he can only furnish 80,000 stamps daily, while the estimated number needed daily is 260,000. Meanwhile an agent has been sent to Europe [to procure the manufacture of steel dies and plates for printing stamps] . . . and for procuring for use, as soon as practicable, fifteen million stamps, and to forward the dies, plates, and stamps to this city. The small supplies now being received from the contractors in this city only serve to increase the public discontent, as they are insufficient to meet the demands of even the principal cities. . . . When prepared and supplied as they should be, to all post offices, they will represent the entire revenues of the Department.

There is a popular delusion, resting on the minds of many, that almost any character of engraving will answer for postage stamps, and in support of this opinion, reference is frequently made to the fact that postmasters of different cities and towns have procured stamps for their offices. These are made upon wood, or stone, or lead, or are electro-typed. Stamps prepared by either of these modes can be counterfeited with great facility by a mere tyro in the art of engraving; and the Department could not risk its revenues on such a slender security without disregarding the public interest.

Interesting in this connection is a Philadelphia newspaper's advertisement of Confederate stamps for sale to the trade at fifty cents per hundred, or four dollars per thousand.³³

³³Semi-Weekly *Richmond Enquirer*, Nov. 11, 1862, editorial comment on an advertisement quoted from the *Philadelphia Enquirer*.

The first delivery of postage stamps was made October 15,³⁴ and they were issued to the public three days later, being eagerly bought up. They were described as being "green, with a lithographed likeness of President Davis within a double oval border, surmounted with the inscription 'Confederate States of America.'" Outside the oval at the head of the stamp, was the word "postage," and at the lower edge, the denomination, "five cents."³⁵ The first stamps were

distributed to such post offices as were in the vicinity of military encampments, to the large cities, and to such of the principal and smaller towns as the number furnished by the printer . . . enabled the Department to supply.³⁶

Between October 15 and November 27, only 1,430,700 stamps were received; but by the end of February, 1862, the total had reached 12,341,500, with a value of \$662,180. The postmaster-general stated then that the total number received, together with those being furnished by the printer in Richmond, would enable the department, in a very short time, to furnish every office with a full supply. He believed, also, that the department would soon be able to supply the much needed two-cent stamps.³⁷ The two-cent stamps figure in subsequent reports, and no further difficulty in securing a sufficient number of stamps seems to have been experienced. For the year ending June 30, 1863, the department paid \$12,572.78 for postage stamps, but the estimated cost for the following year was \$27,000. And of the 39,779,500 stamps issued during the year 1863-1864, 33,450,400 were ten-cent stamps.

Mr. Reagan seems not to have considered the fact that the smallest treasury note issued was for one dollar, that there was practically no other currency available to the department, and that it must have been frequently quite inconvenient to purchase one dollar's worth of postage stamps at a time; for it is to be remembered that the postmasters could give out no fractional

³⁴*Report*, Nov. 27, 1861, p. 21. It has not been possible to obtain certain information as to where these or other stamps were obtained, except that some were made in Richmond.

³⁵Moore, *The Rebellion Record*, Vol. III, 27, a quotation from the *Richmond Examiner* of Oct. 19, 1861.

³⁶*Report*, Feb. 28, 1862, p. 10.

³⁷*Report*, Feb. 28, 1862, p. 10.

change in specie. Quite naturally, then, stamps themselves came into more or less general use as small change. Of the stamps sold from July 1, 1862, to June 30, 1863, those "afloat and principally employed as currency" amounted to \$543,543.22.³⁸ To meet the demand for small change, the post office department in 1864 issued half a million twenty-cent postage stamps, which were freely received at first, but were soon wanted by no one; and the department did not offer to redeem them.³⁹

3. THE CONFLICT OF THE POST OFFICE AND THE MILITARY

Under normal conditions the relations of the several departments of the Confederate Government probably would have been conducted with a spirit of mutual forbearance and with a nice regard for the interests of each department; but in the stress of the desperate struggle for existence, the military branch of the Government had come to dwarf all others, and military officials interfered repeatedly in affairs of a purely civil nature. Though military necessity may well have been pleaded for many of these transgressions, Mr. Reagan was never able to reconcile himself to them, and his relations with the secretary of war at times were strained to the breaking point. The principal transgressions of the military were conscription of men in the postal service and the impressment of transportation facilities for the mails.

But before the general government had taken over the control of enlistments, Reagan protested to Secretary Benjamin concerning the conscription of postmasters and clerks all over Virginia by the state authorities. He said the men taken had good cause for action against the officers for false imprisonment, as the arrests had been made with a knowledge of the legal exemption of the parties concerned.⁴⁰ The postmaster at Richmond reported that an armed force on March 16, 1862, had surrounded the post office for a time, preventing all mail matter from leaving, except that for Fredericksburg, which had been sent out by a porter after the men had left. Reagan promptly reported the whole matter

³⁸*Report*, Dec. 7, 1863, p. 28.

³⁹Schwab, *The Confederate States of America*, 163, citation from the *Richmond Dispatch*, April 13, 1864.

⁴⁰Reagan to Benjamin, March 15, 1862, *Letter Book*, I, 407, 408.

to President Davis, denying the right of the State of Virginia to impress his men, and begging that the evil be arrested. He laid great stress on the equity of his claim to the services of the men impressed, in addition to his assertion that the men were legally exempt.⁴¹ Conflict with the state authorities was merged in that with the general government through the passage of the first exemption act, approved April 21, 1862.

From the beginning of the war the regularity of the mails had been interfered with because the war department and army officers frequently directed military schedules to be run by the roads in conflict with the schedules of the post office department.⁴² In April, 1862, Mr. Reagan requested the secretary of war to prevent further interference by the army with the mail service up and down, and across the Mississippi river. A week after making the request he was moved to say that "interruptions go beyond what is necessary." He wrote:

The mail service is in a most deplorable condition, and I am powerless to remedy its conditions without your assistance. I . . . must ask that orders be issued requiring that the mail cars be allowed to pass with other trains, and that when persons profess to stop the mail cars by military authority, they be required to show the authority for their action. . . . The mails are frequently detained here in the city, when trains are going out, and prevented from arriving here when the trains come in.⁴³

An order was then issued, requiring persons interfering with the running of trains to show a written permit from the officer in charge of such matters, or else to have the necessary order issued in some other way.

In May, Reagan again wrote to Secretary Randolph, enclosing a letter from the postmaster at Memphis telling of the confiscation by a Major Hunt of two hundred and fifty mail bags to be made into knapsacks. The postmaster-general was much annoyed, for he was unable to procure mail bags either in the Confederacy or abroad; and he could not

but regard the conduct of Major Hunt . . . in seizing so

⁴¹Reagan to President Davis, March 16, 1862, *Letter Book*, I, 408-411.

⁴²*Report*, Nov. 27, 1861, p. 16.

⁴³Reagan to Randolph, April 2, 1862, and April 9, 1862, *Letter Book*, I, 414 and 419.

much of the most valuable property of this Department, without notice or consultation, as impertinent, offensive, and inexcusable.⁴⁴

Probably the protest had some effect, for the writer has seen no other bitter complaint from Mr. Reagan over the seizure of post office supplies.

Laws and Orders of Exemption

The troubles with the war department became more acute after the passage of the conscription acts of 1862. Each act of exemption from army service left a decreased number of dependable employees in the service of the post office department, and caused an increase in the labors of those men not included in the enrollment lists. The first act of exemption from enrollment in the armies of the Confederacy, approved April 21, 1862, included "all clerks of the officers of the State and Confederate Governments allowed by law; all engaged in carrying the mails; all ferrymen on post routes; all pilots and persons engaged in the marine and in actual service on river and railroad routes of transportation."⁴⁵ However, an executive order of April 26, announced, in part, that as far as the interests of the service would permit, the persons employed in the executive departments of the Confederate Government would be selected from those not subject to military duty.⁴⁶ The exemption act was "promulgated by general orders"⁴⁷ in May and November (1862); but the post office department "encountered much inconvenience, and some pecuniary loss," besides being subjected to a "heavy correspondence, on account of the frequent changes of postmasters and contractors for carrying the mails . . . as many of both classes had, from time to time, gone into the army."⁴⁸

In October, Congress passed another exemption law, which now rendered all postmasters and contractors between the ages of eighteen and forty-five, liable to military service, with the excep-

⁴⁴Reagan to Randolph, May 24, 1862, *Letter Book*, I, 441-442.

⁴⁵*Official Records of the Union and Confederate Armies*, Series IV, vol. I, 1081.

⁴⁶*Off. Rec.*, Series IV, vol. I, p. 1092.

⁴⁷*Off. Rec.*, Series IV, vol. I, p. 1123; and vol. II, p. 161.

⁴⁸*Report*, Jan. 12, 1863, pp. 15, 16.

tion only of those postmasters appointed by the President and confirmed by the Senate.⁴⁹ New appointments and new contracts, or the recognition of the transfers of contracts again became necessary, the operations being attended with increasing difficulty and expense.⁵⁰ Bids for contracts in Virginia, North Carolina, South Carolina, Georgia, and Florida, for the next four years was to be made in the spring, and thus by the reduction of the number of those eligible to bid, the cost of service was automatically advanced beforehand.⁵¹ In fact, within twenty days of the expiration of the time specified for receiving proposals, only 114 bids had been received at the department for the 887 routes open to competition.⁵² The postmaster-general was greatly disturbed. Though the law seemed quite clear, it was necessary for him first to claim and then to have recognized by a general order the right of route agents on railroads and steamboats to exemption as executive officers of the Confederate States. The war department took the precaution to enroll all the route agents within the conscript ages, and to furnish them with certificates exempting them during their appointments, it being understood that, in case of the failure or expiration of an appointment, the one exempt should report to the officer by whom he was enrolled, or, if he could not "be found," to the adjutant and inspector general at Richmond.⁵³ But without the aid of Congress no other exemptions could be made for the post office department.

This the postmaster-general recognized. He informed the President that unless the conscription laws were somewhat relaxed, it would be necessary to discontinue the postal service entirely in large districts of the Confederacy. President Davis was extremely reluctant to increase the list of exemptions, but so great was the importance of maintaining communication and so small, relatively, was the number of men needed to continue the postal service, that he submitted Reagan's statement to Congress. However, the President recommended that any exemptions made

⁴⁹*Statutes at Large, C. S. A., Acts of the First Congress, Session II, 77.*

⁵⁰*Report, Dec. 7, 1863, p. 13.*

⁵¹*Report, Jan., 1863, pp. 15, 16.*

⁵²*Report, Dec. 7, 1863, p. 7.*

⁵³*Off. Rec., Series IV, vol. II, p. 363; Letter Book, I, p. 30, of Gov. Vance of N. C., "Confederate Archives," U. S. War Department.*

should be confined to contractors, excluding sub-contractors; that the number of drivers should not exceed one for every twenty-five miles of coach service; and that the total number of exemptions should not exceed 1500.⁵⁴

Congress in April saw fit to follow the recommendations of the President and the postmaster-general. Contractors and their riders and drivers were exempted, but with numerous provisos and restrictions. These restrictions, in view of later incidents, are worth mentioning here in some detail. No more than one contractor to a route, or more than one member of a firm of contractors, was exempt, even if one member was exempt through an age or physical disqualification. No contractor was exempt for a route of less than ten miles on which the mail was carried on horseback. But no person was eligible for exemption by reason of having a contract transferred to him after the passage of the act. A contractor using coaches or hacks was required to take oath that the weight of the mails required their use, that he did not, and would not have in his service more drivers than were indispensably necessary for carrying out the contract, and that he would give notice to the enrolling officer whenever a driver ceased to be in his employ.⁵⁵

The law was stated with what seems to be unusual clearness, but the varied interpretations of it by the war department, the courts, and the postmaster-general increased the tension between the war and post office departments and maintained it to the end of the Confederacy's existence. The postmaster-general, it must be admitted, seems to have felt himself justified in keeping only the letter of the exemption law, which he claimed was not only oppressive in itself, but was frequently disregarded by the conscription officers in the most flagrant manner. Reagan's interpretation of the law was sustained by the courts, which found for the claimants of exemption. The correspondence of the two department heads for the time of the passage of the last exemption act, shows increasing mutual suspicion.

In June, 1863, Reagan informed General Elzey that he had organized the employees of the department and of the Richmond

⁵⁴Richardson, *Messages and Papers of the Confederacy*, I, pp. 312-313.

⁵⁵*Statutes at Large, C. S. A., Acts First Congress*, Session III, p. 107.

post office into a company consisting of eighty-one officers and privates, and had asked for arms; but he had received no reply to his request. Fearing technicalities, he was unwilling to allow the men to be regularly mustered into the service, although he offered their services to help in any actual defence of the city.⁵⁶ The tone of the letter is one of extreme caution, as if the postmaster-general wished to put himself on record as being aware of, and willing to perform, his full duty.

Soon afterward, he became very indignant over the action of the conscript officers. Certain contractors of the department, whom Reagan believed to be legally exempt, had been arrested and forced into the army. They appealed to the postmaster-general. He said he had no authority over the matter; but he advised the contractors who had been arrested when exempt to sue for the writ of *habeas corpus*, and then to bring suit against the officers for false imprisonment. He gave these reasons:

By subjecting them to costs and damages they may be induced to have some respect for the law and the rights of others, which it seems neither the law itself nor the decision of the courts have been sufficient to inspire.⁵⁷

The charges against the conscription officers were reiterated in the postmaster-general's report of December, 1863, and were followed by a resolution of the House of Representatives inquiring whether mail contractors, exempt under the act of April 14, had been retained in the army and held subject to the performance of military duty since the passage of the act, and, if so, upon what ground this had been done.⁵⁸

In response to the inquiry, James A. Seddon, the secretary of war, reported that before the passage of the act of April 14, 1863, the war department had considered exempt those who at the date of call for conscripts were not in the army or claimed for enrollment, "and who belonged to the class of exempts as designated by the act of exemption." This view the department had considered to comply both with the spirit and the letter of the law.

⁵⁶Reagan to Gen. Elzey, June 9, 1863, *Letter Book*, I, p. 712.

⁵⁷Reagan to ———, July, 1863, *Letter Book*, I, 738-739. That part of this letter showing the address and date was not included in the photographic copy in the Texas State Library.

⁵⁸*Journal of Congress of C. S.*, vol. 6, p. 521.

It also considered the act of April 14 as supplementary to the other exemption acts, not designed to draw any persons from the army, and to apply only to those persons not enlisted or enrolled previous to its adoption. The bureau of conscription was lenient, and determined "that the cause of exemption should exist at the time that military service is claimed." Accordingly, a person otherwise subject to conscription, who before or at enrollment claimed exemption as being a contractor, was not refused exemption, even if the contract had been obtained after the passage of the act. But a contract obtained subsequent to enrollment did not entitle a person to a discharge from the army, which the secretary said a release from service would amount to. Nevertheless, several judges of the district courts had decided that the exemption acts of October and April authorized discharges from the army for those who before enrollment were in the newly exempted class. And under the act of April 14, one of the judges had discharged from the army "three members of the same company who had taken mail contracts for one mill, one cent, and ten cents, respectively." The post office department, adding insult to injury, in its advertisements had represented "exemption from the military service (including a discharge from the army if enlisted) as a part of the benefit to be obtained by a contract for carrying the mails." There had resulted a sort of competition among men and officers to obtain these contracts at nominal prices, thus abandoning the Confederate flag "in the hour of its extreme peril to carry the mail in obscure districts and upon unimportant routes." Now, while the war department respected the opinion of the court in the individual cases, the secretary refused to take it as a rule for action. He said that the war department had not interfered with any of the soldiers who had been fairly discharged by judicial authority under the construction that the act was applicable to the army, and that "in deference to the judicial opinion contained in such judgment," it had not discharged from the army any other soldiers who had obtained mail contracts. Secretary Seddon made a careful distinction between "exemptions" and "discharges" from the army; and he assured the President that the department's "opinion on the act of October last

was fully known and had been generally acquiesced in, and particularly so by Congress itself."⁵⁹

Now, while Congress was busying itself in the matter of illegal conscription, it is not to be supposed that Postmaster-General Reagan was passive. But, though he protested several times, beginning in October, he obtained no satisfactory response from the war department until February 3, 1864. The correspondence is long, revealing in some detail the particulars brought out in Secretary Seddon's report to the President; and it continued, as has been said, throughout the bitterest part of the Confederacy's death struggle.

On January 28, 1865, Reagan addressed a letter to Seddon, reciting the contents of three previous letters to the secretary of war, from whom he had received no answers. His first letter had protested against the circular instructions given out by the chief of the conscription bureau, and had contained a copy of Judge Halyburton's opinion in the case of *ex parte* Lane. Lane, as an enlisted soldier, had obtained a mail contract, and had received therefor a discharge from the army from Judge Halyburton.⁶⁰ The second letter, November 17, presented a case "of gross violation of the law and contempt of the decisions of a court of the State of Virginia in two cases in which persons were arrested and put into military service after having been released from such service on writs of *habeas corpus*." The third letter (January 7) enclosed a copy of a letter "from the postmaster at Ivor, Virginia, complaining of the rude and unlawful conduct of a Captain Green in unceremoniously turning him out of the post office and using it as a dancing salon, and as a store house for forage. . . ." Mr. Reagan said that he had in the two last letters asked for replies from the earlier ones, but that he had received none. Now, though he knew that frequent correspondence was required between the two departments, he felt that Secretary Seddon's course precluded any further communication between them, without a surrender of self-respect and the rights of the

⁵⁹*Off. Rec.*, Series IV, vol. II, pp. 1054-1057.

⁶⁰Pamphlet in Confederate Archives of U. S. War Department, Washington, D. C. (No date.)

department by himself, and that, therefore, he had no recourse but to submit the matter to the President.⁶¹

In spite of the unpropitious ending of the postmaster-general's letter, Secretary Seddon replied fully on February 3. The complaint of the dispossessed postmaster at Ivor had been referred for inquiry and had not yet been returned. Reagan's first letter (of October 19) had been referred to the conscript bureau, and the response was enclosed, but does not appear in the *Official Records*. The second letter, it developed, had called up matters which were already under investigation when the letter was received. They were "the cases of Kinzer and Surface, arrested and returned to their regiments by order of General Buckner after their discharge from the military service of the Confederate States on writs of *habeas corpus* by Judge Fulton. . . ." Secretary Seddon then gave fully his views on the collision between the two departments as brought up in Reagan's last two letters.

He gave the same arguments and reasons which had appeared in his previous statement to the President,⁶² but cited cases and contracts by name and number. The men, Surface and Kinzer, at the time their bids were accepted (at one-fourth, and one cent per annum) were privates in the army. The chief of the contract bureau of the post office department said they were exempted. And here Secretary Seddon said he "understood the judge of the district court had so decided and discharged soldiers, who had become contractors on writs of *habeas corpus*"; and he further said that his department considered it had just cause of complaint against the post office department "for the course pursued in this and similar cases." However, the men had not been arrested in defiance of the law, but through a mistake in jurisdiction.⁶³ Yet

⁶¹*Off. Rec.*, Series IV, vol. III, pp. 52-53.

⁶²See above, p. 130.

⁶³The writs of *habeas corpus* were issued by a Virginia circuit court while the men were in Tennessee, where they were honored by the military; and the men, on appearing before the court, were discharged from the army. "General Buckner, learning the facts, believing the court had no jurisdiction, and that the order was, therefore, of no effect, ordered their arrest and return to their regiment. It is perfectly clear that the judge had no jurisdiction when the writs were issued; that it was an unjustifiable exercise of a judicial prerogative in another State, and that the commanding officers of the regiment erred in surrendering the men to the officer of the court. But when they appeared before the judge within his circuit the jurisdiction attached. . . ."

the war department, as in the cases decided by Judge Halyburton, would accept the decision, no matter how erroneous, and promised to discharge the men. As before, the department clung to its own interpretations of the law, and declared they would not be changed unless by direction of Congress. In closing, Secretary Seddon apologized for not answering sooner, but not for the actions of the department, which he said, had been "in accordance with the law, the policy of the Government, and the necessities of the country."⁶⁴

The postmaster-general was prevented by illness and the pressure of his duties from replying before the middle of February, when he sent Secretary Seddon a communication even longer than that he had received. He withdrew his complaint concerning the postmaster at Ivor, Virginia, as investigation had shown the postmaster's complaints to have been without foundation. The only point of difference in opinion now seemed to be as to whether persons who became contractors while in the military service were entitled to exemption during the periods of their contracts. Yet Mr. Reagan pointed out that in a number of cases men who had become contractors in July preceding the passage of the act of April 14, 1863, were arrested and held for military service by the conscript officers. To have allowed these acts of the military to go unchallenged would have defeated the purposes of the law in the opinion of the postmaster-general. He likewise professed amazement at the war department's refusal to follow as a rule the decisions of the State and Confederate courts, the second of which he said certainly had competent jurisdiction, and could render decisions conclusive for the Government and its departments, and for all other parties to a suit, until the cases were appealed and reversed. But if it were admitted that the construction of the exemption law by the department could override judicial decisions, would the construction of the war department or that of the post office department prevail? Each was interested, and who should determine which was the more interested? There must be an arbiter. If this arbitrament was to depend on the possession of soldiers and bayonets, then of course it was a question not of law and right, but of force and power. But if

the courts of the country were to be the arbiters, the question was one for judicial solution, according to law and the principles of justice. The postmaster-general had not seen Secretary Seddon's response to the resolution of the House on the subject, and he would in nowise feel bound by a document never brought to his notice, which, while entitled to respect, was of no more binding authority than the opinion of a co-equal branch of the Executive Government. Nor could it rightly be assumed that Congress consented to the correctness of the interpretation of a law by one of the departments because it omitted to legislate in response to that interpretation. To sustain this assertion reference was made to Judge Halyburton's opinion in the case of John Lane, as well as for support in asserting that there was no distinction between "exempt" and "discharge" in the laws containing the two words. Finally, after he had admitted that he discussed the subject at so great a length "more because of the principles involved than on account of the small number of men . . . hereafter to be employed by this Department who would otherwise be liable to service in the Army," Mr. Reagan turned to the matter of nominal compensations. Out of the 1,253 mail contractors in the Confederacy, "only 147 had obtained contracts at nominal rates of compensation." And the postmaster-general, sympathizing with the war department's efforts to fill up the army, promised "in all cases in which it is practicable," to avoid the employment of persons in his department who were "either in the Army or liable to enrollment." But the closing paragraph of the letter promised little for an amicable settlement of the dispute.

In reference to your request that I "designate all the contractors where the parties have been discharged from the military service on writs of habeas corpus, in order that they may be reclaimed by the military authorities," I have to say that if I thought it right to aid in disregarding the judicial decisions by which these persons were discharged, I have no information which would enable me to comply with your request, except in a very few cases which have incidentally come to my knowledge. We receive bids and award contracts in the great mass of cases without any means of knowing whether they are in the military service or liable to enrollment, except as we infer from the low rates of their bids, and without any means of knowing who have been discharged on

writs of habeas corpus. But you will see from the foregoing that I do not think it would be proper to adopt the course you suggest.⁶⁵

The secretary of war at last realized the futility of further direct argument. Replying briefly within two days to the postmaster-general's letter, he said in part:

It is evident that further discussion between us will not result in a change of opinions now held, and, while I am unable to concur with you, I have no hope of inducing you to agree with me, so that no good could come from any review of your letter.⁶⁶

Perhaps it was because he already had knowledge of the new conscription act passed the same day. The Act of February 17, 1864, placed the age limits at seventeen and fifty years and repealed all previous exemption laws, making new specifications of exemption. The exemptions enumerated included those then employed in the postal service; and Article IV of Section 10 expressly continued in force the Act of April 14, 1863, for the exemption of mail contractors and drivers; provided, however, that the exemptions granted under this act should continue only while the persons exempted were actually engaged in their respective pursuits or occupations.⁶⁷ We shall see that this last clause gave ground for a re-opening of the quarrel between the military and the postal authorities.

Specific Instances of Abuse of Exemption by Contractors

It was General Lee who next complained. In a letter to the secretary of war he declared that the drain upon the strength of the army by exemption of civil officers, postmasters, and mail carriers, added to the details made for other purposes, "was more than it could bear." A large number of men were either taken from the army or kept out of it as mail contractors, many of whom made contracts for the sole purpose of evading the army.

Then General Lee cited two notorious instances of such contracts. The first was that of a man named Leftwich, who, though a contractor for an "unimportant route" in Alabama, resided in

⁶⁵*Off. Rec.*, Series IV, vol. III, pp. 121-125.

⁶⁶*Off. Rec.*, Series IV, vol. III, 126.

⁶⁷Act of Febr. 17, 1864, *Off. Rec.*, Series IV, vol. III, pp. 178-181.

Richmond, where he carried on his business, never having seen his route. Yet he was discharged from service by the court.⁶⁸ General Lee, while he said he thought there was no necessity for awarding Leftwich the contract, diplomatically added that he had "no doubt that the Post Office Department was imposed upon." The other case was that of a young man named Michie, who obtained a contract on an obscure route and was discharged from the service. The son of wealthy parents, he remained at home and employed some one else to carry the mail. General Lee "supposed"—much more courteously than ever Mr. Reagan or Mr. Seddon could have done—that it was "in the power of the Post Office Department to prevent these abuses and even to annul such fraudulent contracts where they exist," and that "perhaps if the attention of the Postmaster-General were called to the subject some slight increase in our depleted ranks might be secured."⁶⁹

The letter from General Lee was indorsed by Secretary Seddon to Postmaster-General Reagan. The sonorous phrases of the indorsement are so stilted and pompous that they are extremely ironical in effect. But the postmaster-general's reply shows that he was too weary to engage in a new and spirited controversy. His answer reiterates his previous statements as to the needs of his department, and replies to each charge against it by the military; but this refutation is written as though he had no hope of convincing anyone so stupid as the military. The letter begins and ends abruptly with curt statements; there is no direct argument, for Mr. Reagan seemed to feel that if an exhibition of the distress of the department could not convince, no argument could.

He admitted that 105 more new contracts had been made at nominal rates, where existing contractors had been put into the military service, or had for other reasons abandoned the postal service. He doubted whether these exemptions should be disallowed by law, for to do so with the present state of the currency

⁶⁸His case was similar to that of *ex parte* Lane, but the objection to his discharge was based on the clause of the act of February 17, 1864, which continued exemptions only so long as the person was actually engaged in his pursuit or occupation. However, the court, holding that Leftwich was bound to perform his contract to carry the mails, and that he was exempted under acts of Congress, ordered his discharge. Pamphlet in the Confederate States Archives of the U. S. War Department, Washington, D. C. (No date.)

⁶⁹Lee to Seddon, Sept. 10, 1864. *Off. Recs.*, Series IV, vol. III, p. 660.

would make it impracticable to keep up the postal service. In such a case he said lack of communication would cause more men to desert in a short time than were required to keep up the service. Yet, he was willing to submit the matter to the President and the cabinet, and if the decision was adverse to him, he said he would do all he could to keep up the service without using exemptions. As to postmasters, he said there were not more than one hundred appointed by the President and confirmed by the Senate, and that the President had refused to appoint persons liable to military service. Even clerks heretofore thought indispensable might in a short time be allowed to go, and it was certain that but a very few of the route agents were liable to service. "I desire no exemptions for this Department which it is impracticable to get along without," declared the postmaster-general, "and you shall have my cheerful co-operation in everything which will augment our armies." In regard to the two special cases mentioned, he pointed out that General Lee had been misinformed. The route contracted for by Leftwich was not "unimportant," but actually forty-five miles in length.

The former contractor was arrested and put into the military service contrary to law. The route was one of such importance that the postmasters on it and the special agent of the Department requested a renewal of the service, and it was re-advertised on the 16th of March, 1864, and Leftwich being the lowest bidder, the contract was awarded to him on the 27th day of May, 1864, for a merely nominal consideration.

Mr. Reagan understood that it was costing Leftwich at the rate of \$6,000 a year to have the service performed. Here the question might be raised as to whether Leftwich was actually engaged in his occupation as contractor. We have seen that the court thought so, but Reagan's defense of his case was that the other contractor had been illegally conscripted and that Leftwich was paying \$6,000 annually to a branch of the Government for his exemption. But he offered no defense at all for the case of Michie, who, he said, was a carrier for a "special Office," as such not a contractor, and, therefore, not entitled to exemption as carrier for the post office at Mechanicsville.⁷⁰

⁷⁰*Off. Rec.*, Series IV, vol. III, 657-661.

It should be clear by this time that the quarrel of the two departments over conscription grew out of the war department's failure to appreciate the value or the rights of the post office department. It is evident that Congress and the people considered a postal service as almost indispensable, and certainly Congress by its laws showed its intention to provide for its continuance. It is also easy to see why the employment of contractors for nominal considerations seemed to the military an outrageous violation of the spirit of the exemption laws. But everything considered, the postmaster-general was justified in taking the course pursued. His department had to be self-sustaining, and its revenues in the depreciated currency were scarcely sufficient before the conscription acts were passed. To keep up the service then on full salaries could have been impracticable, owing to the decreased number of bidders for contracts and the increased cost of transportation; and, if the military showed a disposition to make its own interpretation of the law and to disallow the obvious intention of Congress to preserve the postal service, the postal authorities felt themselves justified in taking advantage of a technicality in opening the postal service to those desiring exemption, especially when the conscription officers were constantly causing interruptions of the service and other trouble by arresting men legally exempt. Finally, in consideration of the great discontent prevailing in the armies toward the close of the war, one must admit the force of Reagan's practical argument for the continuation of the postal service; namely, that if postal communication had been discontinued, more men would have deserted in a short time than would have been required to conduct the entire post office department.

Unfortunately, the two departments had still another matter of difference arising from the use of departmental clerks in defending the city of Richmond. The clerks and officers in the local defense organization it had been supposed would be called out only in great emergencies; but, in reality, after the spring of 1864 they composed a part of the army, being withdrawn from their duties for months at a time. The post office department could not legally appoint other clerks had it so desired, and much of its business had to remain unattended to. Reagan was moved

to protest to Lieutenant-General Ewell, at headquarters in Richmond. No one able to do military duty had been appointed to a clerkship in the post office department since early in 1862, and fully three-fourths of his clerks, he declared, were now "either men over fifty years of age, ladies, wounded and disabled soldiers or invalids from some other cause"; and fully one-half of those who belonged to the local defense troops were either disabled soldiers or invalids. The postmaster-general wanted some of these men permanently detailed by the secretary of war, and he asked that the clerks then detailed for the city post office be allowed to remain there.

General Ewell returned Reagan's protest, referring him to the secretary of war, observing that he himself had "frequent applications from ladies, . . . apparently well fitted for clerical duty." Such impertinence was too much for "the old Roman," and Reagan appealed to the President, for the secretary of war had referred him in the first place to General Ewell.

The postmaster-general pleaded with President Davis for some action which would put an end to the "anomalous condition of things" then

paralyzing the Department for the want of a few men, . . . and subjecting the heads of departments to the control of military officers of any grade who may have to act on their applications for the detail of their own clerks, and . . . to the receipt of such suggestions as that . . . of General Ewell's indorsement about the employment of ladies.

With so very few men in the department liable to conscription, these being absolutely necessary to it, a large part of the postmaster-general's time for the past year had been spent "in asking for details and passes and in repeating these requests every few days or weeks only to have them revoked," the work then to be gone over again. "The policy is most injurious to the public service," concluded Mr. Reagan, "and is embarrassing and degrading to the heads of departments who have to submit to it."

The protest was made December 29, 1864, but it was not until March 2, 1865, that the President indorsed it to the secretary of war "for his perusal as stating matters which have heretofore

been embarrassing.”⁷¹ The Confederacy was now upon the brink of dissolution, wherein was to end the controversy between the war and post office departments. The principle for which the postmaster-general had fought seems to have been correct, but so great was the confusion and so desperate the needs of the dying government that any criticism of either department seems captious and uncharitable.

(Continued)

⁷¹*Off. Rec.*, Series IV, vol. III, pp. 970-974.

TEXAS VERSUS WHITE

WILLIAM WHATLEY PIERSON, JR.

CHAPTER IV

SUBSEQUENT LITIGATION

Texas v. Hardenberg

As has already been remarked, the decision and decree in the case of *Texas v. White* left the settlement of many of the points involved to later proceedings. The first case which arose in this process of legal adjustment was that of *Texas v. Hardenberg*.¹ The bonds held by Hardenberg had been redeemed under an agreement which has already been noticed. When the court decreed that the defendants were liable to suit for the recovery of the indemnity bonds, Hardenberg was included in spite of the fact that his bonds had been paid. Under these circumstances, Texas sued in the Supreme Court for the delivery of the bonds or their proceeds. In answer to the bill in this suit, Hardenberg endeavored to reopen the discussion of the merits of the original case by reviewing the history of his purchase and attempting to show that this action had been in good faith. He urged further that his bonds had been paid by the United States, and that his counsel should be heard as to the effect in law of a payment which had taken place before he had been served with notice of a contest by the State of Texas. On the whole, he argued that there had been an error of pleading in the original case and that the bill had only prayed for the rendition of the bonds, not the proceeds.²

The opinion of the court was delivered by Chief Justice Chase. The court, at the outset, declined to consider the bill in the case of *Texas v. White* to be of the narrow and restricted character assigned to it. by the defendant. To interpret it so would, it was alleged, savor of "extreme technicality." The clause of the bill asking expressly for the injunction and decree had also petitioned for such other comfort as the court might see fit to allow. This clause was

¹10 Wallace, 68, decided December term, 1869.

²Paschal and Merrick for Texas; Carlisle and Evarts for Hardenberg.

considered sufficiently general and broad as to render possible the inclusion of the matters sought for by the complainant. The court then passed to a consideration of the other contentions of Hardenberg. The bill in *Texas v. White* had been filed in the Supreme Court on February 15, 1867, and Hardenberg was served with the *subpoena* on the 27th of that month. He had received payment of his bonds on the 16th. The court questioned the validity and actuality of this payment; and, in addition, held that the complaints of the Texas agents at the treasury with which Hardenberg was admittedly familiar, the institution of the suit in the case of *Texas v. McCulloch*, and the repeated postponement of the payment of his bonds by the treasury collectively constituted notification of the fact that Texas claimed the bonds and would contest the possession of them with him. It was held that the correspondence between the treasury officials and Hardenberg, the negotiations of counsel, and the articles of agreement between Hardenberg and McCulloch contained demonstrative proof of the fact that Hardenberg was aware of action of Texas. It was, therefore, unimportant to inquire whether the delivery of the coin check had preceded the service of the process. The payment of the bonds, moreover, had not been real. As the comptroller had said in a letter to Chase, "In form the bonds had been paid; in fact the proceeds had been withheld from Mr. Hardenberg, because of the legal proceedings." These proceeds, the court ordered to be turned over to the Texas representatives.

In conformity with this order, Hardenberg paid the proceeds of his thirty-four bonds into the hands of Mr. Paschal.³

Texas v. Chiles

This case grew out of what was supposed to have been an error on the part of Chiles in the accounting for bonds which he submitted in the case of *Texas v. White*. In that case, he and his co-defendants had accounted for some fifty-one bonds, and the decree had provided for the restoration, immediately or ultimately, of these bonds or the proceeds to the complainant. There had

³Similar proceedings were taken to secure payment of the Stewart bonds. It appears, however, that these were paid to the clerk of the Supreme Court. This case was one of those which were unreported for a long time. It is to be found in 131 U. S., xcvi.

been, however, no specific decree against any bonds in the possession of Chiles. Texas now entered a motion in the Supreme Court for a rule on Chiles that he might be forced to give up twelve bonds which were alleged to be a part of those concerned in the transfer from the Military Board to White and Chiles. This allegation was based partly on the answer of White which had claimed that Chiles had ten bonds unaccounted for, partly on a deposition of a man named McKinley to the same effect, and partly on an affidavit of one George Taylor that Chiles had admitted to him that he had two bonds on deposit in a Kentucky bank. It was claimed by the Texas lawyers that these bonds were now subject to the order of the court. Chiles claimed that the bonds had been acquired after the service of the injunction process and even after the issuance of the decree. It must be proved, he maintained, that the bonds were among those transferred to White and Chiles.

Mr. Justice Nelson read the opinion of the court. It was held, in the first place, that the evidence derivable from the answer of White was not competent in this case. The facts, as presented by the State, were, moreover, before the court when the decree was issued. The evidence had at that time been insufficient to warrant an order against Chiles, and it was still inconclusive. The bill in the original case had limited the accounting to the bonds in the possession of the defendants to those possessed at the time of service. The motion was, therefore, denied.

*In re Paschal*⁴

The immediate cause of the legal proceedings in this matter was the entertainment of two motions by the Supreme Court; ultimately the causes reach farther and deeper and lead to a consideration of a factional controversy in Texas political history. The first motion was for an order that George W. Paschal pay to the clerk of the court the sum of \$47,325 in gold, an amount which he was alleged to have received through the enforcement of the decree in the case of *Texas v. White* and which was properly due to the State. The second motion was for a rule removing Paschal's name from the docket as counsel in the case of *Texas v. Peabody's Executors*.

⁴10 Wallace, 483.

The accession of Edmund J. Davis as governor of Texas, in 1870, meant that the faction of the Republican party to which Paschal belonged would be thrown out of power. If the letters which passed between the two men are to be taken as authoritative evidence, it seems clear that the governor had conceived a rather violent political antipathy to Mr. Paschal. The actual break in their official relations came in the dismissal of Paschal as legal and financial representative of the State and in the appointment to that position of Thomas J. Durant. Paschal had foreseen this outcome and had written that, "As I do not belong to his wing of the Republican party, and [as] he is one of those extreme *ab initio* radicals, who believe that every official act from secession to the present day is void, it may be after his inauguration, that my control over the controversy may cease."⁵ On March 25, 1870, Governor Davis, in an official communication, notified Paschal of his removal, and requested that "you will please pay over to Hon. T. J. Durant the amount of money, bonds, and coupons in your hands belonging to the State, and out of the same that gentleman is authorized to pay you a reasonable compensation for your services."⁶ In case Paschal refused obedience to this order, Durant was empowered, in the name of the State, to take legal measures to compel it. Paschal refused to comply, and the case under consideration was the result. A long and at times acrimonious correspondence followed between the various parties, in which the motives of all concerned were aired with partisan frankness.

Paschal had collected from the defendants in the case of *Texas v. White* \$47,325, in which sum were the proceeds from the Hardenberg bonds and those from the bonds of Birch, Murray & Company. Out of this sum, he claimed to have spent \$13,356 for various expenses and costs incident to the prosecution of the case. A large part of this disbursement, according to the itemized statement which he submitted, had gone to the three lawyers who had assisted him. As he had taken none for himself, the remainder of the sum was intact. He maintained that the State, for various claims, owed him the large sum of \$102,525, and that after he had deducted the

⁵Letter to Droege & Co., *Record of Cases*, 1876, 102 (Supreme Court Library).

⁶*Ibid.*, p. 31. Davis to Paschal.

amount in his possession, there would be a remainder of more than \$68,556 still due him. These claims comprised several items. Paschal had been reporter of the Supreme Court of Texas during several years, and had undertaken to print his reports for the State. He had engaged to have four hundred copies of each volume of his reports printed and bound. For this service, he was to receive seven dollars for each page contained in the volume. He had printed four volumes, for which the compensation, according to the agreement, would have been \$28,280. Of this amount, the State still owed him, as he insisted, \$17,577. The governor refused to make a requisition for this amount, and even ordered the State Treasurer to ignore Paschal's demands. Whatever Governor Davis thought of the printing, or of the contract under which the work was accomplished, he submitted no proof of improper conduct on the part of Paschal. In his second claim, Paschal estimated his services in the *Texas v. White* case at \$20,000. This estimate, Davis pronounced to be absurd and exorbitant. There had been no definite agreement between Paschal and the State authorities regarding the compensation which he was to receive. In the absence of a stipulation for a certain fee, he was, according to his own statement, to charge "as the responsibility, the expense, the time, the learning necessary, and the services should render proper."⁷ Such a situation certainly rendered a latitudinous estimation of the value of his efforts probable, if not inevitable. Governor Pease had written Paschal that his compensation depended upon the action of a future legislature or upon the amount of bonds collected. When Pease visited Washington, in 1869, he made an agreement with Paschal to collect the Peabody bonds and also those in the hands of Droege & Company. For the collection of these two sets of bonds, he was to receive a compensation of 25 and 20 per cent. respectively. In pursuance of this agreement, Paschal had set about energetically to collect the bonds; and, if his opinion is accepted, had attained considerable success, when his efforts were thwarted by his removal as agent. Since the only thing which had prevented the accomplishment of his purpose had been the interference of the gov-

⁷Paschal's affidavit, record of *In re Paschal*, p. 3. (Found in *Record of Cases*, 1876, Supreme Court Library).

ernor, Paschal now claimed his full compensation, at least in regard to the Peabody bonds. Governor Davis repudiated this claim as preposterous.

This was the situation when Durant recommended that Paschal should secure counsel with whom he, as the State's agent, could treat in accordance with the instructions of the Texas authorities. Paschal obeyed this request, and employed A. G. Riddle. After long negotiations and much correspondence, Durant proposed to honor the disbursements in the case of *Texas v. White*, and to pay Paschal \$5,000 for his services in that case and \$2,500 for his efforts to collect the Peabody bonds. Paschal refused to accept the compromise, and the matter was taken to the Supreme Court in the form mentioned above.

As an evidence that his service had been long, disinterested, and capable, Paschal submitted for the perusal of the court the correspondence between himself and the holders of the Peabody bonds, the firm of Dabney, Morgan & Company, of New York, and, in addition, that with Droege & Company. These negotiations referred to the three hundred bonds which Swisher had carried to England in 1862.⁸ It will be recalled that Peabody bought one hundred and forty-nine of these bonds. Before he had completed the payment for them, however, he endeavored to secure a return of his money by suing Droege & Company. This suit was made in the English courts, but there seems to have been no record of a decision, although a temporary injunction was granted him. On the death of Peabody, his executors, Dabney, Morgan & Company, presented the bonds for redemption by the United States. Against this payment, the Texas agent protested unavailingly. The State endeavored to return the amount of money which Peabody had spent for the bonds, but it was not accepted. Then a suit was begun in the Supreme Court against Peabody's executors. This case was pending when Paschal was removed.⁹ Of the one hundred and fifty-one bonds which had remained in the hands of

⁸See THE QUARTERLY, XVIII, 349-350. for an account of the transaction and the history of Swisher's activity.

⁹The case of *Texas v. Peabody's Executors* is mentioned on page xxvii of 131 U. S. Reports. It is, however, one of the unreported cases which have been tried before the Supreme Court. The final history of the indemnity bonds belongs to the financial and fiscal history of the State of Texas.

Droege & Company, a word must be said. Paschal had promptly laid claim to the bonds, and the English firm seemed willing to compromise with the State. This compromise had been prevented by various injunction suits, such as those of Chiles and Peabody. Finally, Paschal notified the firm that, in case restitution was not made, the Supreme Court would declare the bonds useless and cancelled, and the United States would pay them to the State of Texas; and the costs to which the house had been put would, therefore, be lost. Whether moved by this threat or not, a representative of Droege & Company was eventually sent to the United States to treat with Paschal about the transfer of the bonds. The correspondence between the two indicates that an agreement had practically been reached when Paschal was peremptorily removed by the governor of Texas.

All of these facts were presented to the court as an evidence of the fidelity and constancy of Paschal's service, and little effort was made to controvert the fact or value of this service. In addition, he stated that, in case the court forced him to pay the money collected to Texas, he would have no recourse under Texas law by which his fees might be secured.

Mr. Justice Bradley read the opinion of the court. The court claimed jurisdiction of this matter by virtue of the control it was empowered to exert over its own officers and the members of its own bar. There were certain duties which a lawyer owed to his client which the court could compel him to perform without an appeal by the client to the ordinary courses of law, and, conversely, it might protect the interests of the faithful lawyer in case they were unfairly endangered. In this particular connection, it was held that an attorney, in case he collects money for a client, should pay over all sums after he had deducted the costs and the disbursements. The question in this case was: had Paschal retained the money in his hands in bad faith, and was he, in consequence, guilty of such misconduct as would justify the interference of the court? After reciting the facts in the case, the court held that Paschal had not been guilty of conduct unbecoming an attorney in his relation with his client. The claim he made to the money was in good faith, and it would be against equity to force him to yield it up since, in that case, he would be without legal recourse. As to whether he was justi-

fied in keeping it all, or in keeping any, the court considered it unnecessary to state. The Texas authorities could appeal to the ordinary channels of the law, since there was no inhibition preventing the State from suing Paschal. In substantiation of this view, the court cited the usage in England and many of the American States to prove that an attorney had a lien upon money collected for a client who has not rewarded him for his services. The retainer of Governors Hamilton and Pease had referred to the bonds indiscriminately and particularly to those of White and Chiles; so Paschal had not violated any agreement in that respect. On these grounds, the motion to force Paschal to pay over the money to the State was denied.

The second motion, praying for the removal of Paschal as attorney representing Texas was granted. Paschal had denied that the governor had the power to remove him until he was paid. He had persisted in attempting to represent Texas until he had seriously embarrassed Durant. The court held that this was a mistaken view to take of the governor's power. The State of Texas had the right to dismiss one attorney and to employ another, although the State remained responsible for and bound by contracts already entered into with the attorney then being dismissed. Whether the State in this particular case remained liable for the whole contingent fee originally promised Paschal, or for so much of it as the services were worth, or for none of it, the court declined to say. However this might have been, the State had the unquestionable right to change representatives. "The court cannot hesitate in permitting the State to appear and conduct its causes by such counsel as it shall choose to represent it." The motion was, therefore, granted.¹⁰

¹⁰According to the decision of this matter, Paschal retained possession of the bonds and moneys in his hands at the time of his dismissal by Davis. During the administration of the latter as governor of Texas, no settlement or compromise of the controversy was effected. Later, in 1874, Governor Coke was empowered to settle with Paschal for the remainder of the debt due him for printing the Supreme Court reports. See Joint Resolution No. 12, Gammel, *Laws of Texas*, VIII, 245-246.

*Huntington v. Texas*¹¹

The cases previously considered were tried in the Supreme Court by virtue of its original jurisdiction, but that now being noticed was taken up on appeal from the District of Columbia courts. It was a suit against William S. Huntington, the cashier of the National Bank of Washington, concerning thirty-seven of the Texas indemnity bonds. Ten of these bonds, before they came into the possession of the bank, had been the property of a Mr. Haas. He had presented them to the treasury officials for redemption, and they, as in other cases, referred the bonds to the Comptroller for his opinion as to whether the department should pay them. After a favorable report had been given, Mr. Haas had secured a loan from the bank, using the bonds as security. The bonds were accepted, and the money was advanced to him. Later Haas by letter informed the treasury department of his action, and requested that the bonds be paid to Huntington as the representative of the bank, and the request was complied with. Fourteen other bonds of the thirty-seven were owned by the same man, and the circuitous process of redemption was repeated. The remaining thirteen bonds were the property of Huntington himself. In the interval between the two payments already recorded, he had purchased these bonds in good faith and for consideration. The first ten bonds had been paid before Texas had entered a protest, and when Huntington bought his bonds, there was, according to his testimony, no protest on file. When he asked for payment, however, there was a complaint from the State. He claimed that he had made the purchase on the belief that his bonds would be paid as had been those of Haas, and that he had taken the precaution to inquire whether there was a protest against such payment.

The State relied entirely upon the arguments and the decree made in the case of *Texas v. White*.¹² It was claimed that since the bonds did not bear the indorsement of the governor, the title of the State had not divested, that these bonds were a part of those which had been in the hands of White and Chiles. The defense challenged these facts, and claimed that there was no proof that

¹¹16 Wallace, 402.

¹²Merrick and Durant were the attorneys for the State.

these bonds had been purchased by the original holders after maturity, nor that the transaction had been other than lawful and innocent. It was argued that the absence of the governor's signature was not proof of the fact that the bonds were a part of those once held by White and Chiles. There had been, it was contended, other bonds issued without this signature, which were then lawfully held by innocent parties.¹³ The appeal had been taken on the grounds that the charge to the jury in the lower court had not left sufficient choice and discretion in deciding this point.

The opinion was delivered by Chief Justice Chase. The court, in the beginning, considered the question of the effect of the governor's indorsement, and that of the act repealing the requirement. In the latter connection, the opinion reads, "But we have held such a repealing act was absolutely void, and that the title of the State could in no case be divested." This view the court proceeded to modify to the extent that the act became legal and operative whenever the transference of bonds was made for a legitimate and innocent purpose, such as for the support of eleemosynary institutions, and not in support of the rebellion. In every case where the indorsement was lacking, the validity and legality of the alienation depended upon the legitimacy of the object and purpose of the transaction. If the purpose was lawful, the transfer was legal and the repealing act valid. With this change of interpretation in mind, the court held that the charge of the lower court was unfair in not allowing sufficient latitude in the judgment of the jury. The decision was, therefore, reversed.

*Texas v. The National Bank of Washington*¹⁴

This was a suit for the possession of nineteen bonds then in the hands of the bank and others, including the cashier, whose names appeared in the bill. It was testified by the comptroller of the treasury, Mr. Tayler, that in his opinion, based upon careful calculation from certain papers in his office, these bonds were

¹³J. H. Ashton and W. S. Cox represented Huntington.

¹⁴20 Wallace, 72. This also was an appeal from the District of Columbia courts. Decided in 1873.

a part of those once in the possession of White and Chiles. This was also the opinion of Judge Paschal. These men did not, and apparently could not, say definitely, however, that they knew that the bonds had been transferred by the Military Board. The case of the State rested upon this evidence and upon the fact that the bonds were undorsed. The defense contended that the testimony of Tayler and Paschal was mere opinion and no evidence. It was argued that the absence of the governor's indorsement was not proof of a lack of title on the part of the holder. It was clearly established that certain bonds issued to the Southern Pacific Railroad, one hundred and forty-eight in number, had not been so indorsed. The State had not been consistent in making this requirement, and some thirteen acts were cited in which the requirement was not even mentioned and apparently not observed in the execution of the acts. It was pointed out, furthermore, that no one knew definitely the numbers of the bonds delivered to White and Chiles.

The opinion of the court was delivered by Justice Miller. The case of the complainants rested upon the assumption that the bonds had once been in the hands of White and Chiles, thus having all the taint attendant upon that fact. In the face of the denial of the accuracy of this allegation by the defendants, the court held that Texas must establish it beyond doubt. The court considered that the evidence adduced to prove this contention was of a very unsatisfactory sort, and altogether incompetent for the purpose. "In short," it was said, "the testimony on this branch of the subject is an absolute failure."¹⁵

The opinion of the court presented a very interesting and tremendously illuminating treatment of the legal effect of the governor's indorsement. Speaking of the entire controversy on this point and of the view taken by Chief Justice Chase, the court said,

It is true that in the first of these cases the eminent judge who delivered the opinion, in addition to deciding that bonds were overdue when delivered to White and Chiles, and for that reason subject to an inquiry as to the manner in which they had obtained possession of them, gave an additional reason why defendants could not hold them as *bona fide* purchasers, that they had not been indorsed by the governor as was required by the statute

¹⁵20 Wallace, 82.

of the State of Texas. . . . All of this, however, was unnecessary to the decision of that case, and the soundness of the proposition may be doubted.

The celerity with which the finding of the lower court was reversed very clearly demonstrated that the "proposition" was no longer considered sound. This was a frank admission that Chief Justice Chase had been in error in assigning so much force to the statutory requirement of the governor's signature.

The court held that the opinion in the case of *Huntington v. Texas* governed this controversy. The modification of the earlier views was reaffirmed by the court, and on these grounds the case was reversed and directions were given for the dismissal of the bill.

In an opinion of considerable length and great power of reasoning, Justice Swayne concurred in the decision, but submitted reasons slightly different from those of the majority. He went much farther than the court regarding the effect of the act repealing the requirement of the indorsement of the governor. This act, he said, was an ordinary piece of legislation. "If it had in view the promotion of the rebel cause, it was too remote from that end, and its tendency too indirect to render it fatally liable to that objection. The repeal put an end to the restriction." He went on to say that the original law had no legal effect upon the title of the *bona fide* holder.

*In re Chiles*¹⁶

This matter was the result of the introduction of a motion in the Supreme Court for a rule on Chiles to show cause why he should not be adjudged guilty of contempt of court for having violated the decree in the case of *Texas v. White*. The decree, it will be remembered, had enjoined the defendants from setting any claim to the bonds mentioned in the bill in that suit. It will also be recalled that there were two sets of bonds mentioned in the original bill, namely, those actually turned over to White and Chiles by the Military Board, and those which were in England in the possession of the firm of Droege & Company. Of this last group, the bill had referred to the seventy-six bonds which were

¹⁶22 Wallace, 157.

sold to White and Chiles according to the contract. Chiles had not relinquished his claim to these bonds although it seemed to have been invalidated by the decision in *Texas v. White*. He had, at several times, notified Droege & Company of his ownership, and had stated his intention of reclaiming them by legal measures in the English courts. Finally, on July 17, 1874, he wrote to this firm, repeating the statement of his right to the seventy-six bonds, and asserting his intention of instituting an injunction suit to prevent the disposal of them to any other party. When this letter became known, the Texas agent appeared before the Supreme Court and made the motion already noticed. In answer to the charges therein preferred against him, Chiles admitted that he had made the claim of ownership, and stated, furthermore, that he intended to secure his rights by legal measures. He denied, however, that he was guilty of any contempt of court, or that he was endeavoring to nullify and thwart the injunction imposed upon him by the court in the earlier case. On the contrary, he maintained that his assertion of right to the bonds was based upon grounds other than those denounced in the decree. His present claim was founded on a contract made with the Military Board on March 4, 1865,—a contract which was separate and distinct from that made previously to which White and Chiles had been parties on one side. In the later contract, Chiles had not been associated with White. The decree had annulled the contract between the board and White and Chiles, but it had had no effect upon the later one, for the court could not impeach a contract which had not been mentioned in the bill. The second contract, moreover, was not operative until the first had been vacated or annulled; the decree having declared the first contract void, the other became effective. As to the idea that Chiles was in contempt of court, the defense argued that the law of injunctions was not framed to prevent a person from claiming property either orally or in writing. The decree in *Texas v. White* had called the contract of March 4th, which had hitherto been in abeyance, into active life, and Chiles had made known his rights under it,—a fact which had no necessary bearing upon the decree. It was then denied that the court had the right to pass upon money or bonds held by a foreign subject and located in a foreign country.

Messrs. Merrick and Durant for the complainant charged that Chiles was striving to overthrow the decision in *Texas v. White*, that he was preventing the State from deriving the just benefits of that victory, and that he was violating the decree. They demanded that the court should order Chiles to cease his illegal practices, and that he should be constrained to convey to the State in writing whatever claim he might have to the bonds.

Mr. Justice Miller delivered the opinion of the court. "It would be to trifle," said the justice, "with the court to make a proceeding in equity, designed to give full and final relief, and to administer complete justice, to depend upon the skill and jugglery by which a defendant might conceal some part of his defense to that suit until it was decided against him, and set it up as an excuse for disobeying the final decree of the court, or hold it out as the basis of another suit for the title and possession of the same bonds." The existence of a new contract was, therefore, an unsubstantial basis for the claim.

The court held that the decree was plain. It had declared the contract conveying the bonds to White and Chiles void, and had enjoined them from setting up *any* claim to the bonds mentioned. The assertion of claim was not limited to legal action, and, consequently, Chiles was again in error. The court, therefore, declined to be governed by the fine distinctions which the counsel for Chiles had sought to draw from the law of injunctions. The decree was intended to prevent any further interference with the rights of Texas and any obstruction to the recovery of the bonds specified in the bill.

The court decided that the holders of bonds in the United States could be forced to restore them to the State of Texas, but this was as far as the court's assistance could extend. The court could enjoin a domestic holder from setting up a claim to bonds deposited in a foreign country. This Chiles, in defiance of the spirit and intent of the decree, had done, and the court considered him to be in contempt of its authority. For this offense, he was fined \$250 and costs. The court declined to order him to make over his claim to the State of Texas.¹⁷

¹⁷This is one of the most famous contempt cases, and has been cited repeatedly for precedent. For another interesting case arising out of the controversy over the Texas indemnity bonds and in which Chiles was in-

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involved, see 21 Wallace, 488. The Supreme Court later, in the interesting case of *United States v. Morgan* (*Morgan and Another v. United States*; *United States v. Manhattan Savings Institute*; *von Hoffman and Another v. United States*) had occasion to review some of the leading points of law involved in *Texas v. White* and the other cases mentioned in this chapter. See 113 U. S., 476-506.

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EARLY PRESBYTERIANISM IN TEXAS AS SEEN BY
REV. JAMES WESTON MILLER, D. D.

ROBERT FINNEY MILLER, M. D.

My father, the Rev. Dr. James Weston Miller, came to Texas in December, 1844, as a missionary of the Presbyterian church to the First Presbyterian Church of Houston. He arrived at Houston on the steamer *Captain Wood*, having come by boat down the Ohio from Steubenville, and down the Mississippi to New Orleans, then by water to Galveston and Harrisburg. He was born in Erie County, Pennsylvania, on French Creek, near Mill Village, November 15, 1815, the eldest of nine children of Jeremiah and Elizabeth Weston Miller, and was christened James Weston for his maternal grandfather, Esquire James Weston, a descendant of the Westons of Duxbury and Plymouth, Massachusetts. James Weston Miller's family were pioneers in north-western Pennsylvania. His grandfather, Stephen Miller, came early to Erie County and settled at Waterford.

James Weston Miller began his education in the old log school houses of Erie County, and studied night after night by the blaze of a pine knot. He later entered Waterford Academy, six miles away, and walked the distance to and fro for some years. In 1835 he finished the academy course and won a scholarship which gave him two years free at Jefferson College, Canonsburg, Pennsylvania. At the end of his sophomore year he was out of funds, so returned to Waterford Academy as principal during 1837-38. Returning to Jefferson in 1838 he graduated in 1840. There were forty-two graduates that year, and he took first honors and the valedictory September 14, 1840. For the next year he was assistant to Rev. Dr. Mathew Brown, President of Jefferson College. In the fall of 1841 he accepted the principalship of the Grove Academy at Steubenville, Ohio, for a year, and here began the lifelong friendship with Dr. C. C. Beatty, President of the Steubenville Female Seminary. Dr. Beatty was one of the greatest Presbyterian divines of his day. After a year at the Grove Academy, Miller entered the theological seminary at Allegheny, Pennsylvania, to prepare for the ministry. Here he graduated in

1844, was licensed to preach by the Presbytery of Washington, and left the same year for Houston as a missionary. It had been arranged that Dr. Beatty should follow him and that they should devote their united lives to the upbuilding of Presbyterianism in the Republic of Texas. But Dr. Beatty remained at Steubenville and spent a life of great usefulness in the Female Seminary.

Rev. James Weston Miller was twenty-nine years of age when he arrived in Houston. His field of labor is thus described in his diary:

Monday, 30th December, 1844. I pen a few statistics for after reference respecting this prospective scene of my labors in the ministry. The Presbyterian Church has thirteen members; place much altered in regard to religion. People always ready to attend preaching, always attentive, respectful, polite, kind and confiding whenever met. Thick forests are in the neighborhood. The howling of the wolf is often heard. The Methodist and Episcopal Churches each number about thirty whites, and the Methodist Church about thirty colored members. The place looks old, houses generally unpainted and as if built in a hurry and soon to be left. In this respect, however, improving. Weeds seem to have overrun the whole town during the last summer. Business improving. Navigation to Galveston much impeded by northers and little water in the bayou. Weather very dry and rather cold usually. Am boarding at Dr. Cones.'

The young minister zealously took up his work. His diary says:

May 18, 1845. Preached both morning and evening. General Sam Houston, President of the Texas Republic, and wife attended both services. May the Lord come and take away his and others' madness.

"Left July 1, 1845, for the North; gone eight months and collected \$1344 for the church on this trip." His failing health is often bemoaned, but he adopted as his motto "Better wear out than rust out." While he was away collecting money to finish the church, Texas became a State. The church was finished in 1846, and they no longer were forced to use the Capitol for services. By March 21, 1847, the church had become self-supporting, and the young missionary was installed as pastor of the First Presbyterian Church of Houston—the first installation in Texas. The

pastor needed an helpmeet, so, late in the summer, he went North to claim as his bride Elizabeth A. McKennan, an orphan, who lived with her grandfather, Galbraith Stewart, at West Middletown, Pennsylvania. She had graduated at Steubenville Seminary in 1844, and it was again the guiding hand of Dr. Beatty that sent the young minister to meet Elizabeth McKennan. After visiting her people and his, the young couple left by boat for Houston. They were received cordially, and the young bride, of great beauty of heart and person, aided her husband to build up Zion. In 1848 their first son came to bless the union, and was christened Thomas McCall for the mother's uncle.

Houston was not an healthful place, and the faithful pastor was often too sick to attend to his duties. He lost so much flesh that in 1850 his early death from consumption was presaged, and he was advised to try life in a higher climate. He went at once to Gay Hill, Washington County, finished the old Miller Home there of cedar logs, and became pastor of Prospect Church, the second one organized in Texas by the Rev. Hugh Wilson, in February, 1839. This neighborhood is now an historic one. It soon became a center of refinement and culture. There is no more beautiful pastoral scene in Texas than this old place. Situated on high ground, surrounded by aged live oak trees draped with beautiful moss, and with unsurpassed views in every direction, the appeal to an inborn love of nature was overwhelming to the young preacher. Sorrow came to him early, for his young wife died suddenly in their new home, leaving the father with an infant son of three days and a boy two years of age. This was a crushing blow, but the bereft husband looked upon it as the hand of God, and took up his burden single handed. The death of his first wife delayed the opening of Live Oak Female Seminary from 1850 to February, 1853, as shown by a letter written by Miller July 1, 1850, to his wife's aunt. Kind neighbors, the family of Rev. Hugh Wilson, who lived on an adjacent farm, and others cared for his two little ones while he went about preaching the gospel and drawing around him families of great worth. In 1852 he married the first cousin and chum of his first wife, Elizabeth Scott Stewart, from near Bethany College, Brooke County, West Virginia. Together in the old home, near Gay Hill, in 1853, they opened Live Oak Female Seminary, the first Presbyterian

female school in Texas. It was conducted for twenty-five years, till the death of Dr. Miller in 1888. Many of his first pupils came from his old church in Houston, among them Matilda Burke, the mother of Col. E. B. Cushing, President of the Board of Trustees of the Agricultural and Mechanical College of Texas, the Conklins and many others. Around the seminary, settled on farms, were makers of Texas history. The first three judges of the supreme court of Texas, Lipscomb, Wheeler, and Hemphill, were all patrons of the school. Lucy Lipscomb, Betty Lipscomb, Emily Wheeler, and Elizabeth Hemphill received their education there. Judge R. E. B. Baylor bought a farm across the road from the seminary, and there lived and died. He was a bachelor, but his nieces and grand nieces who lived with him studied at Live Oak Seminary. For Judge Baylor were named both Baylor University and Baylor Female College. These schools were then at Independence, five miles east, but in plain view from my father's home. Thither came also Judge Gillespie, his wife and daughter, Mary, and her husband, General John Sayles, author of *Sayles' Pleadings* and many other law books. The Sayles home still stands, and is occupied by the family of a son, Barry Gillespie Sayles, who married Emily Clarissa, youngest daughter of Rev. Dr. Miller. General Sayles, while living here, was preceptor of Judge T. J. Brown, late Chief Justice of the Supreme Court of Texas.

Miss Rebecca K. Stewart, sister of Mrs. Miller, became the lady principal of the Seminary in 1853. In 1854, she married Dr. George C. Red, but continued as principal until 1875, when she went to Austin and opened Stuart Seminary. She was cultured, refined and a wonderful teacher. Her son, Dr. Samuel Clark Red of Houston, was the first Arts Graduate of the University of Texas. Dr. George C. Red's oldest sister was the mother of Hon. T. S. Henderson of Cameron, long a Regent of the University of Texas. Many other families, wealthy and distinguished, settled there. Mr. Thomas Affleck, who had a most wonderful house and library and more than one hundred slaves, Captain Chriesman, surveyor-general for Stephen F. Austin's colony, and grandfather of Messrs. Rector, Thaddeus and Oliver Thomson, of Austin. From Brenham came Louise and Annie Giddings; the latter was the daughter of a pioneer

Texan killed by the Indians near San Antonio. She married J. N. Brown, President of the Alamo National Bank, and is the mother of Clinton Giddings Brown, Mayor of San Antonio. It is impossible to estimate the influence of one man on education and Presbyterianism in Texas, but when it is remembered that J. W. Miller was the first Presbyterian minister installed in Texas, and that over the church in Houston he preached often to such men as General Sam Houston; that he moved to Washington County and gave the gospel many times to lawgivers gathered in Old Washington, also the capital for a time; that he conducted for twenty-five years the first Presbyterian School for girls in Texas, with a patronage from all points in the State; that he was for the first twenty-five years of the original Board of Trustees of Austin College (twice elected its President also, but declined because of his own school); twice Moderator of the Synod of Texas, and by request preached the silver anniversary sermon for the Synod in 1876 at Dallas; many times a delegate to the General Assembly of his church,—all this gives but a faint idea of the church's appreciation of his intellect and labors for Presbyterianism. He was beloved far and wide, and counted such men as John H. Reagan his firm friends. His removal to Washington County seemed to give him renewed energy, and he was able to respond to many calls far and near to preach the gospel, christen the infants, marry the young, and bury the dead. His marriage ceremony was never perfunctory but embraced some appropriate poetry, and his burial services were never harrowing but always a comfort to the bereaved family. He believed that the dead had settled their own accounts with Heaven, and salvation for the living was the only thing to be accomplished. I fear that he had little faith in death-bed repentance, or as my brother calls it "Taking out Fire Insurance" just before death. He preached often that "Today is the day of Salvation." My father was never ascetic,—he loved to tell or listen to a good story and it did not have to be the daintiest, and if it included hell and damnation he put in the word. He was much interested in all farm work, and yearly took prizes at fairs on his fruits, honey, sheep and other animals. Hunting, fishing and "bee lining" were his greatest diversions and it was a poor day for sport if he did not get results for his efforts. He would hunt deer at night with a lan-

tern on his head, called fire-hunting and would do "still hunting" by day, but never hunted deer with hounds. The latter he considered unfair sport. He often told as a joke on himself about one fire-hunting trip when he shot at a pair of eyes reflecting his light, brought down the game and was horrified at finding the game to be a neighbor's old belled mare. He went early the next morning to pay the neighbor for the damage and was rejoiced to see the same animal with her head buried in the feed trough, and seemingly none the worse for the shooting. Both my father and mother were great lovers of children and always had time to devote to the young of their flock, cuddle the babies, and give goodies to the children of maturer years. He would take the babies on his lap and often put them to sleep to the tune of "Rock-a-bye Baby in the Tree Top" or "Bye Baby Bunting, Daddy's Gone a-Hunting." Still he did not allow the children to occupy the center of the stage and often admonished us with "children should be seen and not heard." He hated gossip and small talk and frequently called a halt upon our glib tongues with, "Talk about things and not persons." If he was not fearless we never knew it. Once when one of his pupils ran away from school and married a worthless fellow, the groom's family came armed to demand the bride's effects. He recognized with sadness that the false step could not be righted, so met the armed men open handed with the query, "Did you come with your guns to shoot tumble-bugs?" Again one of the pupils was detected as a thief, she was sent home from school in disgrace and father met the armed male members of the family at the gate and was so firm in his position that they were convinced of the wrong and gave up hope of ever having the girl reinstated. He was a chaplain to General T. N. Waul's "Texas Legion." He believed firmly in the motto "Be sure you're right, then go ahead." He was deliberate in all matters and hence avoided making many errors. He was always a friend of the old negroes of the community, kept benches for them at the rear of his church and gave them land for their Methodist and Baptist churches and graveyards. He often performed marriage ceremonies for the blacks, a source of great amusement to our family. The fee was usually \$1.00. They would be taken into the parlor, and one of my sisters would lend music's spell to the proceedings and the antics of the negroes

would furnish an hour of real pleasure to all of us. The tendency to general kissing of the bride and groom by all the attending blacks was a feature and the admonitions of my father would be eagerly attended. Once he preached to the negroes upon the text "Thou shalt not steal" and made the plea so vivid and punishment so certain that for days the negroes were very busy returning or confessing to small breaches of this commandment.

He was never a prohibitionist, but rather tended to the other side. Each fall he would make a barrel or more of mustang grape wine which was famous over Texas. This wine he dispensed from the cold stone milkhouse in pitchers to all the family and guests and sent bottles far and near for the sick and debilitated. He believed that dancing was fine exercise and tended to improve the female graces and make his pupils "polished after the similitude of a Pallas." So every Friday night the girls had a dance, which mother and father usually attended with any guests of the school. There were not men enough, so several of the girls would tie a handkerchief around their left arms and lead the dances. Sometimes they would have a costume dance and some of the girls would appear in their brothers' suits and even in some of my father's and thus add to the merriment. Usually the dance music was a piano played in turn by musicians, but sometimes a negro fiddler played, and often the girls played on their banjos, violins and guitars. Often at noon the girls would dance under the shade of the beautiful live oak trees to the piano played in the parlor. More interesting to me in childhood were a pair of beautiful twin girls, Rainey and Belle Bethany, who each played charmingly on an accordeon, and while they furnished dance music for the others, danced together to their own music. Another sweet memory of early childhood is of "Aunt Polly" Lipscomb, widow of Judge Abner Lipscomb, a first Justice of Texas' Supreme Court, when she was probably about eighty-two, wan, small, and bowed with age, seated at an old piano playing with great zest dance music for the girls. She was a veritable wraith, but a lady of great piety and a valued member of my father's church for years, still believing in the joys of youth. Her husband believed in immersion, so my father yielded to his request and "buried him in baptism"—the only time he ever departed from the prescribed Presbyterian method of sprinkling.

In his description of Washington County, DeCordova refers to its educational opportunities in the following words:

There are two literary institutions of high character in this county, viz: Live Oak Female Seminary, Gay Hill, Texas. This institution is in the country, remote from all the temptations of a village or city, healthy and beautiful in location, and surrounded by one of the best neighborhoods in the State. The location was chosen and fitted up by the Superintendent especially for a permanent female school.

The sixth year will commence the first Monday of February next.

Rev. J. W. Miller, Superintendent.

Mrs. R. K. Red, Principal.

Mr. Joiner, Teacher of Music, etc.

Mr. M. Gerard, Drawing, etc.

Terms: For board, lodging, washing, light and fuel, per month, \$12. Tuition, according to studies, \$2 to \$4. Drawing, painting and embroidery, extra, \$5.

Half of all sessional bills in advance, and the balance before the young lady is taken away. Strict compliance will secure the parties a deduction of 5 per cent., and non-compliance an addition of 10 per cent. upon the whole bill.

Baylor University

Is located at Independence, a beautiful and quiet village in Washington County, on the great stage road from Houston and San Augustine to the City of Austin. The citizens of Independence and the immediate vicinity are unsurpassed in the State for intelligence, and moral and religious worth. The refined society, splendid landscapes and beautiful live-oak groves all combine to make Independence an eligible point for a great literary institution."¹ The University was chartered in 1845 by the Republic of Texas.

Rev. Rufus C. Burleson, A. M., President and Professor of Moral and Intellectual Philosophy and the Spanish Language and Literature.

Dr. David R. Wallace, A. M., Professor of Natural Science, French Language and Literature.

Gilbert L. Morgan, A. B., Professor of Mathematics.

Stephen D. Rowe, A. B., Professor of Ancient Languages and Literature.

James L. Smith, Principal of the Preparatory Department.²

¹*Texas: Her Resources and Her Public Men.* Philadelphia, 1858, pp. 217, 218.

²*Ibid.*, 285.

Let me add here that there was always the warmest friendship between the two schools, the brothers went to Baylor while their sisters were students at Live Oak Seminary. In my childhood, Rev. Dr. Wm. Carey Crane, President of Baylor University, and Rev. Dr. J. H. Luther, President of Baylor Female College, preached often at the Baptist Church near our home and came time and again as honored guests in our house.

Of Walker County and Huntsville, De Cordova says:

Austin College [now at Sherman]. The prosperity of this college is looked forward to with much anxiety by the friends of education throughout the State. They have already erected, on a commanding eminence, a beautiful building, have obtained the services of able professors, laid the foundation of a good library, and procured chemical and philosophical apparatus, and placed the institution under the direction of an enlightened and efficient board of trustees, who appear determined to make it an ornament to the town and a credit to the State. The students number now over a hundred, and, from the high reputation that this college has deservedly obtained, there is no doubt that it will receive an increased patronage. . . .

Board of Trustees: Rev. Daniel Baker, D. D., Ex officio President, Rev. J. W. Miller, Rev. R. H. Byers, Hon. Sam Houston, Judge A. S. Lipscomb, James A. Baker, Esq., A. J. Burke, Esq. (afterwards Mayor of Houston).

Faculty of five in Academic Department. Hon. Royal T. Wheeler (a Supreme Court Judge) was chosen Professor of Law in this college in 1858.

The Austin College Quarterly in its semicentennial number of October, 1902, speaks thus of Rev. J. W. Miller, D. D.

Official Roster—Trustees 1850: Daniel Baker, J. W. Miller, G. C. Red, Henderson Yoakum, Sam Houston, Hugh Wilson, A. J. Burke, R. Smither, J. Branch, J. C. Smith, J. Hume.

Anent the establishment of Austin College the same says:

The next meeting of Presbytery was held at Washington (old capital) June 21, 1849. At this time action concerning a location at Goliad was rescinded, owing to its being so far West. A committee consisting of Daniel Baker, J. W. Miller and Blair was appointed to select a central location for a college. This committee reported to a called meeting held at Prospect Church [where the Miller Home now is] Oct. 13, 1849, recommending Huntsville. The report was adopted, a charter was drawn up, a board of trustees selected, and a principal teacher secured. When

the time came for the selection of a name, the name of Daniel Baker was suggested. He declined the honor and the name of Stephen F. Austin was chosen, the college became "Austin College." A committee consisting of Rev. J. W. Miller and Elders D. D. Atchison and S. D. C. Abbott was appointed to secure the legislature's approval of the charter. (They rode horseback to Austin to obtain this.) The charter was signed by Gov. Wood on the 22nd day of November, 1849. . . . Rev. J. W. Miller occupied a very prominent position among those who laid the foundation of the college.³ . . . Presbyterianism in Texas owes much to Dr. and Mrs. Miller and his co-laborers, Dr. and Mrs. Red, who for forty years conducted the only Presbyterian school for girls in the State. In 1857 Dr. Miller, of honored fame, was elected President, but did not see his way clear to accept on account of Live Oak Seminary. He was always a staunch supporter of the College, and one on whose advice Daniel Baker relied.

[Austin College conferred the Degree of Doctor of Divinity upon him in 1873.]

Rev. J. W. Miller was active in the organization of the Synod of Texas at Austin, October 30, 1851, and was the first Stated Clerk. He was elected Moderator at Huntsville, November 4, 1858, and at Dallas, November 1, 1876, the latter the silver anniversary of the Synod, when Dr. Miller preached the anniversary sermon.⁴

At the twenty-fifth anniversary of the Synod of Texas, in November, 1876, at Dallas, my father, then the only living minister of its charter members, preached the sermon, which is so filled with the history of Presbyterianism in Texas that it is here published in full.

"God requireth that which is past."

We are to sketch the rise and progress of Presbyterianism in Texas.

We must begin with Brazos Presbytery, the mother of Presbyteries and the synod. B. Chase of Natchez, W. L. McCalla, Jno. Breckenridge and others had early visited Texas, seen its wants

³Rev. Dr. Samuel A. King, Professor Emeritus of Theology in the Presbyterian Seminary at Austin, tells me that Daniel Baker was always considered the founder of Austin College and J. W. Miller the father of the college.

⁴This sermon contains an historical résumé of Presbyterianism in Texas, and is printed in full in the writer's volume, *A Family of Millers and Stewarts*, 16-18. The original manuscript is in the writer's possession.

and prospects. On suggestion of these brethren the Committee of Missions of the synod of Mississippi requested Revs. Hugh Wilson and W. C. Blair, former missionaries among the Choctaw Indians, to go to Texas. Promptly they responded to the call. Promised a support by the committee, Wilson started for the new field in 1838, Blair in 1840. On the way Wilson reached San Augustine and organized the first Presbyterian Church in Texas, May, 1838. The next year Wilson moved on to Washington County and organized the second Presbyterian Church, near Independence, now called Prospect.

About the same time W. Y. Allen and Jno. McCullough came into the Republic and organized churches at Houston, Galveston and Austin. P. H. Fullenwider had been in the State some time, as early as 1834. The General Assembly and the Synod of Mississippi directed these brethren to organize a Presbytery. April 3d, 1840, Hugh Wilson, Jno. McCullough and W. Y. Allen came together at Chriesman's Settlement Prospect Church. . . . A sermon was preached by Mr. Allen from Psalms, 122 chapter, 6th verse: "Pray for the peace of Jerusalem." A paper reciting the history of the case, professing faith in the Holy Scriptures and solemn adoption of the Confession of Faith and form of government of the Presbyterian Church of the U. S. A. was signed by the ministers and Jno. McFarland, ruling elder. McCullough was then chosen moderator, and W. Y. Allen, clerk. Blair was not there. He had started in full time to ride from Victoria, alone, on horseback, but, detained by high waters, he finally appeared on the ground two weeks too late. Daniel Baker was there and preached the sermon in which he told the story of the "Devil's turning fisherman and catching sinners with a naked hook." Capt. Chriesman, Stephen F. Austin's surveyor, quits his swearing and as I am writing this, calls upon me to tell me of that sermon being blessed to his conversion. Baker was a corresponding member and welcomed by the little band.

The old log schoolhouse where the Presbytery met has disappeared, a neat Presbyterian Church is near its site and a prosperous (Live Oak) female seminary has there been in existence for 23 years. The mound is near, but its sides are covered with cotton and corn instead of wild flowers, then so thick and beautiful that McCullough said that he rolled over them then as a soft bed, with intense delight. Chriesman's Settlement was for many years a meeting place for the little band. Wilson lived there. He always had a beef or a fat mutton and it was surprising how many his log house could entertain. Laymen and their families came 20 and 30 miles to these meetings and stayed for days. A blanket was a bed, and a live oak was a shelter. Plain food was

abundant. Such meetings, too large for any house, with such preachers as Wilson and Baker, were often held under the trees and greatly blessed. But they did not suit manuscript sermons very well, for while getting along with the thirdly the fourthly might take wing in the wind.

With Presbytery organized, what was to be done with it? Should it make application to the Synod of Mississippi? Two of its members, Blair and Fullenwider, were of that Synod. Wilson and Blair were her missionaries, and depended for support of their large families upon their promised salaries. But the General Assembly had just then rent asunder. The Synod was too remote to attend it. It required weeks and a heavy purse to go to its meetings. Texas was still a Republic and foreign to the "old States." England and France had missionaries in Texas offering most advantageous terms if she would remain alone. So the Presbytery decided for the present to be independent. The result was that Blair and Wilson were cut off from their salaries from the day of such action. Wilson never complained, but it was hard. Six months passed before he knew that his salary was stopped. He had sold his road wagon for corn to feed his family, put the corn "in a crib with his jersey wagon on its side for shelter," and hired an Irishman to husk corn. The day was cold and a fire was kindled and left burning during the dinner hour. The crib, corn and wagon were burned. He must turn teacher and farmer or his family will starve. But preach he did, far and near. No Presbyterian minister deserves to be more gratefully remembered. Blair, too, toiled and suffered privations. Indians swept down the Guadalupe valley, Linnville was burned and Victoria menaced. The place could not be defended and was deserted. Mrs. Blair laid upon a green cowhide with a three-day old baby, was dragged three miles and escaped. The Presbytery resolved itself into a missionary society. Each minister agreed to pay annually \$10 into the treasury for missionary funds. Poor brethren! They never paid it, because they could not. Sometimes a letter lay in the postoffice for months because 45 cents was not on hand to pay the postage. The little Presbytery named itself Brazos from the river whose rich valley was in sight. It claimed a broad field, all over Texas, then more than 300,000 square miles. No wonder that it leaned to independence! After sitting five days doing an amount of business which fills 28 pages of its minutes, it adjourned to meet November 5th of the same year. Two ministers and one elder got there after riding a long journey on horseback. No quorum. The ministers adjourned to meet at Independence in December. Then and there the same members met and proceeded to adjourn to Chriesman's Settlement

for regular business. It received Rev. F. Rutherford as a member, but he went to a higher court before he took his seat. He had stepped upon a nail and died of lockjaw. No meeting then till December 13, 1843. Many attempts, but no quorum. It rained for eighteen months, and mud and swollen streams stopped long journeys. War with Indians and Mexico interfered with everything. In 1843, at the call of the Moderator, Wilson, McCullough and Elder McFarland met again at Prospect Church. No quorum. Blair arrives, assents to articles of organization, becomes a member and makes a quorum. Though a called meeting, they proceed to regular business. They were strict constitutionalists, but work must be done and no Synod would cashier them. W. Y. Allen is gone, but Blair and S. J. Henderson are now received and four ministers are on her roll, with seven churches and 100 communicants. April 4, 1844, Presbytery held its next meeting at Columbia. All of its members are present and a new one received, Rev. P. H. Fullenwider.

He had been, and long continued to be, a real ranger. No more punctual attendant upon Presbytery than he. His old horse and himself were equal to any emergency. Cold lunch, blanket, saddlebags and grass for his horse were all that he asked. All day he would jog on and at night would sleep where he could, under a tree or a roof. "Here," was his reply when his name was called. His heart was big and his wants were few. I saw him first in April, 1847, at his own home. I was yet "green from the States." After riding three days to Presbytery, Henderson, Paxton and myself reached his house, a log cabin in the woods. Brother Fullenwider was from home. I was anxious to know how three preachers were to find food and lodging in that little pen. Sitting, watching the sun going down till I could stand it no longer, I went to higher ground to see if any other house was near. I saw, coming up to me, a man without hat or coat, on a mustang, with a huge sack before him, full of unshucked corn. It was Fullenwider. Compliments passed. I asked where we were to stay. "Bless you! here, this corn is for horses and come, see what the neighbors have sent for you to eat." He led me to a little outhouse and pointed to the walls hung with plump, ball-spiced, nicely dressed wild turkeys and a large churn filled full of eggs. . . .

The church and the school must be in this young land. Thus, early in 1844, this Presbytery advised that each minister preach upon "Education," try to raise funds for a college and report progress at the next meeting.

They appointed a committee to draw up plans and a charter for a literary institution, to be located on the Guadalupe River or its tributaries. After licensing its first licentiate, J. D. Sharpe, it

adjourned to meet at Victoria, April, 1845. There and then I became a member. After regular business was done, and the Sabbath was over, Presbytery resolved itself into "a committee of the whole" to examine the beautiful valley of the river and fix the location of a colony and a college.

Time would fail to tell of the adventures of that moving Presbytery, its hopes and disappointments, till finally the original plan as to location in the west was given up in favor of Huntsville. I learned upon that trip how hard it could rain, and how creeks dry yesterday could today become swollen torrents of water, which you could neither cross nor see across. I learned why Blair was two weeks behind when Presbytery was organized. I experienced the convenience of a hog trough with puncheons lashed upon the sides so that you might have dry clothes when you swam, at mid night, a swollen stream an hundred yards wide, its waters cold, its alligators in motion and its mosquitoes like Egypt's darkness that could be felt! This was the last meeting of the independent Presbytery. Connection with Synod was sought and consummated that year. Annexation takes place with its joys and sorrows. The old minute book, that never went to Synod for review, closes its record with a statistical report of eight ministers, one licentiate, 12 churches and 200 communicants. Of these eight ministers, one now remains on earth, "a seared leaf," ready to fall. Thenceforth there is more rapid enlargement. War passes out of Texas, and ends with the humiliation of Mexico. Population and ministers come. Slow, but steady progress. Yet, till 1848, never more than five, oftener three, and oftener still no quorum, could be gotten together for a meeting.

At the fall meeting of 1847 occurred the first installation of J. W. Miller, pastor over the Church of Houston. Statistical report for 1848 shows 10 ministers, 12 churches and 335 members. At a called meeting at Washington, June, 1849, Baker, Miller and Blair were appointed a committee to examine the territory between the Brazos and Trinity Rivers for a college location. At another called meeting at Prospect Church the same year this committee reported recommending Huntsville. Their report was adopted, a charter drawn up, the institution named, a board of trustees elected and a principal teacher secured.

At the next spring meeting at Huntsville, April 4, 1850, the Board organized, chose a site for its buildings and sent forth its agent, Daniel Baker, D. D. Well he plied his mission. In a few years a fine building was completed, a 100 students matriculated, a full faculty employed, and chairs endowed. But it labored under what was to belong to all such institutions in Texas, a disposition to grow too rapidly. . . .

At the fall meeting of 1850 the Synod of Mississippi was petitioned to divide by the lines of the Trinity and the Colorado Rivers, the Presbytery into three bodies, and sent a special delegate to prosecute the object. This delegate, McCullough, the only one who ever went to that Synod, reported at the next meeting the Presbytery divided.

Thereupon a petition was made out to the General Assembly to erect a Synod, composed of the three Presbyteries—Brazos, Eastern Texas and Western Texas. The request was granted, and the Presbyteries met at Austin, October 30, 1851.

The following letters were found among my father's papers and are published here for the first time, as they show something of the lives of several of the founders of Presbyterianism in Texas, and illustrate phases of the early history of Austin College. It is known that Rev. Hugh Wilson organized the first Presbyterian Church near San Augustine in 1838 and the Prospect Church, over which Rev. J. W. Miller was pastor for thirty-eight years, was the second, organized by Wilson, in 1839.

Hugh Wilson to Miller

String Prairie March 4 1856

Dear Brother

In the holy providence of God I am called to the painful duty of informing you of the death of my *dear wife*. Sabbath morning she ate breakfast with us as usual. At nine o'clock she declined going to sabbath school saying that her throat was sore. During the afternoon and early part of the night she still made more complaint. At 10 o'clock we thought it best to send for a physician. Before 11 o'clock it seemed as if she would die immediately but we succeeded in affording her temporary relief. Dr. Christian got here at one o'clock but before he arrived the disease had resumed its raging verulence. About 4 o'clock Monday morning she was mercifully released from the most extreme suffering. She retained the exercise of reason till her last breath but from the nature of her disease she could have but little deliberate thought. Early in the night she said she could not live, I told her it was evident she could not without speedy relief but still we hoped a blister we had applied might afford relief. Under these circumstances she expressed unwavering confidence in her prospects of future happiness and even a wish if it was the will of God to die.

Yesterday our whole neighborhood and a number of persons from String Prairie were with us at the burial. We had three

ministerial brethren of the Methodist Church with us. Thus suddenly has terminated an intimacy of more than fifty years standing, for when a boy of twelve years old I loved her with my whole soul. To us none of all the changes of this eventful period, no nor all put together, have any importance compared with the consequences arising from this long and happy connection. I feel thankful that I am the remaining sufferer. I have often expressed to her and to others a desire that I might be allowed to bury her. Providence has granted me this request. Were it not for the promise as thy day is so shall thy strength be, which I have so often found verified in my experience I should feel that poor Mary and myself have a gloomy prospect. May we not expect a special interest in your prayers and in the prayers of the christian friends of your neighbourhood who knew and loved my dear departed wife.

Young King, who preached for us yesterday, requested permission to publish the death of Mrs. Wilson in the Methodist Paper. Of course I could not object to it. If our Brother at Houston still keeps up his paper he will think it unkind in me that I did not ask the favour of him. I will give you a few items which you may use or not as you think best and ask that you will make out a short notice of her death and forward it to him with a request that he will publish it, letting him know that I requested you to do so. I have a special reason for this last request. Mrs. Wilson was born in N. Carolina at the close of the year 1794. When about 14 years of age she was admitted to full communion in the Presbyterian Church. We were married and went to the Chickasaw mission in 1822, where we remained ten years. Went to Teire in 32 and left for this country with my family early in 38. With our movements in this country you are familiar. Of course she has been thrown into connection with a great many persons of every possible shade of character. You are well acquainted with the leading features in the character of my dear wife, and with the place she has occupied in the feelings of those who knew her best, in this country. I can truly say her position wherever we have lived has been no less favorable. I have never known one individual to dislike Mrs. Wilson, even for a short time, and although apparently defective in the art of winning favour, somehow, all who knew her loved her. But she has gone where she will be esteemed not for her natural amiableness but because by grace she has been made to bear the image of the Son of God.

Let me hear from you soon.

Yours

Hugh Wilson

Daniel Baker to Miller

Huntsville, 16th Dec. 1856.

Dear Brother Miller,

After a long absence, I reached home on the 4th inst. There is to be a meeting of the Board of Trustees, on the evening of the third Thursday in Jany. next. I hope you will be present. I greatly desire that you should be present at that time. We have some very important business to engage the attention of the trustees. I have much to say to you, but have not time, just now. Suffice it to say, that I have given notice that I purpose to tender my resignation as President of Austin College—to take effect at that time. Not on account of any abatement of personal interest in the affairs of our noble Institution, but chiefly because there is a fair prospect of getting a gentleman of high distinction to take my place. You wish to know the man. It is no less a person than Governor Swain of North Carolina—the present President of the University of that state. If he should receive a unanimous vote I think he will come—for I have seen him and conversed with him on the subject. Should he come—our College will take a wonderful spring. When he took charge of the University of North Carolina there were only ninety students—now there are about four hundred! Such a man would give a great name to Austin College—and I doubt not, he would bring many students from his own state. But I have not time to enlarge. Do, brother Miller, come—but if you absolutely cannot—be sure to appoint a *Proxy*—say Anthony Branch—or Col. Leigh.

Excuse the brevity of this note.

Yrs in a precious Savior

Dan'l Baker.

The results of my efforts during the present year—in every way about some six thousand dollars.

W. C. Somerville to Miller

Huntsville, Texas, June 25th 1857.

Rev. J. W. Miller,

Dear Sir Permit me to send you a letter of a single idea. This day you have been *unanimously* elected President of Austin College by the Bd. of Trustees.

The one idea is this. Come, Come, Come. Don't let anything keep you back. The College, if properly conducted, will become powerful for good generally in Texas, and particularly, its influence will be immense for Presbyterianism. Education and conservatism have always been chief weapons in our denomination. We can't shout like a Methodist bro. nor can we plunge so well as

the Bap. We must act through the intellect. Who then can wield a more powerful influence for good than the president of a College?

Do let me entreat you to *Come*, and be assured you will receive a cordial welcome from your bro.

Wm. C. Somerville.

Daniel Baker to Miller

Huntsville 27th June 1857.

Dear Brother Miller,

We have had a harmonious, delightful, and most important meeting of the Board of Trustees. Amongst other matters of special interest was your election as President with a salary of fifteen hundred dollars. As Chairman of the Committee appointed to notify you of your election, I have written the letter, and it will be mailed this day. But I thought that in addition to that official communication, I would drop you a line, in an *unofficial* way—that I might mention sundry things that might be interesting to you. And first: I am happy to inform you, that the College is in a highly prosperous condition, both in relation to its internal and external affairs. At our late annual convocation, we have had quite a flourish of trumpets! and a good impression was evidently made upon all classes of persons, those at home, and those from abroad! The students have returned to their homes, with feelings of enthusiasm, in favor of Austin College! Some think that they can bring two or three students back with them next September, at any rate, they mean to *try*. I am happy to inform you that the financial condition of the College is decidedly better than it ever was before! At the meeting of the Board, in January, it was determined that we would *strike for the endowment of one professorship*—on the old plan modified. In prosecution of my agency I entered upon this work with new zeal and hope, and at our meeting on the 24th inst. I reported something more than twenty-two thousand dollars secured! This not only answers for one endowment but leaves some seven thousand dollars to go towards a *Second* endowment!!! Is not this encouraging? But even this is not all. Besides *notes* obtained to the amount of twenty-two thousand dollars (fifteen thousand at 8 per cent interest—and seven thousand at ten per cent interest). Besides this—the agent has reported an addition to the resources of the College in *lands* to the amount of more than four thousand dollars. Of this Mr. McCormick has given a tract, on the San Bernard, for which he was offered fifteen hundred dollars but which he values at twenty-two hundred. Moreover Mr. Austin Bryan has

given a tract on the Buffaloe Bayou, near Houston, of 306 acres, which he values at eight hundred dollars. Thus, more has been done within the last six months, to add to the resources of Austin College than within any three years preceeding! Surely my brother, we have now, emphatically, much reason to thank God and take courage! I may here also mention, that should good crops be made the present season—there is a prospect of two additional endowments, the next year. I do think, brother Miller, that heaven is smiling upon our beloved Institution; and, I hope, that you may see your way clear to accept of your appointment, as the President of Austin College: and, God grant that under your administration the Institution may prosper yet more and more. Professor Thorn retains the chair of Mathematics—Salary \$1500—and Mr. McKnight has been elected to the Chair of Languages—Salary \$1300. With regard to Mr Somerville, he has been appointed Principal of the Preparatory Department, which is to be separate from the Collegiate Department, and he to have all the emoluments thereof. This arrangement seems to give general and great satisfaction. Our prospects are bright! It is true, we owe some four thousand dollars, chiefly to the Professors. We are on a bar—with deep water all around!—and, I think a plan has been adopted by which our Craft will be “sparred off,” within a few weeks from this time. I would like to write more but I have a wretched pen—and I am almost continually interrupted. In a few days, I am to visit Marshall, and operate in that region, as a minister of the Gospel, and Agent of the College. Shall probably go as far as Shreveport—La.

I believe, I told you about Mr Smith, purchasing two thousand acres of the College land for \$5000—and Mr Sorley’s subsequent offer of \$15000—if Mr Smith would reconvey the land to the College. He has had the great magnanimity to do it! In consequence, the Trustees have voted two perpetual Scholarships to each party concerned—as a compliment—And as an additional compliment, directed that, upon the Records of the College, there should be an ornamented page with a “*Roll of the distinguished Patrons of Austin College*” upon which should be placed in gilt letters their names, and that of Rev. Benjamin C. Chase. This I think is a good idea—and I would like you to see what Mr. De Lone has sketched. With kind remembrances for all the members of your domestic circle

Yrs fraternally

Dan’l Baker.

P. S.—I have rec’ letters from several persons in the old States who would like to be engaged in some Female Institute. I think

should you come to Huntsville you could very easily get some one in your place at Independence.

The trustees by a unanimous vote conferred the degree of Doctor of Divinity upon the Rev. Hugh Wilson of our State—and have made a record of their determination to confer the degree of A. M. upon the members of the first graduating class.

R. H. Byers to Miller

New Danville July 3rd 1857

Rev J. W. Miller

Dear Bro You have doubtless heard already of the action of the Board of Trustees of Austin College, so far at least as your election to the Presidency. And as the proposition was mine I wish to lay before you, the grounds on which I acted. I had no patience with the notions of some men. The talk about great men, etc., it was too childish. I considered all efforts to get such men as vain, besides I am by no means sure they are the kind of men for our Institution. In my judgment what we want for President is a man, acquainted with our people, with their character, habits, modes, etc. A man fully aware of the *status* of our College in all things, whose heart is enlisted, and who will take hold, with his eyes open, fully posted in the nature of the work he will have to perform, and with the determination to do it. Of scholarship sufficient to guarantee that by application he could soon make himself all that would be needful. A man of gentleness, yet of firmness and perseverance. And last but not least he must be—in a large sense a Texan. I consider this as almost indispensable, to the Judicious Administration of the government of the College. In view of these premises, after the resignation of Dr. Baker, my mind turned to you and after mature and prayerful consideration, under all the circumstances, and after making inquiry amongst leading business men in Houston and elsewhere, and hearing all that was to be said in the Board for others, my mind was but the more confirmed. I proposed your name in the Board, and it was unanimously and heartily responded too. And so far as I heard outside, there was but one sentiment—it *was a wise, a good choice* leading Business Men at Houston assured me it would give new character and influence to the *College*. These my Bro. are the leading points of thought which governed me in my action. I am not insensible to the sacrifices you will have to make, in accepting. But experience has taught me that by far the largest share of these sacrifices, consists in the surroundings which we gather about any given matter, in our own minds. The sacrifice can only at most include those things which you must soon or later give up. Your salary as President will support you.

And I think you may calculate on getting it. I do hope you will find it duty to accept. In my mind there is no other such field of usefulness in our state. Then let me say a word (*in the strictest confidence*). We must have a more positive religious influence at our College. I do not mean to find fault with the Brethren there I love all of them and have confidence in them, and yet I do feel that their religious character and influence on the College is negative, Christianity must be positive and aggressive, or it is nothing. Our Lord said "I have come to send fire upon the earth," and our religion like fire must be aggressive, ready to take hold upon all that comes near enough. If our College goes on a while thus, I consider it as a failure, so far as its Presbyterianism is concerned. As the foundations—so will the superstructure be. We want a man who will dig deep and lay good foundations, that our College may be a source of sure support hereafter for our church.

I have said thus much, that you may see and know, that you are not chosen as a last resort but as the first, and so far as I am concerned at present the only choice, these are some of the reasons I assigned, in the Board, and I believe they were felt and fully responded to. I might urge many other reasons, but I am pressed for time.

And now my Bro let me urge, that in this matter you draw up all the facts, bring them clearly before your mind, make it a matter of earnest prayer ask counsel and direction of God for He alone can and will give it *right*. I would not have you to act against clear convictions of duty. But I would have you be very sure of the matter—before you refuse.

I think too of the work you may do for the church, that shall grow making glad our Zion, when you and I have ceased to labor here.

Think you the Pioneers of our church in that land from which you and I hail, could have done so much for our church in any or all other ways, as in the establishment of Jefferson College, it was through this they strengthened the stakes and lengthened the cords of our *Zion*. May God direct you for the good of our *Zion*, and the glory of *His name*. I have not time to look over this, you must excuse imperfections, my heart's desire is to hear from you and that you accept.

Give my kind regards to Mrs. Miller. Tell her she has no advantage in Kind feelings—and my esteem was won by her truthfulness to woman's true character of gentleness and affection, others may think as they please this, to me, is, in woman a priceless Treasure, without it—I think of her pretty much as I do of

the balance of mankind. You have doubtless heard that I go to Houston, *in September*.

May God bless and preserve you and yours and direct you in all things.

Yours fraternally

R. H. Byers.

S. McKinney to Miller

La. Institute New River July 23rd 1857

Rev and dear Brother.

I have just had the pleasure of hearing a letter read from you to Mr Thompson, informing us of your election to the Presidency of Austin College, etc. I do not know that I have anything to communicate, that would be new or valuable, that induces me to write, but to express my hope that you will accept the office, and that under your administration it may prove what we all desired and prayed,—a useful nursery for rearing valuable men both for church and state. I might add that it is a pleasant task to renew and perpetuate the recollection of our happy intercourse and friendships while in Texas.

At the last meeting of the Board at which I acted, I acting as Dr Red's proxy, nominated you, but as the whole matter was arranged as to a successor months previously, my vote was the only one dissenting.

I left the College and Funds in a healthy state, how they have been managed since I have not been advised. You are doubtless acquainted with these things much better than I am, being a member of the Board all the time.

You speak of difficulty of finding a suitable person to carry on your school, in case you should leave. What are the prospects for permanent success? If you should sell or rent your homestead what would be the different estimates? I am acquainted perhaps with some brother that could occupy the position successfully.

I shall be pleased to hear from you. I have expected to go to Texas to see after some interests I have there, this vacation, but find it difficult to get away from home. If I go I shall hope to see you.

With affectionate regard Your Bro. in Christ

Saml McKinney

Daniel Baker to Miller

Austin 23rd Nov. 1857

Dear Brother Miller

We had a very interesting meeting of the Synod: but, we did wish *you* were there! The New School Presbytery, was, by a

unanimous vote, received, *prospectively*, and the members annexed to the presbyteries within whose bounds they were. *Prospectively!* you say, what is the meaning of that? Why, it is this; If the General Assembly of our Church, and the United Synod to meet at Knoxville next Spring, should form a union—then, this arrangement will stand—if otherwise, then it becomes a nullity, and if afterwards, our New School brethren, of this state, wish to join us—they must come in “one by one, and two by Couples.” Our meeting at Palestine was very harmonious—very delightful! The report touching the College gave great satisfaction. The *Internal* condition as good as it ever was— And the *Financial* condition much better than was expected. The property of the College, valued at \$62,000— Debt, 1st July last about \$4,000—chiefly due to teachers. Some 17,000 acres of land in all donated to the College—of this, about 6000 acres have been sold for something like \$19,000. Since the first of January last—I have received for the Endowment, by subscriptions, and sale of land, in *notes*, to the amount of \$25,890. (This is included in the estimate of the property of the College.) The affair of Smith relinquishing the land which had been sold to him for \$5000—when Sorley offered for it \$15,000 was magnanimous, and I suppose you know, that the Trustees, as a compliment, voted to each of the parties, two Perpetual Scholarships—to be handsomely prepared on parchment—and also voted that their names, together with the name of the Rev. Benjamin Chase, should be written, in *letters of gold*, upon an ornamented page of the Records of the Institution!

You recollect, my brother, you were one of the subscribers to the endowment—the subscription \$200—to be paid *on*, or *before*, or *after*, the 1st Jany. 1861. The *interest to be paid at the close of each year*. As we have given *our* notes with appropriate Coupons—I have sent you the printed forms, which I hope you will have the goodness to sign, and forward to me, by mail to Wheelock, where I expect to be in about two weeks from this time. I have also enclosed another blank note which I hope you will get Doctor Red to sign—and, if Mrs. Lipscomb will see good to patronise the Endowment Scheme—please let me know and I will, with pleasure, attend to the matter, and that without delay. Heaven seems to be smiling upon our College. And now is the time for all its friends to do for it what they can. I am happy to say that our prospects for obtaining Legislative aid, are better now than they ever were before! Our new trustees are Col. Murray, Doctor Lawrence, Col. A. M. Branch and our good brother Fullenwider—yes, and also our good brother James Wilson, of Wheelock. Mr. Atcheson, Doctor Branch, and Mr. McGregor have been left out. I did wish to pass through Independence, on my way home but,

I believe I must go around by the way of Wheelock and Lexington. The idea has been suggested of my going to London and Edenburg next Summer!!!! It may prove a bright idea, or, it may not! I mention the thing, in time, that the trustees may think upon the matter before the period arrives.

My son William has been very *very* sick! but, God be thanked, is now convalescent. You were appointed to preach the dedication sermon for our new and very beautiful church, in Huntsville, on the 3rd Sat. in Nov. but the whole affair has been postponed—until the debt has been fully paid. The building has cost us about \$4,000. Our subscriptions were about that amount—but, some three or four hundred dollars of it have not been collected, and by reason of the hardness of the times, etc., I suppose never will. The church is really a beautiful one! one of the chief ornaments of our town!

With christian Salutations Yr brother in Christ

Dan'l Baker.

Mrs. Twichell has most generously made a donation of her late husband's library to our College—with the cases which contain the books. This donation is a very valuable one.

Do get *all* the blanks signed, and forwarded to me at Wheelock; or Huntsville—and I will give you one of my best Texas bows!

R. H. Byers to Miller

Houston Texas Dec 30th 1857

Rev J. W. Miller

Dear Bro—I have had no further information, that is reliable, since your letter regarding the Presidency of our College. I still hope the way may be opened up for you to accept Is there any prospect? The matter must be determined shortly—at least in the course of the present session. If you cannot accept Who can you fix upon—that we can get? And I need not say to you that one of the first considerations—is that he shall be a man calculated to exercise a positive, religious influence in the institution. Without this we cannot expect our College to become a school of the Prophets. Dr Bakers death—I fear will be a great loss to the College. I am utterly at a loss to know who to put in his place. And yet I think it very important that we should have an Agent immediately—for unless we can secure endowments—we will always be in difficulties. Dr Baker has heretofore taken the lead in the matters of the College generally. I do not know who is to take his place, we must try and get a President, by the next session if possible. I have been trying to fix my mind on some one in case you refused the office And I have been told that you

have If so I have no doubt it was for wise and good reasons—although I am constrained to think you could have done more for the Redeemers kingdom in that office—than where you are. Still I know, one cannot decide for another Let me hear from you soon.

I have heard that you have a good degree of religious interest, both in School and Church I hope you may be greatly refreshed, and your hands strengthened.

I sometimes hope we have some tokens of a better state of things in our Church. There is I think—a deepening sense of the want of spirituality And I trust there is a melting of some of the hardness that has existed. I try to deal faithfully with my Session—we meet often— And I think there is getting to be an interest in our meetings.

The Church is filling up—the attendance is good. It is a little remarkable the increase in my congregation is nearly all gentlemen. So far as I can see but few ladies.

My Dear Bro pray for us. This was your first love in Texas. You know us, and our needs; pray that the Gospel may have free course.

Tomorrow is New years day. May God give you and yours a happy new year. Yours fraternally

R. H. Byers

THE ALTA CALIFORNIA SUPPLY SHIPS, 1773-76

CHARLES E. CHAPMAN

Historians have been prone to regard the expeditions of 1769 to Alta California¹ as accomplishing permanent occupation of that region by Spain, simply because uninterrupted possession thenceforth ensued. A little reflection upon the failure of many promising attempts in previous centuries to found colonies in the Californias, or, indeed, wherever colonization has been undertaken, might lead to a conjecture that Alta California must have had its period of uncertainty, and a study of the documents would prove the conjecture true.

Climate and natural resources were not enough to keep civilized men alive, however well the numerous Alta California Indians were able to subsist. Everything that the Spaniards needed had to come from Mexico, or in many cases from Spain itself. Alta California was a land without manufactured articles of any sort, from guns and powder down to nails and fish-hooks, without agriculture, without domestic animals, without laborers, without white women. All there was, was the tiny garrison of soldiers and a few missionaries. All supplies had to come from the port of San Blas, Mexico, even food, for the colonists could not subsist on acorns and chance supplies of bear-meat. There were difficulties with the long sea-route from San Blas, especially as regards transport of animals and settlers, so that overland routes were temporarily made use of, but as regards food-supplies, goods, and effects, the San Blas supply-ships were for many years practically the only reliance of Alta California, without which the province would almost certainly have been abandoned. In 1770 and again in 1772 the province was barely saved by the timely arrival of supply-ships. The same thing was to occur for the third time in 1774.

It is the purpose of this article to deal only with Bucarely's²

¹In this article "Alta California" will be used for the region from San Diego to San Francisco, "Baja California" for the peninsula, and "Californias" where both are meant.

²Antonio María Bucarely y Ursúa was viceroy of New Spain from 1771 to 1779, and was one of the greatest rulers that land ever had.

activities in regard to the supply-ships from the middle of 1773 to the close of 1776, a period embracing the great famine of 1774, and Bucarely's measures to prevent its recurrence, in the face of a development of the province calling for increased supplies.³

In 1768 a town was founded by José de Gálvez at the port of San Blas to serve as a base of supplies, not only for Baja California, but also for Alta California, which Gálvez was already planning to occupy. In the first years of the occupation, but one ship a year was required for Alta California. Writing to Arriaga,⁴ June 26, 1773, of the departure of the *San Carlos* with provisions for San Diego and Monterey, Bucarely announced that he planned to send another ship in November, although he understood that the Californias were already well provided with supplies.⁵ A month later, July 27, 1773, he wrote at some length of new arrangements that he had made for such voyages. The difficulty of navigation from the mainland to both Alta and Baja California⁶ had caused him to seek a remedy. From reports made to him he had learned that December or the beginning of January was the best season for a voyage to Monterey, that all the year except from April to the middle of June was suitable for voyages to San Diego, and that all the year, but especially January, was favorable for voyages to Loreto. San Blas was too hot and damp for storage of maize (which formed the principal part of supplies for the Californias), without exposing it to risk of damage. As crops were gathered in January, it would be best to put them aboard direct. Other effects could be gathered beforehand. Bucarely

³Materials for this article were found mainly in the Archivo General de Indias at Seville, Spain. Copies of several documents in the Museo Nacional de Mexico have also been used, as also Palou, *Noticias* (San Francisco. 1874), and *Vida* (Mexico. 1787).

⁴Julián de Arriaga was minister for the Indies (*ministro general de Indias*) in Spain from 1751 to 1776.

⁵A. G. de I., 104-6-14. Approved in Arriaga to Bucarely, Oct. 13, 1773. *Ibid.*

⁶Documents on this point are legion. Two easily accessible references are the following: Gálvez, *Informe* (Mexico, 1767), 141-47; Bancroft, *North Mexican States and Texas*, I (San Francisco. 1889). One has only to note the many voyages across the Gulf of California mentioned in the latter to get an understanding of the difficulties, which were in some respects even greater on the long voyage to Alta California. In brief, these difficulties were the result of having small ships, uncharted coasts, severe storms, prevalence of scurvy, lack of skilled officers, and inferior crews.

had given orders in accord with these conclusions, making provision also that boats should leave San Blas in January, if possible, or early in February at latest. This was to be not only for the year 1774, but for ensuing years as well.⁷

For these reasons and also because of Bucarely's belief that the Californias had abundant supplies, the November ship was not sent. Writing to Arriaga, September 26, 1773, Bucarely said that the *San Carlos* had been unable to make the voyage to Alta California on account of the storms that it encountered in attempting to round Cape San Lucas. Having lost its rudder and sprung a leak, it put in at Loreto, discharged its cargo there, and returned to San Blas for repairs. This would have caused him anxiety over the needs of Alta California, had it not been that the pilots and the commissary, Campo, informed him that Governor Barry had offered to supply the northern establishments by land with as much as they needed. Moreover, he had heard from Fages that they already had enough to last for the rest of the year 1773.⁸ Shortly afterward Bucarely was confirmed in his belief that all was going well by a letter from Father Verger* announcing progress in Alta California, saying that crops were good, and that many conversions were being obtained.⁹ This news Bucarely in turn transmitted to Arriaga, November 26, 1773.¹⁰

On January 27, 1774, Bucarely wrote to Arriaga that Pérez was only awaiting a favorable wind to set sail in the *Santiago* on his voyage of exploration to the northwest. Francisco Hijosa, now commissary at San Blas, had written to him on January 5 that the boat was provisioned for a year, in addition to supplies that it was carrying to Monterey. Bucarely thought that the *Santiago* must have sailed since that time. In order to provide for every possible contingency he had ordered the *Príncipe* promptly to San Diego and Monterey with more provisions.¹¹ On

⁷A. G. de I., 104-6-14. Approved in Arriaga to Bucarely, Dec. 12, 1773. *Ibid.*

⁸A. G. de I., 104-6-15.

*Verger was Father Superior of the Franciscan College of San Fernando, Mexico. The missionaries of Alta California were sent out by this college, and were subject to it.

⁹Verger to Bucarely, Nov. 5, 1773. A. G. de I., 104-6-14.

¹⁰A. G. de I., 104-6-14.

¹¹A. G. de I., Estado, Aud. Mex. 1, Doc. 7.

April 26, 1774, he was able to announce that the *Príncipe* had sailed the month before on March 21. It had been delayed for repairs necessitated by the size of the cargo that it was to carry; not only was it to bear supplies for the missions and presidios of Alta California, but also a copious store for the *Santiago*, in case that boat should be obliged to put back from its northwestward voyage, or for its use when it returned. Bucarely had ordered repairs to be made promptly, so that the *Príncipe* might sail before the season of good weather should pass. Hijosa's letter of March 24 telling of its departure reported it to be laden with as much provisions as it could carry; so Bucarely felt sure that there would be enough to supply Alta California for many months, and to help Pérez's expedition, if needed.¹² In forwarding Palou's report of December 10, 1773, on the status of the Alta California missions, Bucarely wrote Arriaga, May 27, 1774, that he was much pleased with the progress of conversions, and manifested a belief that much more might be expected, since the natives were so numerous and the lands so fertile. The greatest obstacle had been lack of provisions with which to maintain Indians at the missions during the period of instruction. This lack should be alleviated in a measure by the provisions in the *Santiago* and *Príncipe*, as also by the crops of Alta California. Anxiety of the missionaries should be relieved by the arrival of Serra, for he had been told that the needs of the missions would be supplied.¹³ In another letter to Arriaga of the same date, Bucarely stated that he had ordered a new keel laid at San Blas, because it was too great a risk to rely upon one frigate and two packet-boats for the Alta California voyages, as was being done.¹⁴ It may be observed that the Palou memorial had not spoken of the danger of famine, though emphasizing the need for supplies. We may now glance at the actual state of affairs in Alta California in late 1773 and early 1774.

While Bucarely rested secure in the belief that Barry would forward to Alta California the provisions which the *San Carlos* had left at Loreto, in fact no such thing had happened, for lack of means to convey them. As a result the new establishments

¹²A. G. de I., 104-6-15.

¹³A. G. de I., 104-6-15.

¹⁴A. G. de I., 104-6-15.

had to endure the worst famine of their history, lasting eight months, during which time milk had to serve as the principal aliment of the colony.¹⁵ At length Juan Pérez, in the *Santiago*, reached San Diego, March 13, 1774, and was able to leave provisions enough to tide over the situation until arrival of the *Príncipe*. Other missions had to wait several weeks longer, until provisions could be distributed from San Diego and Monterey, to which latter port Pérez arrived on May 9. To make clear just how serious were the straits to which the settlements had been reduced, it will be well to quote some documents of the period. Writing from San Gabriel, April 10, 1774, Anza, who had just explored a route to Alta California from Sonora, told Bucarely that he had found a shortage of rations at that mission, although accounted the richest site in Alta California. Herbs and three *tortillas* apiece were the daily ration of the inhabitants.¹⁶ Anza was himself in great need of provisions, but was able to get little at San Gabriel.¹⁷ He therefore sent to San Diego and procured a supply, the *Santiago* being still at that port.¹⁸ Other references might be given to show equally bad conditions as regards food supply at other missions less well favored by nature than was San Gabriel.¹⁹ Nor was want in Alta California solely a matter of food. This appears, for example, in letters of Father Lasuén of San Gabriel to Franciscans at the college of San Fernando. Lasuén had hoped to return there, but was resigned to staying in Alta California, if required to do so. He begged to be relieved, however, from the great hardship that he was suffering for lack of wearing apparel, which had already reached the point of indecency. His clothes had been in continuous use for more than five years. He had mended them until they no longer admitted of it, besides which he no longer had materials for sewing.²⁰ In another letter of

¹⁵Palou, *Vida*, 153.

¹⁶A. G. de I., 104-6-15.

¹⁷Palou, *Noticias*, III, 158, says that an animal was killed to provide Anza with meat, but that the mission could give him nothing else.

¹⁸Valdés, *Declaration*, June 14, 1774, A. G. de I., 104-6-15; Anza, *Diary*, April 6, to May 27, 1774, A. G. de I., 104-6-15.

¹⁹Eg. Palou, *Vida*, 158; *Noticias*, III, 148; correspondence and diaries of Anza, Díaz, and Garcés of the Anza expedition.

²⁰Lasuén to the Father Superior of San Fernando, April 23, 1774. Mus. Nac., Doc. rel. mis. Cal., v. II.

the same date, April 23, 1774, Lasuén repeated the story of his needs. Perhaps it was on that account, he said, that the Indians cared for him so much, on the principle that like attracts like, for he resembled them much in scantiness of wardrobe.²¹ Writing a general letter to his brethren of San Fernando, May 2, 1774, Lasuén said that Fathers Garcés and Díaz of the Anza expedition had given him clothing, which would cover his nudity for several months; the former gave him a thin flannel undergarment and cowl, and the latter a tunic and pair of sandals.²²

Two letters from Rivera²³ to Bucarely, June 16, 1774, show a lack of military equipment and other necessities at the presidios. In one of these letters he wrote that the forces at San Diego were in need of thirty shot-guns, twenty small swords, twenty knives, two cases of powder, one case of balls, one case of munitions, and two packs of tobacco. Monterey required twenty small swords, twenty knives, two cases of balls, one case of munitions, two of powder, and thirty shot-guns. He wanted the shot-guns examined before they were sent, to make sure that they were good.²⁴ In the other letter he complained that things forwarded from San Blas were not suited to the needs of the colony. Articles asked for were not sent, leaving them entirely lacking in some things that they needed, and for which they had no other recourse, as for example, clothing. They sent no corduroy, which the soldiers liked to use because of its durability; they had not sent a cake of soap; nor a handful of tobacco. There was great need for shot-guns and small swords. Some soldiers entirely lacked arms; others had the gun but not the sword, and vice versa.²⁵

Rivera's petitions were considered in connection with authorization of a second Anza expedition, and Lasuén's were a matter between him and his college. The general scarcity, however, especially in food supplies, was met by the arrival of the *Santiago*, followed a little later by the *Príncipe*. Thenceforth, Alta Cali-

²¹Lasuén to Pangua, April 23, 1774. *Ibid.*

²²Lasuén to Franciscans of San Fernando, May 2, 1774. *Ibid.*

²³Rivera succeeded Fages in 1773 as civil and military ruler of Alta California.

²⁴In *Testimonio . . . sobre la segunda expedicion . . . qe. por tierra ha de hacer . . . Anza*. A. G. de I., 104-6-16.

²⁵In *Ibid.*

fornia did not again suffer in that respect.²⁶ Her relief had come not only from Bucarely's foresight in sending the well-filled *Santiago* and the *Príncipe*, in the face of favorable reports as to the situation in Alta California, but also because Bucarely never allowed a relapse, once he got actual information of the state of affairs there. On this point we may revert again to Bucarely's correspondence.

As already noted, Bucarely learned from Anza of the scarcity of provisions in Alta California. Writing to Arriaga, August 27, 1774, he opined that the cargoes of the *Santiago* and *Príncipe* would relieve the immediate need. He realized that the question of supplies was one of considerable importance, as the ports of Alta California might serve to shelter and assist boats engaged in northward exploration. It would be of great advantage to the royal treasury if the inhabitants might be given the means of sustaining themselves by their own industry. Hijosa, the commissary at San Blas, had been ordered repeatedly to gather provisions for their aid. To this end he was then repairing two boats, which were to sail within a short time, one after the other.²⁷

A month later Bucarely was able to say that Alta California's extreme need had been successfully met. The provisions of the *Santiago* had reached Alta California in time to relieve the sufferings of the missions, but they would not have done so, had it not been for the successful voyage of the *Príncipe*, which reached Monterey June 8, three days before the *Santiago* sailed. These provisions and the fertility of the soil combined would thenceforth ensure permanence of the colonies and lead to further conquests. Such conquests would be easy because of the docility of the Indians, if there were provisions enough to furnish them, for in that lay their attraction to vassalage and knowledge of the faith. Rivera and Serra²⁸ reported that all were content. The *Príncipe* got back to San Blas on August 30. Bucarely had acquiesced in repairs proposed by Hijosa, tending to protect provisions from water, because he realized the importance of sending supplies to Alta California, not only for its own subsistence, but

²⁶Palou, *Vida*, 158-59.

²⁷A. G. de I., 104-6-15.

²⁸Junípero Serra was Father-President of the Alta California missions.

as stores for Pérez, in case of accident. He had therefore suggested to Hijosa that he repair another ship and send the two with provisions in the coming January.²⁹

Bucarely's plans matured, so that by February 1, 1775, the *Príncipe* left San Blas with provisions for San Diego. Because of severity of storms it took seventy days to make the voyage, whereas the return occupied but thirteen, May 9 to 22. Quirós, the commander, reported that he saw the Indians of a whole village who had come to San Diego to ask for baptism, but it was denied them because there were not provisions enough to sustain all. It was believed, however, that the crops would be sufficient for their maintenance despite the scant rainfall at San Diego, thus permitting of Christian instruction.³⁰ The *San Carlos* under Manrique had tried to leave with the *Príncipe*, being destined for Monterey with provisions, but ran aground in the port of San Blas itself. After getting her free, the officials of San Blas wished to unload, in order to see what damage the boat had suffered, which would hold back the voyage until March. Bucarely ordered that it be reladen with provisions for the families who were to go with Anza to found a settlement at San Francisco, and that the rest be left for the *Santiago*, in case there should be room for them in addition to those to be carried for its own crew in the new voyage of discovery that it was about to make. On February 24, 1775, the date of his letter to Arriaga, Bucarely had not yet heard whether such an arrangement was possible.³¹ The *San Carlos* was in fact delayed until March 16, 1775, but on that day set sail, accompanied by the *Santiago* and *Sonora*, which were to make further explorations of the far northwest. This time, the voyage of the *San Carlos* was a success, for it delivered the provisions consigned to Monterey, was employed in exploration of San Francisco Bay, and at length returned to San Blas.³²

In 1776 new problems began to arise in connection with the

²⁹A. G. de I., 104-6-17.

³⁰Bucarely to Arriaga, June 26, 1775. A. G. de I., 104-6-16.

³¹A. G. de I., 104-6-16. This letter states that the *Príncipe* had left on January 31. In Bucarely to Arriaga, June 26, 1775, A. G. de I., 104-6-16, it is given as February 1. Bancroft, *Cal.*, I, 241, says that the *San Antonio* or *Príncipe* left San Blas on March 16. This is an error.

³²Bucarely to Arriaga, Nov. 26, 1775. A. G. de I., Estado, Aud. Mex., I, Doc. 19.

supply-ships, as a result of the increased needs of Alta California. The *San Carlos* and *Príncipe* had sailed on March 10, wrote Bucarely on the 27th, fully laden with provisions. Yet, some of the supplies needed at the missions and presidios had had to be left behind. Another boat was needed.³³

The problem was accentuated by receipt of orders for a fresh series of northwestward exploring voyages.³⁴ In reply August 27, 1776, Bucarely stated his belief that such a voyage would be impossible before December, 1777. The *Santiago* was the only serviceable boat then at San Blas, the *San Carlos*, *Príncipe*, *Concepción*, and *Sonora* being absent on provision voyages, the two former to Alta, and the two latter to Baja California. Also, a boat was necessary for Areche, the viceroy's *fiscal*, who had been appointed *visitador* to Peru. Alta California had developed to such an extent that the *Santiago* was needed as an additional supply-ship. The two boats then in use had been obliged to leave behind many effects for which the missionaries were clamoring. Heceta and Bodega were eager to make the new expedition, but the first thing to do was to hold what had already been occupied.³⁵ A month later, Bucarely again referred to the uncertain status of the proposed voyages for 1777. He had arranged for calling a *junta* at San Blas to determine what boats were to be used for supplying Alta California and carrying Areche to Lima. He suggested that two new frigates be built at Guayaquil.³⁶ The *junta* concluded that voyages of exploration should be postponed for a year. At least two boats were needed on such voyages, it held, but it was impossible to get them, because of the necessity of getting Areche to Lima and supplies to Alta California.³⁷

Some indication of the increased needs of Alta California appears in a Bucarely letter of November 26. A settlement had been made at San Francisco with the recruits and their families

³³A. G. de I., 104-6-17.

³⁴Gálvez to Bucarely, May 20, 1776, A. G. de I., Estado, Aud. Mex., 1, Doc. 22. Gálvez had succeeded Arriaga upon the death of the latter in January.

³⁵A. G. de I., 104-6-18.

³⁶Bucarely to Gálvez, Sept. 26, 1776 A. G. de I., 104-6-17.

³⁷A. G. de I., 104-6-18. Enclosed in a letter of Arteaga to Gálvez, Nov. 23, 1776.

brought from Sonora by Anza.³⁸ Twenty-five more soldiers had been sent to Alta California in consequence of an Indian outbreak at San Diego, and a few sailors had been left by the *Principe*. The province might thus be considered to have advanced and become better guarded, but this had also made necessary the shipment of increased stores of supplies, until such time as the soil should provide enough to relieve the royal treasury. Rivera had failed to pay attention to agricultural development of the province; otherwise, there might have been crops enough to sustain the settlers.³⁹

Meanwhile, the boat shortage had been cleared up by the chance arrival at Acapulco of the merchant ship *Fenix*, coming from Guayaquil. Areche could go to Peru in that, wrote Bucarely on December 27, as also a naval officer to solicit a frigate there for use in the projected exploration. This expedition had been suspended, however, until 1778, as scarcity of boats was still a factor. Bucarely then recounted various measures by which he planned to hasten supplies to Alta California. But for the arrival of the *Fenix*, it would have been difficult to send enough. As matters were, the *Santiago* could replace the smaller *San Carlos* and with the aid of the *Principe* could perhaps carry all the provisions required. If it seemed necessary, however, Bucarely would also send the *San Carlos*, so that the province might be less embarrassed in 1778 when the exploring voyages were to take place. At all events, it was more important to supply Alta California than to make the explorations.⁴⁰

On the same day Bucarely announced the return of the *San Carlos* from San Francisco. It brought news that the new settlement was making excellent progress, but Bucarely was not going to take any chance of a decline. He was seeking a surgeon, carpenter, mason, and smith in Mexico for that settlement, and was sending to San Blas by forced marches a quantity of clothing, tools, and other utensils for San Francisco, agricultural tools being especially abundant. Having heard that there was a scarcity of provisions at San Francisco, he had ordered the *Santiago* to

³⁸Anza brought thirty soldiers destined to remain. These and their families aggregated 246 persons.

³⁹A. G. de I., 104-6-18.

⁴⁰A. G. de I., 104-6-18.

sail direct for that port, without previous stop at San Diego or Monterey.⁴¹

It is not proposed to pursue this matter here. Enough has been said, it is believed, to show the great importance of the supply-ships in this period of Alta California's history, and also the great credit that is due to Bucarely for his management of what was by no means an easy task. Some recognition of this fact seems to have been accorded him in a document which otherwise deprived him of power. By a royal instruction of August 22, 1776, Gálvez instituted the new government of the *comandancia general* of the frontier provinces, including the Californias. The viceroy was to continue to supervise the sending of supply-ships.⁴² Perhaps it was well for Alta California that this was so, for the *comandancia general* was not a glittering success in other respects.

⁴¹A. G. de I., 104-6-18.

⁴²A. G. de I., 103-3-13, Exped. 5, 1776.

BRITISH CORRESPONDENCE CONCERNING TEXAS

XVI

EDITED BY EPHRAIM DOUGLASS ADAMS

KENNEDY TO BIDWELL¹

No. 19.

Her Majesty's Consulate
Galveston

July 29th. 1844.

Sir,

In accordance with the Instructions issued to Her Majesty's Consuls, I have to report the appearance of a disease at Galveston which Medical Authority has pronounced to be Yellow Fever.

There are as yet no Quarantine Regulations at this Port, and there is every reason to believe that the disease was introduced by the United States War Steamer "Poinsett," when she touched here last month, on her voyage from Vera Cruz homewards.

There are three British Merchant Vessels in Port, which have been visited by the Fever. The Master of one and the Carpenter of another have died, but all the Sick on board these ships, or belonging to them, now—I am happy to say—appear to be in a fair way of recovery.—It is the "Victoria" of Poole, (from Liverpool) that has lost the Master, who exposed himself—most imprudently—to the Sun in an open boat.

William Kennedy.

John Bidwell Esqr.

ELLIOT TO ABERDEEN²

Separate.

Washington

August 13th 1844.

My Lord,

I would beg to mention to Your Lordship that I have taken the opportunity of my stay in this part of the Country to pay my respects to Mr. Pakenham, and to renew to him the expression of my readiness to set out for my post at any moment that my presence there may be considered desirable.

¹F. O., Texas, Vol. 10.

²F. O., Texas, Vol. 9.

If however there should be no need for my immediate return, I will request Your Lordship to sanction my continued absence till the beginning of the Month of November.

Charles Elliot.

To The Right Honorable, The Earl of Aberdeen, K. T.

KENNEDY TO ABERDEEN³

Private.

Her Majesty's Consulate.
Galveston August 14th. 1844.

My Lord,

General Howard, the new American Chargé d'Affaires, has reached the seat of Government, and presented his credentials. It was his intention, when he left Galveston, to remain at Washington on the Brazos, for the transaction of business. It is said that he is directed to apply for an extension of the time for the completion of the arrangements incidental to the Treaty of Annexation. The additional term, mentioned is three Months. In return (it may be supposed) for this Concession, he has, it is alleged, repeated to President Houston the assurance that the land and naval forces of the United States will be ready to assist Texas, in the event of a Mexican invasion.

I have had letters from British Traders in Western Texas, expressing strong apprehensions of the early outbreak of hostilities between Mexico and Texas.—Some have applied for passports, to protect themselves and their property. There is hardly a symptom of preparation here to repel an invasion, should the threats of Mexico assume a practical form. There has been no further inroad at Corpus Christi. The farmers are quietly watching the progress of their Crops which promise to be most abundant.

A Mexican invasion will greatly facilitate the designs of the United States, and will go a good way towards placing the settlement of the affairs of this Country beyond the reach of diplomacy. Now that the Yellow Fever is among us, people cease to anticipate the return of the Ministers of England and France until winter.—The United States will, as heretofore, have the field to themselves, but I shall use my best endeavours to keep Your Lordship apprized of the course of events.—Mr. Pakenham is desirous

³F. O., Texas, Vol. 10.

of information, and to him, also, I shall continue to communicate every fact worth noting that comes to my knowledge.

Captain Galan, the Mexican bearer of despatches, mentioned in my "private" letter to Your Lordship of July 29th has returned home, The Collector of Customs at Galveston gives President Houston's authority for the Statement that he (the President) has received, by Galan, a private letter from General Santa Ana, inviting the reopening of Negotiations for peace.—Whether or not this Statement has been put forward to influence the approaching elections, I am unable to say. That it should be promulgated with that object is probable enough.—Political *finesse* is as well understood and as unscrupulously practised in this unfledged Republic, as in the hoary despotisms of remotest Asia.

William Kennedy.

The Earl of Aberdeen, K. T.

P. S. August 16th.

According to recent arrivals from Corpus Christi, there is no appearance of an invading force on the Rio Grande.

W. K.

KENNEDY TO ABERDEEN⁴

Private.

Her Majesty's Consulate
Galveston, August 24th 1844.

My Lord,

In a communication marked "Private" and dated 29th Ultimo, I had the honor to inform Your Lordship of the arrival of General Howard, Chargé d'Affaires from the United States to Texas, and of his departure, on that day, for the Seat of Government, where he arrived on the 3d Instant.

On the 13th Instant, General Howard was attacked by fever, and on the 16th he died,—the fourth representative of the United States that has died in Texas, out of five that have been appointed since the recognition of it's independence by the American government.

The deceased gentleman was in the prime of vigorous life, and his appointment appeared to have given great satisfaction to the Texan Government—as he had been long on terms of friendly

⁴F. O., Texas, Vol. 10.

communication with President Houston, and, as I am told, with General Andrew Jackson.

The acting Consul of the United States at Galveston has employed a small Coasting Vessel to convey to New Orleans the melancholy intelligence of General Howard's death, and I avail myself of the opportunity to transmit this letter, which is accompanied by one of greater detail to Mr Pakenham.

The Yellow Fever has carried off a tenth part of the population of Galveston, and local experience leads to the expectation that there will be a continuance of sickness until November.

William Kennedy.

The Earl of Aberdeen, K. T.

KENNEDY TO ABERDEEN⁵

No. 21.

Her Majesty's Consulate
Galveston. September 9th. 1844.

My Lord,

When I entered upon the duties of my office, I had in contemplation to include in my reports to Her Majesty's Government occasional Notices of the emigration to this Country, with especial reference to that portion of it, which might emanate from the United Kingdom. Of Europeans, however, the whole Number introduced into Texas since the beginning of the Year 1843 (owing probably to the unadjusted relations between Mexico and this Republic) has not been so considerable as to afford much Material for suggestion, or remark. It has, at the same time, been large enough to show that persons intending to voyage hither across the Atlantic require to be furnished with some preparatory Counsel.

In years préceding 1843, several vessels fitted up for and conveying British Emigrants arrived at Galveston, but, from the commencement of that year to the present time, no ship containing a dozen of British families has entered this Port. Nearly all the European emigrants within the latter period—which may amount to between six and seven hundred—have been supplied by France and Germany.

Among the European Settlers, the Germans have the reputation of being the most successful. They are generally laborious, per-

⁵F. O., Texas, Vol. 10.

severing and eager to accumulate—orderly for the most part—and they keep well together. They have formed thriving Communities at different points of the interior, and they constitute a considerable proportion of the trading and working population of the towns adjacent to the Coast. In common with the French, they become Market-gardeners. And they divide with the Irish the profits of drayage and cartage, which are pretty large during the business season.

The Irish settlers in Galveston are, with few exceptions, Catholics, and have the benefit of an excellent superintendent and adviser in the Bishop of that faith, M. Odin.—They conduct themselves quietly as a class, and seem healthy, contented and well-doing. Those who are married and residents of two or three years' standing, usually have an independent house and lot—their own horse and dray, and frequently one or more Cows. The wives of the poorer sort assist in washing and housework.

Of the European immigrants, the French evince the least aptitude for the situation in which they are placed. They require to be moved in Companies, and led, directed and superintended, until they feel at home upon the soil.—A Frenchman left to himself in an insulated Settlement, will soon become barbarized.

It is greatly to be wished that all the Europeans who may emigrate to Texas should be instructed, previously to taking the final step, respecting the arrangements proper to be made,—the provision necessary to smooth their way to success—the nature and extent of unavoidable inconveniences, hardships or privations—the amount of present sacrifice and prospective advantage—the road to be pursued and the snares to be avoided. For lack of honest guidance and correct information, persons laudably desirous of improving their condition have been thrown upon these Shores only to encounter disappointment and despondency—to learn, all too late, from sad experience, how little the sufferings of their fellows deter men from practising upon ignorance and credulity for the sake of gain.

I have noted the following causes of disappointment and distress among the European immigrants:

1. Purchase of Spurious land titles from unprincipled adventurers.

2. Emigration at an advanced age and with debilitated Constitutions.

3. Arrival here at an improper season of the Year.

4. Selection of Settlement in unhealthy Situations, and exposure to the Sun.

5. Want of capital.

It is most extraordinary that people can be so foolish as to purchase titles to land in a Country they never saw, from individuals of whom they know nothing, and for whose good faith, they have no satisfactory guarantee. Such has been the case, however, and British Settlers have repeatedly complained of having been cheated by vendors of Texas land titles in England, which titles they found to be utterly worthless when they came to enter upon possession. On this point it may be generally laid down that insulated families ought to abstain from the purchase of lands until they arrive in Texas. Under no circumstance, should a foreign holder of land titles be treated with, unless he be prepared to shew, by unquestionable British references, that his titles are genuine, and that he is deserving of trust. Even when Emigrants reach this Country it is requisite that they should proceed with caution and circumspection. They ought to husband their means, and after carefully examining in what section of the Republic they are most likely to find the soil best suited to European farming, united to the advantages of a Market for produce and the retention of health, they ought to journey thither, and, after due deliberation, choose their ground, having a vigilant eye to the validity of the title, lest, at the very outset, they fall into the abyss of litigation. The vast extent of unoccupied land precludes the necessity of a precipitate choice.—Immigrants, if they think proper, may remain a year without fixing upon a permanent settlement, as now, and for some time to come, the use of tillage and pasture land may be had, rent free, for that or a still longer period.

It is needless to expatiate on the unfitness of the old and the feeble for distant Colonization. Without adverting to other considerations, the climate of the South, however, genial and salubrious in certain localities, must, from it's very novelty, be more or less trying to weakness and age. The habits of previous life ought, besides, to sit lightly on the immigrant, to enable him to adapt himself to a sphere of action entirely new—demanding al-

tered modes of labour, variations in food and clothing, and precautions for the preservation of health, which are too apt to be regarded by the inexperienced as unnecessary restraints.

Allowing the amplest latitude consistent with prudence, the season of Shipment from Europe, for parties intending to cultivate land in Texas, lies between the first of August and the first of February. Persons who look forward to constructing dwellings and putting in a seasonable Crop, ough[t] not, in justice to themselves, or to the Country, to arrive here later than November.—The earlier they are on the spot, in that Month the better. From the first of November to the first of June, there is no danger, with ordinary care, of suffering from local diseases, while the “colds,” so productive of indisposition during the English winter, are unknown. The interval between November and Summer is calculated to strengthen the fortitude of the stranger, to prepare him for the Season of continuous heat,—to initiate him in the Maxims and usages of the older residents and to make him practically acquainted with the most approved plants of house-keeping and husbandry. The immigrant who lands at Galveston between the first of June and the first of October, perils his health and wastes his resources. The Brig “Weser” from Bremen, entered this port on the 4th of last July, having Ninety-six emigrants on board. The Yellow Fever, introduced from Vera Cruz by the United States’ War Steamer “Poinsett,” had attacked the inhabitants of the town.—Huddled up wherever they could procure lodging, and destitute of suitable attendance, which local charity was unable to provide, a large proportion of the newly-arrived emigrants died of the disease—an expenditure of human life wholly gratuitous—the result of ignorance and misdirection.

The selection of a healthy Situation for Settlement is a point of primary importance, inattention to which has been followed by calamitous consequences.

Immigrants shrewd enough in worldly Matters, but unacquainted with a Southern soil and climate, and the incidents of Settlement, so well known on this side of the Atlantic, are apt to be tempted by the opportunity of buying, for a comparatively trifling amount of Money, lands lying on, or near, the borders of a Navigable river. Now, these lands may be really cheap,—even in this land-abounding Country—their fertility may not have

been exaggerated, their pasturage may be unlimited, the wood unfailing—they may offer a most desirable investment for the planter of sugar and cotton—but, to the unacclimated European, their occupation is always perilous and often fatal. Swollen by the Autumn and Winter rains, they overflow their banks—a large expanse of the exuberant alluvion becomes the bed of their redundant waters, which receive constant accessions of rank and decaying vegetation—exhalations arise from the Marshy surface—"intermittents," by repeated assaults, wear down the frame, or the rapid march of Congestive fever subdues the powers of life.—These are the dangers—not all unknown in the Northern divisions of this Continent—which beset the European who piles his log-house on the Margin of a forest-girdled and periodically overflowing river of the South. Many a foreign settler, in the United States, as well as in Texas, in choosing such an abiding-place, has doomed himself to an early grave.

Caution is too often given in vain to persons unacquainted with the effects of careless exposure to the Summer Sun. It is a frequent cause of sickness, for which, as for disease induced by intemperance, the sufferer has himself to blame.

Cultivation, drainage, and the clearing of the woods, will doubtless operate favourably on the districts unfriendly to the European Constitution, but this is of no moment to the immigrant, who, leaving these lands to the cultivators of tropical products, can find others far better suited to his native husbandry, in Sections of the Republic of proved salubrity.—With the exception of Galveston Island, and the more open and elevated tracts bordering the Bay of the same name, Europeans, as a general rule, ought not to settle, within one hundred and fifty Miles of the Coast, from the river Sabine to the river Colorado. But, in no part of the Country lying between those two rivers (although not a few of them are already resident there) would I recommend my Countrymen to establish themselves as agriculturists. The West is free from debilitating influences, and they should move Westward as far as a prudent regard to safety from frontier troubles and annoyances will justify. From the river Colorado to the Nueces, the insalubrity of the Coast rapidly decreases, until it disappears altogether at Corpus Christi. The Irish Colony, planted on the

Nueces in 1832, was both healthy and prosperous until broken up by the revolutionary War.

Wherever the British immigrants may resolve to abide, they ought to bear in mind that the sword they turn up has not been cultivated before, that the sun in Texas shines with Southern fervour, and that, if they are protected from the effects of their combined influence, they have little to apprehend on the score of health. Every climate has some draw back—the North has its pulmonary complaints and the South its bilious fevers.

Notwithstanding the low price of land, the farmer requires capital, and he will have much to struggle against unless he has sufficient to enable him to fence, stock and crop his land, and to maintain himself until the soil renders its first return—If frugal and industrious, and seconded by what Americans might call an “available” family, he may venture to start upon two hundred pounds, but double that amount would not be too much for preparatory outlay and incidental wants. A great saving is effected, and an inspiring impulse communicated to the Settler’s endeavours, in consequence of the abundance of open land, fit for tillage, and the free range for stock, which may be enjoyed for years. The expense of clearing the forest is a burden from which the Texas husbandman escapes. By the richness of the thickly-timbered river “bottoms” the *planter* is attracted, and there he lays out this fields for the growth of sugar, and cotton.

Farmers possessing the necessary capital, intelligence and energy are the only *class* to which Texas, as She is, offers the prospect of advantageous settlement. A small annual supply of Mechanics will, for some time, be sufficient for the demand;—the same may be said of Agricultural labourers, unless they [are] attached to farming capitalists. The towns will absorb a limited number of useful domestic servants, at good wages. A mere subsistence can easily be obtained by any person capable of manual labour, and not wholly indisposed to exertion.

In addition to all other considerations, the individual who proposes to emigrate ought not only to examine whether the Country to which he thinks of removing is fitted for him, but whether he is fitted for the Country, and for the condition of a Colonist.—If he is unable to endure what, in older communities, would be deemed privations—if he be wanting in Moral courage—if he

cannot look hopefully to the future, under temporary discouragement—he ought not to enter upon the life of a Settler in the wilderness, however fair and fruitful that wilderness may be.

The sufferings to which emigrants from Continental Europe have been needlessly subjected induces me to observe that it would be a worthy and becoming service if their respective Governments would supply their emigrating people with means of precise and accurate information, protect them from fraudulent speculators, and keep them paternally in view until they had made a lodgment on their adopted soil. Blighted expectation, sickness and bereavement by death are heavy and hard to bear among the friends and associations of home, but their pressure is increased a thousand fold when they are sustained among the unfamiliar faces and unwonted scenes of an alien land.

William Kennedy.

The Earl of Aberdeen, K. T.

KENNEDY TO ABERDEEN⁶

Private.

Her Majesty's Consulate
Galveston, September 9th 1844.

My Lord,

I had the honor to address a letter marked "Private" to Your Lordship on the 24th Ultimo, conveying intelligence of the death of General Howard, the United States' Chargé d'Affaires in Texas. —This letter I despatched by a small Coasting-vessel, and am obliged to send the present by a conveyance to New Orleans.

I beg leave to enclose, as published in the Government Journal at Washington,⁷ a copy of a Manifesto transmitted by the Mexican General Woll, to President Houston, with a Copy of the President's Reply.

President Houston left the Seat of Government for Eastern Texas, on the 7th Ultimo, and was expected by the 17th to reach Sabine, which is distant some thirty or forty Miles from the encampment of the United States' troops at Fort Jessup.

Public attention is fixed upon the Presidential election, which commenced and terminated on the 2nd Instant. It would appear, by the returns received up to the present date, that the

⁶F. O., Texas, Vol. 10.

⁷*The National Vindicator* (date missing).

election has gone in favour of Mr Anson Jones, the present Secretary of State.

The Court Martial appointed to try Commodore Moore closed on the 23rd Ultimo, but its decision has not yet been made public.

Persons in the employment of the Texan Government, and generally acquainted with its proceedings allege that the United States will continue to protect Texas from Mexican invasion until the 4th of next March, when President Tyler's present tenure of Office will expire. There is but a trifling difference between this alleged term of protection and that I mentioned to Your Lordship, in my "Private" letter of August 14th.

According to the last accounts from the South Western frontier, there is no indication either of inroad, or invasion, on the side of Mexico. The Texan Government seems to be quite confident in its means of repulsion, should it be necessary to call them forth.

I had a letter lately from the Attorney General of this Republic, who, under the impression that the state of my health might call me to England this Autumn, expressed a desire to travel with me, having obtained the President's sanction for his proposed absence. He assigns the following, among other reasons, for wishing to accompany me in the event of my returning home.

"You are well aware of the fact that I have, from the beginning, been most decidedly opposed to the Annexation of Texas to the United States. It is my first object to defeat, if possible, the consummation of this most obnoxious Measure, so decidedly hostile, as I conceive it to be, and fraught with such evil consequences to the ultimate prosperity and high destiny of this Country. From Your official connexion with the Ministry, you can render me important assistance in this Matter, and if I am successful in the accomplishment of this great result, I shall deem it the proudest period of my life"

I have always found Mr Terrell (the Attorney General) consistent in regard to Annexation. In my reply to him, I stated that I did not intend leaving Texas during the present year, but that he might command my services for the exposition of his views.

His health, which is much impaired, is the immediate plea for travel.—He enjoins me to be silent as to his communication, in

this question—saying—“I do not wish any person beyond the Cabinet to know any thing of my going, and more especially of my business.”—He was to be ready for his departure “any time after the 20th of September” (the present Month).—I have heard nothing farther since the transmission of my reply.

William Kennedy.

The Earl of Aberdeen, K. T.

BOOK REVIEWS AND NOTICES

America in Ferment. By Paul Leland Haworth. (Indianapolis: The Bobbs-Merrill Company, 1915. Pp. 477. \$1.50.)

Mr. Haworth has undertaken the difficult task of bringing together in a single volume a brief but comprehensive exposition of the chief social, industrial and political problems which have been at the bottom of the unrest in the United States for the past decade. His sixteen chapters deal with such subjects as conservation, the race problem, immigration, the multitude of questions growing out of our industrial organization—industrial warfare, workingmen's compensation, women and child labor, etc.—big business and its control, the standard of living and the high cost of it, "our defective citizenship," constitutional reform, the woman's revolt, political party tendencies, and socialism.

After a slight awkwardness in the introductory chapter, the author settles down to a smooth, easy and journalistic style that carries the reader forward without effort. The book is not only interesting, but its engaging frankness and honesty will commend it to persons of all shades of opinion in spite of the fact that Mr. Haworth makes no attempt to conceal his sympathy with the reform and forward-looking element in both politics and social controversies, which is especially apparent in his discussion of political parties and their platforms.

On the whole, the book will be very useful to those readers who wish to get in compact and readable form a clear statement of the social and industrial problems that beset the intelligent portion of our citizenship.

CHAS. W. RAMSDELL.

Studies in Southern History and Politics. Inscribed to William Archibald Dunning, Ph. D., LL. D. By his former pupils the authors [J. W. Garner, editor]. (New York: Columbia University Press, 1914. Pp. 394. \$2.50.)

I have seen no book on American History that has interested me more than this one, a book of fifteen essays by fifteen well-trained minds. These are:

Deportation and Colonization: An attempted Solution of the

Race Problem, by Water L. Fleming, Professor of History in the Louisiana State University. The Literary Movement for Secession, by Ulrich B. Phillips, Professor of American History in the University of Michigan; The Frontier and Secession, by Charles William Ramsdell, Adjunct Professor of American History in the University of Texas; The French Consuls in the Confederate States, by Milledge L. Bonham, Jr., Associate Professor of History and Political Science in the Louisiana State University; The Judicial Interpretation of the Confederate Constitution, by Sidney D. Brummer, Ph. D.; Southern Legislation in Respect to Freedmen, 1865-1866, by J. G. de Roulhac Hamilton, Alumni Professor of History in the University of North Carolina; Carpet-Baggers in the United States Senate, by C. Mildred Thompson, Instructor in History, Vassar College; Grant's Southern Policy, by Edwin C. Woolley, Assistant Professor in the University of Wisconsin; The Federal Enforcements Acts, by William Watson Davis, Assistant Professor of American History in the University of Kansas; Negro Suffrage in the South, by W. Roy Smith, Professor of History in Bryn Mawr College; Some Phases of Educational History in the South since 1865, by William K. Boyd, Professor of History in Trinity College, North Carolina; The New South, Economic and Social, by Holland Thompson, Assistant Professor of History in the College of the City of New York; The Political Philosophy of John C. Calhoun, by Charles Edward Merriam, Professor of Political Science in the University of Chicago; Southern Political Theories, by David Y. Thomas, Professor of History and Political Science in the University of Arkansas; The Southern Politics since the Civil War, by James W. Garner, Professor of Political Science in the University of Illinois.

Since the questions of slavery, secession and reconstruction so vitally concerned the North as well as the South, these essays may be regarded as indispensable in the study of American History and Politics.

That the trend of development of political institutions is determined by economic interests is a truism in political science. In these essays, due emphasis is given to the economic forces directing the political development in the South. Actual participants in the Civil War are not always unbiased, but these authors

are too young to have participated, and at the same time they are mature in judgment and of excellent scholarship. They received their University training under Doctor William Archibald Dunning, Lieber Professor in Columbia University. "For more than twenty-five years he has been a distinguished member of a distinguished faculty, and during this period hundreds of toilers for the doctorate have sat at his feet and received inspiration and wisdom from his teaching."

No teacher of American History, in College or the High School, should fail to read this book. It would be an excellent volume of "Readings" in the American History courses in colleges and high schools.

S. H. MOORE.

The History and Geography of Texas as Told in County Names.

By Z. T. Fulmore. Austin, Texas: (Press of E. L. Steck. 1915. Pp. ix+312. 8vo. cl. maps, ills. \$2.50.)

The origin of county names has been a favorite topic of local Texas history. Thrall's *Pictorial History of Texas* (641-721) devotes Part IX to "The Counties of Texas: Their history, topography," etc. The origin of county names receives some attention. Brown's *History of Texas* (II, 540-548) contains a "List of all the counties in Texas; when created and for whom or what named." A *Comprehensive History of Texas* (II, 796-800) furnishes a table "Showing the counties of the State, for whom named, from what taken, when created, when organized, area in square miles, county seats, and population in 1880 and 1890, respectively." To the foregoing is now added the volume by Judge Fulmore.

The book is the result of untiring efforts extending over several years in examining books and records, and, where records failed, in searching out persons who could give information. That the sketches vary greatly in length and quality is inevitable. Concerning a number of names no data was discovered; the longest sketch covers six and a half pages and is devoted to Stephen F. Austin. Interesting facts are brought to light in such articles as Angelina, Chambers, Nolan and Travis. Some of the short and defective ones are, nevertheless, the best in print. Errors occurring in the earlier lists enumerated at the beginning of this review has been corrected. Only counties existing at the present

time receive attention. The names of counties that have been changed or discontinued are not mentioned.

The title of the book appears to the writer to be too long, particularly since the essential part of it comes at the end. In the preface the author is careful to state that the work "is not . . . a history of the different counties of the State, nor . . . a history of the State, except in so far as that is involved in the county names." "It is . . . a series of sketches which outline the origin and history of the county names of Texas." There is more biography than history or geography in most of the sketches.

The attempt to group the county names into chapters will probably prove irritating and unsatisfactory to most readers. The chapter headings are as follows: I. The Spanish period of Texas history (20 county names are grouped under this heading); II. The Anglo-American colonization of Texas (10); III. The Americanization of the map of Texas (13); IV. The pioneers of Texas (32); V. Political Organization of Texas and events leading to the Revolution (20); VI. The Texas Revolution (40); VII. The Republic of the Rio Grande (2); VIII. The Texas Navy (1); IX. Early statesmen of Texas (17); X. Early jurists of Texas (17); XI. Colonization under the Republic (1); XII. The Americanization of Texas and the Mexican War (11); XIII. ——— (1); XVI. Statesmen, jurists, journalists, historians, ministers and others who are commemorated on our county map (16); XV. The War between the Northern and Southern Sections of the Union (18); XVI. The Indians of Texas (5); XVII. Physiographic names (28). Most of the chapters set out with a few introductory paragraphs; the county names in each group are arranged alphabetically. The book would gain in interest if these general paragraphs had all been collected in the introduction, and if the county names had been arranged alphabetically in one group. Garza and Nolan counties were created in 1876. Why include them in Chapter I? Why include in Chapter I Angelina, Aransas, Bandera, etc., and exclude Atascosa, Blanco, Bosque, etc.? Why include Chambers in Chapter III? Chapter III includes counties that were created in 1836 to 1860. Young county was created in 1856 and Stephens in 1858; why include them in Chapter XV?

The date when each county was created is shown in the Appendix. This date frequently throws an important sidelight upon the naming of it. The Constitution of 1836 recognized twenty-three counties. Only thirteen were added to this number during the period of the Republic. For political reasons the West successfully opposed the creation of a great number. The Constitution of 1845 removed the grounds for the opposition of the West, and as a consequence thirty-two counties were created in 1846. By 1859 the number of counties had been increased to more than one hundred and fifty. The Legislature in 1876 created fifty-four counties. This rapid increase in the number of counties within the brief period of forty years has had a decisive influence in the choosing of names.

The book has no table of contents; it has no list of maps and illustrations. The illustrations are numerous, but they vary greatly in the degree of perfection with which they are reproduced.

E. W. WINKLER.

In the September issue of *The Mississippi Valley Historical Review* Professor Bolton restates in an expanded and adequately documented form his article on "The Location of La Salle's Colony on the Gulf of Mexico," originally published in the *Austin American*, July 19, 1914, and noted in *THE QUARTERLY*, XVIII, 224. Other articles in this number of the *Review* which will interest readers in the Southwest are William S. Robertson's "The First Legations of the United States in Latin America," and Susan M. Reed's "British Cartography of the Mississippi Valley in the Eighteenth Century."

NEWS NOTES

Major W. M. Walton died at Austin, Texas, July 1, 1915, at the age of eighty-three. He was born at Canton, Mississippi, January 17, 1832, and moved to Austin in February, 1853. He was elected Attorney General of Texas in 1866, but was removed by military authority the next year. A brief sketch of his life appears in the *Austin Statesman*, July 1, 1915.

Captain John W. Darlington died at Austin September 12, 1915. He came to Texas from Virginia in 1838, and participated in many of the stirring scenes of the Republic. He was a member of the 'Texas Veterans' Association.

Mr. E. W. Winkler, late State Librarian of Texas, has been appointed Reference Librarian at the University of Texas.

THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XIX

JANUARY, 1916

No. 3

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

JEFFERSON DAVIS AND THE CONFEDERATE CONGRESS

ROBERT G. CLELAND

Many historians have written upon the Civil War from the military standpoint, but not until recently has attention been given to the vital economic and governmental problems of the period. In the following article upon one of these important non-military subjects the author realizes he has made only a preliminary survey of a very wide field, but the work will not be entirely valueless if someone else is led to go deeper into it.

As the sessions of the Confederate Congress were closed to the public and secrecy strictly maintained as to the most of its proceedings, while no records were kept of its debates, the account of any of its activities must necessarily be based upon fragmentary sources. From these, however, it is possible to derive a fairly accurate picture of those internal dissensions between the President and Congress against which the fortunes of the Confederacy had to contend. No attempt has been made in this article to portray the effect of such disagreements in specific instances; the aim has been rather to show in what fashion the government was conducted and over what questions the legislative and executive branches were divided.

The Confederate Government was first set into operation by the Southern constitutional convention, which met at Montgomery, Alabama, on the 4th of February, 1861.¹ After adopting a

¹For the genesis of the Montgomery Convention, see Gerson in the *Report of the American Historical Association*, 1910, pp. 181-187.

temporary constitution,² the assembly elected Jefferson Davis and Alexander H. Stevens President and Vice-President, respectively, of the new government. In this election there seems to have been little of intrigue or political scheming. "The qualifications of Davis, Cobb, and Toombs were quietly canvassed, but the differences were not so pressed as to cause delay of action or any ill feeling. Some deputies favored Cobb, some Toombs, but Davis received unanimous and cordial support."³

The choice of Davis was warranted by many considerations. A long and honorable career in the public service as representative, senator, and cabinet member had given him the necessary training for the presidency. He had, moreover, won merited fame in the war with Mexico and as secretary of war under Pierce had further increased his knowledge of military tactics and organization. It was natural, also, that the South should look to this conservative successor of Calhoun in the defense of slavery and the sovereignty of the State as their leader during the uncertain times that lay before them.⁴

²This constitution was for the most part a copy of the Constitution of 1787. Some important changes, however, were made, the chief of which dealt with the executive department. Provision was made for a single presidential term of six years; the right of vetoing any single item in an appropriation bill without invalidating the whole was permitted; no general appropriation of funds could be made unless asked for by the head of a department, except by a two-thirds vote of each house; the President's power of removal was somewhat curtailed; and, lastly, Congress was authorized to grant a seat on the floor of either house to members of the cabinet, who then had the privilege of discussing any measure touching their departments. According to Davis this last provision, "which would have tended to obviate much delay and misunderstanding," was never put into operation because of the failure of Congress to enact the necessary legislation (Davis, *Rise and Fall of the Confederate Government*, I, 260). The provisional Congress consisted of a single chamber whose members voted by States. Both the provisional and permanent constitutions are printed in Richardson, *Messages and Papers of the Confederacy*, Vol. I.

³Curry, *Civil History of the Confederate States*, 52. On the other hand, Stephens thought that Toombs would have been the choice of the Congress had a misunderstanding not arisen in the Georgia delegation. Stephens, *War between the States*, II, 329-331. See also Pollard, *Life of Jefferson Davis and Secret History of the Confederacy*, 64, who states that R. M. T. Hunter was slated for the presidency, with Jefferson Davis as secretary of war. A further discussion is given in Dodd's *Jefferson Davis*, 216-222, and in Phillips' *Life of Robert Toombs*, 22-226.

⁴"He was selected because the opponents of secession and the conservative Virginians could unite upon him." Dodd, 226.

Yet Davis probably preferred a high military commission to the position of executive. He says that he took what he considered "adequate precautions" to prevent his selection by the Montgomery assembly;⁵ while Mrs. Davis notes that the sudden news of his nomination so deeply pained him that he spoke of it "as a man might speak of a sentence of death."⁶ His acceptance of the place, however, was not long delayed and he soon appeared before Congress to take the oath of office.

His relations with this body were at first sincerely cordial. The Congress itself, probably the strongest legislative assembly in the history of the Confederacy, was characterized by Stephens as the "ablest, soberest, most intelligent and conservative body" of which he had ever been a member.⁷ And Davis found that the delegates were generously inclined "to yield their preconceived opinions" to his suggestions, and particularly that the absence of factional rivalries made possible the selection of a desirable cabinet without the necessity of compromise.⁸

The removal of the seat of government from Montgomery to Richmond was the cause of much adverse comment on the part of certain members from the cotton growing states,⁹ but this was not aimed at Davis personally;¹⁰ and it was not until the battle of Manassas that anything like serious criticism of the President by members of Congress can be found.¹¹ The failure of the Con-

⁵*Rise and Fall of the Confederate Government*, II, 18. The same idea was brought out in his inaugural address.

⁶Mrs. Davis, *Memoirs*, II, 19.

⁷Johnston and Browne, *Alexander H. Stephens*, 392.

⁸*Rise and Fall of the Confederate Government*, I, 304; II, 241. The cabinet consisted of Toombs of Georgia, secretary of state; Walker of Alabama, secretary of war; Memminger of South Carolina (whom Davis chose somewhat reluctantly, as he preferred Barnwell), secretary of the treasury; Mallory of Florida, secretary of the navy; and Reagan of Texas, postmaster general. Benjamin, the attorney general, was soon afterwards given a seat in the cabinet and became Davis's right hand man. For an estimate of these officials, see Alfriend, *Life of Jefferson Davis*, 246-7; Butler, *Judah P. Benjamin*, 229-230.

⁹Jones, *A Rebel War Clerk's Diary*, I, 41, 44. The Richmond Congress was not equal in ability to the Montgomery assembly. Stephens, *War between the States*, II, 464.

¹⁰Davis vetoed the first bill for removing the capital upon technical grounds. *Journal of the Congress of the Confederate States*, I, 242-243.

¹¹The evacuation of Harper's Ferry seems to have resulted in some

federate forces to follow up their remarkable victory after the defeat of the Union troops was soon regarded as a serious military blunder; and Davis, who had been present on the battlefield and taken an active voice in a conference of the Southern generals the night following McDowell's disaster, was directly charged, both by a certain element in Richmond, naturally given to criticism, and by members of Congress, with responsibility for the mistake.¹² The official reports of Beauregard and Johnston tended to confirm this impression,¹³ and as one writer has fitly remarked, "The first great success in arms achieved by the South was to originate questions tending to excite distrust in the executive, and subsequently distrust of his treatment of those who were under his authority."¹⁴ Davis, also, in a letter to Johnston at this time speaks of the charges brought against the President as "tending to create distrust, to excite disappointment and . . . embarrass the Administration in its further efforts to reinforce the Army of the Potomac."¹⁵

Other sources of criticism were not lacking. "The apparent indifference on the part of the Administration to the affairs of Missouri and the failure to appoint General Price an officer in the Confederacy" led to frequent complaint.¹⁶ While the policy pursued by Benjamin, secretary of war, and Winder, whom Davis had placed in charge of the forces in Richmond, of issuing passports through the Confederate lines and of discharging suspected prisoners on their own responsibility, was severely censured by members of Congress as well as by the hostile press.¹⁷ The papers most opposed to Davis were the *Richmond Examiner* and the *Charleston Mercury*. In the South at large, however, there was as yet no dissatisfaction worth recording. And even

slight criticism of the executive even before this. *A Rebel War Clerk's Diary*, I, 52.

¹²*Rise and Fall of the Confederate Government*, I, 362, 442.

¹³*Ibid.*, 363, 367.

¹⁴Alfriend, *Life of Jefferson Davis*, 314. See also Pollard, *Secret History of the Confederacy*, 150; *Lost Cause*, 152-153.

¹⁵*Rise and Fall of the Confederate Government*, I, 362-363.

¹⁶*Ibid.*, I, 427.

¹⁷*A Rebel War Clerk's Diary*, I, 96; *Journal*, I, 682. Benjamin was transferred to the war department in September. The vetoing of two bills granting furloughs and discharges in case of sickness, etc., was another source of friction. *Messages and Papers*, I, 156-158; 162-164.

in those cities where opposition was developing, it still lacked organization and confined itself to discussion without political action. Accordingly, when the election for the permanent government was held on the 6th of November, 1861, Davis and Stephens were unanimously re-elected to the offices they had held under the provisional constitution.¹⁸ At the same time, senators and congressmen were chosen to take the place of the delegates to the provisional congress and the regular Confederate Government began its activities.¹⁹

The new Congress met for the first time on February 18, 1862. In the House, Thomas S. Bocock of Virginia was chosen Speaker without a dissenting vote; and by the 25th the members of the standing committees had been appointed.²⁰ The organization of the Senate was also effected with the loss of little time.²¹ While the roll of this body bore many more names familiar to the student of national politics than did that of the House, the *personnel* of neither gave promise of remarkable ability; and within a few months one hostile critic was bold enough to say that in the whole Congress there were not a dozen members "with any pretensions to statesmanship."²²

Almost from the outset, the relations of the executive and Congress were somewhat strained because of military reverses. Not

¹⁸The total electoral vote was 109. *Journal*, II, 8. The election was without excitement and only a light vote was cast.—*A Rebel War Clerk's Diary*, I, 89. The inauguration took place on February 22 under a gloomy and depressing sky. The President's address was severely criticised by his enemies.—*Lost Cause*, 215.

¹⁹There were five sessions of the Provisional Congress as follows: February 4 to March 16, 1861, at Montgomery; April 29 to May 21, at Montgomery (called by Davis); July 20 to August 31, at Richmond; September 3, adjourned same day, at Richmond (called by Davis); November 18 to February 17, 1862, at Richmond.

²⁰The following were the Committee Chairmen: Smith, North Carolina, Elections; Kenner, Louisiana, Ways and Means; Miles, South Carolina, Military Affairs; Foote, Tennessee, Foreign Affairs; Conrad, Louisiana, Naval Affairs; Gartrell, Georgia, Judiciary.—*Journal*, V, 7, 21.

²¹The Senate Committee Chairmen were as follows: Orr, South Carolina, Foreign Affairs; Barnwell, also of South Carolina, Finance; Sparrow, Louisiana, Military Affairs; Brown, Mississippi, Naval Affairs; Hill (one of Davis's most consistent supporters), Georgia, Judiciary; Clay, Alabama, Commerce.—*Journal*, II, 19-20.

²²*A Rebel War Clerk's Diary*, I, 157. "The first Confederate Congress . . . contained all the elements of discord and disagreement it was possible to assemble under one roof in the South at this time." Dodd, 257.

more than three days after Davis's inaugural address, Smith of North Carolina and Foote of Tennessee had introduced resolutions in the House calling for the investigation of the capture of Fort Donelson with the consequent evacuation of Nashville, and of the capitulation of Roanoke Island.²³ The committee appointed to look into the disasters of western Tennessee, reported to the House without endeavoring to fix the responsibility;²⁴ but the committee in charge of the Roanoke inquiry, after a severe arraignment of the negligence shown in fortifying the island, closed its report by laying the blame for the Confederate loss upon "Major General B. Huger and the late Secretary of War, J. P. Benjamin."²⁵ This stricture on Benjamin was not meant merely for the late "Secretary of War," but through him was aimed at the President. For the opposition, while still in the minority, were becoming more united and encouraged by the hostile press, vigorously denounced the war policy of the administration.²⁶ This dissatisfaction, however, was partially dispelled by the military success of the following summer.

Beside the conduct of the war, another source of criticism that arose about this time was the suspension of the writ of *habeas corpus*.²⁷ It is true that both houses of Congress by an almost unanimous vote sanctioned this action, but Davis made a great

²³*Journal*, V, 28. Foote had previously brought in a motion calling for a vigorous prosecution of the war as against Davis's defensive plan. *Confederate Military History*, I, 431.

²⁴Nevertheless almost the entire Tennessee delegation waited upon the President and asked for the removal of Albert Sidney Johnston. Davis's reply was, "If Johnston is not a general, the Confederacy has none to give you."—*Rise and Fall of the Confederate Government*, II, 38.

²⁵*Journal*, V, 243. Benjamin was transferred to the state department because of such criticism. Moore of Kentucky had previously introduced a motion in the House requesting the resignation of Benjamin from the war portfolio since he did not have "the confidence of the Confederacy, nor of the Army to such an extent as to meet the exigencies of the present crisis."—*Journal*, V, 57. See also *A Rebel War Clerk's Diary*, I, 119; editorial from the *Examiner* quoted by Butler, 254-255, *Lost Cause*, 213.

²⁶It was about this time that two parties arose, the one demanding the resignation of Davis, the other that he be made dictator. Du Bose, *Life of Yancey*, 678; Alfried, 367.

²⁷James Ford Rhodes censures Davis for criticising Lincoln's suspension of the writ and then following the same policy himself a few days later. The criticism is misplaced, since Lincoln's proclamation was issued on his own responsibility, while Davis refused to act at all until Congress had given its sanction to the measure. See Rhodes, *History of the United States*, III, 603.

mistake in continuing Winder in command at Richmond when his power could no longer be seriously checked by civil authority. If we may believe many contemporary charges, Winder, if not openly corrupt, was woefully lacking in judgment and ability and so administered his position as to cause widespread complaint in Richmond.²⁸ This, combined with the opposition on constitutional grounds of some of the ablest men in the South to the suspension of the writ,²⁹ threw Davis more or less on the defensive, particularly as the declaration of martial law gave his opponents grounds for charging him with seeking a dictatorship. Even his baptism and confirmation in the Episcopal church were declared to be mere blinds toward a despotic end, and a comparison was drawn between his new religious professions and similar action on the part of Cromwell and Richard III.³⁰

The Impressment and Conscription Acts passed at this session of Congress were also looked upon as oppressive and unconstitutional,³¹ and since Davis had urgently advocated their enactment, whatever popular clamor arose naturally directed itself against him, or vented itself by denouncing Congress as wholly subservient to the President's will. In this latter charge there was a decided element of truth. For while in fact a minority element of opposition existed in both houses, it had not yet developed sufficient

²⁸The following is a fair sample of the hostile criticism against Winder's administration: "The Baltimore detectives [Winder's police] are lords of the ascendancy. They crook a finger, and the best carriages in the street pause, turn around and are subject to their will. They loll and roll in glory. . . . One word of remonstrance, and the poor victim is sent to Castle Gordon." *A Rebel War Clerk's Diary*, I, 123. See also Rhodes, *History of the United States*, III, 603. The popular opposition was such that the bill was eventually modified. *Journal*, V, 235.

²⁹Stephens and Toombs were particularly opposed to the measure. *War between the States*, II, 270. The Georgia Legislature passed resolutions condemning the bill. *Ibid.*, 789; Pollard, *Secret History of the Confederacy*, 336. See also *Confederate Military History*, I, 448-450, for debates in Congress over the conscription bill.

³⁰*A Rebel War Clerk's Diary*, I, 120; editorial from the *Richmond Examiner* quoted in Rhodes, IV, 8, note. It was probably this same writer who sarcastically commented in another issue of the *Examiner* on the President's religious professions that "when Hercules saw the condition of the Augean stables, he did not roll up his eyes to Jupiter but turned a river into them." *Writings of J. M. Daniel*, collected by Fred S. Daniel, 152. Daniel's *Writings* were editorials of the *Richmond Examiner*.

³¹Rhodes, V, 431-432; *Official Records, War of the Rebellion*, Series IV, Vol. I, 1133-1138; II, 2-3; Johnstone and Browne, *Life of Stephens*, 415; *Secret History of the Confederacy*, 336.

power to hinder materially the plans of the administration, and for the most part contented itself with striking at Benjamin and other unpopular members of the cabinet. One bill was carried, however, that evidently aimed to reduce the military power of the President and make his secretary of war a mere bureau clerk. It provided for the creation of the "office of a commanding general of the armies of the Confederate States," and assigned powers to the new official which, as Davis pointed out in his veto message, were lodged by the constitution in the hands of the President alone as commander-in-chief.³² The bill was first passed by large majorities³³ both in the Senate and in the House, but when the attempt was made to carry it over the executive veto it failed by an overwhelming vote. Thus, when the session ended on April 21,³⁴ Davis had met defeat on no important point, while the emergencies of war were gradually throwing more and more power into his hands, though he was careful not to assume new authority without the consent of Congress.³⁵

Shortly after the adjournment of Congress, the Confederacy suffered disastrous military reverses, first in the loss of New Orleans and shortly afterwards in the surrender of Norfolk and the enforced destruction of the iron-clad, *Merrimac*. It was a period of great discouragement throughout the South and of fear in Richmond. Davis was openly censured; and even Robert E. Lee, who was now acting as the President's military adviser, came in for a full share of criticism.³⁶ With the turn of the tide, however, in the victories of Jackson and Lee over McClellan the depression gave place to a feeling of exultation and for the time being dissatisfaction ceased. Early in June, Lee was placed in command of all the Southern forces and from that time on pos-

³²*Journal*, V, 36, 107.

³³In the House the vote stood 50 for to 16 against. In the Senate the votes were not recorded.

³⁴The first Congress held the following sessions: February 18 to April 21, 1862; August 18 to October 13, 1862; January 12 to May 1, 1863; December 7 to February 17, 1864.

³⁵General Meigs wrote Senator Wilson, " . . . they [the Confederate forces] are directed by one mind, prompt, decisive, bold. They are not distracted by divided councils, are not restrained by rules, customs, precedents." Quoted by Weeden, *War Government, Federal and State*, p. xxiii. See also Rhodes, V, 471.

³⁶See Rhodes, IV, 7, 8, 9, and notes.

sessed the full confidence of the Confederacy. His cooperation with Davis was hearty and sincere, and instead of charges and counter-charges there was a refreshing harmony between the President and his leading general "which was never marred by dictation on the one side or complaint on the other."³⁷

In the midst of this era of better feeling, Congress reconvened on the 18th of August. Complaints of the lack of supplies and provisions for the army had become so numerous that the matter could no longer be overlooked. And on the first day of the session, even before the President's message had been received, a resolution was carried instructing the Committee on Military Affairs "to inquire into the expediency and necessity of enacting some effective law requiring and compelling the Commissary Department to furnish more and better food for the Army. . . ."³⁸ While the framers of the motion doubtless hoped to discredit Davis as well as the Commissary Department by their action, they were unsuccessful in arousing any effective opposition and most of the bills favored by the administration went through with clock-like regularity.³⁹ The veto was used but sparingly, for the most part only where bills were plainly unconstitutional or possessed of some technical defect. In no instance was there the slightest danger of its being overridden.⁴⁰

The third session of Congress, lasting from January 12 to May 1, 1863, may be dismissed in a few words. Lincoln's Emancipation Proclamation had kindled afresh the fire of Southern opposition to the Northern government, and for a time internal dissensions were lost in this new burst of enthusiasm. During this period, also, no great defeat could be pointed to as an evidence of the administration's incompetency, so that Congress for the most part became merely a register of the President's will. Some hostility, however, was able to manifest itself in an effort to convict the Commissary Department of gross frauds⁴¹ and in

³⁷Alfriend, 409.

³⁸*Journal*, V, 296.

³⁹The bill which developed the greatest opposition was one providing for a new suspension of the writ of *habeas corpus*. In the House it mustered a majority of only 9. See, in addition, *A Rebel War Clerk's Diary*, I, 159; Rhodes, V, 464.

⁴⁰For example, *Journal*, V, 500; 557-558; II, 431, 447.

⁴¹*Ibid.*, VI, 9, 49; index.

a refusal to submit tamely to the veto. The bill which brought this opposition most prominently to the front provided for an increase of "strength and efficiency of heavy artillery for sea coast defense" and was vetoed by Davis because it seemed to him an infringement on the powers of the executive.⁴² When the bill was returned to the Senate it was repassed by a vote of 18 to 5,⁴³ but failed to secure even so much as a majority in the House.⁴⁴

The adjournment of Congress was the subject of a sharp attack in the *Richmond Examiner*,⁴⁵ since it left many important matters relating principally to finance, impressment, and conscription inadequately provided for; and in the crisis to which the Confederacy was rapidly approaching, such lack of preparation made necessary a further concentration of power in the hands of the executive. The following summer was especially disheartening because of Lee's failure in Pennsylvania and the fall of Vicksburg.⁴⁶ In addition the crushing burden of the war, with its

⁴²*Ibid.*, III, 228.

⁴³*Ibid.*, 237.

⁴⁴The vote stood 22 for, and 59 against, repassing the bill. *Ibid.*, V, 303. The popular discontent in Richmond was about evenly divided at this time against Davis and the members of Congress. Largely owing to the President's physical condition, he was unable to participate in the social affairs of the Capital and this led to the charge that he was becoming inaccessible (Mrs. Davis, *Memoirs*, II, 161; *A Rebel War Clerk's Diary*, I, 184). In the *Richmond Examiner* of March 14 Daniels wrote, "There is a feeling of resentment, deep-seated and widely pervading the best class of the community against Government . . . ; and there are high officers in this goodly city who fancy they are popular in the land, but whose names are held in execration by the staunch classes which control public opinion." Daniel, however, was not partial in his sarcasm. On May 4 he dealt with Congress as follows, "Never . . . was there a deliberative assembly intrusted with the high responsibilities of legislation in a momentous crisis less gifted with commanding talent, or signalized by initiative power than the Confederate Congress" (*Writings of J. M. Daniel*, 75, 77). Jones wrote in his never failing diary to similar effect, "Never did such little men rule such a great people. Our rulers are like children or drunken men riding docile horses that absolutely keep the rider from falling off. . . . There is no rule for anything, and no stability in any policy." Davis, though master of Congress, by some was regarded as only a "small specimen of a statesman and no military chieftain at all."—*A Rebel War Clerk's Diary*, I, 174, 178. For further details concerning the secrecy of Congress, character of its proceedings, and popular ridicule of its members, see Callahan, *Diplomatic History of the Southern Confederacy*, Ch. II, *passim*, and quotations.

⁴⁵*Writings of J. M. Daniel*, 111-112.

⁴⁶Alfriend, 462.

impressments, conscriptions, demoralized finance, and prohibitions on trade, caused widespread dissatisfaction among all but the most loyal. As Congress was not in session, the greater part of this was concentrated against the President. He was accused of trying to make himself supreme by "denying all participation in the affairs of government to the great men who were the authors of secession."⁴⁷ His cabinet members, particularly Benjamin, Mallory, and Memminger, together with the commissary general, Northrop, were spoken of as incompetents if not scoundrels.⁴⁸ His military appointments were condemned as the cause of the Confederate losses and his very life was threatened by some of his enemies.⁴⁹

As the 7th of December approached, the day upon which Congress was to reassemble, the prospects of the Confederacy grew still more gloomy⁵⁰ and the hardships of the individual citizen

⁴⁷Editorial in the *Examiner* of July 30. It was written on the occasion of the death of William L. Yancey who had been estranged from Davis over a question touching the purchase of arms in Europe. *A Rebel War Clerk's Diary*, I, 391; Du Bose, *Life of Yancey*, 652-653.

⁴⁸See the attitude of the *Charleston Mercury* as given by Jones, *Diary*, II, 15; also Mrs. Davis, *Memoirs*, II, 412. About this time Stephens wrote, "Our President is aiming at the obtainment of power inconsistent with public safety." *Life of Stephens*, 441. Scarcely an issue of the *Examiner* appeared without strictures on the administration. The following may be considered a fair example:

"Had the people dreamed that Davis would carry all his chronic antipathies, his bitter prejudices, his puerile partialities, and his doting favoritisms into the President's chair, they never would have allowed him to fill it. . . . Mr. Davis has alienated the hearts of the people by his stubborn follies, and the injustice he has heaped upon those whom they regarded as their ablest generals and truest friends. . . . God forbid that our fair and beloved land should be ruined by our own maladministration, or that our people should lack the proper energy and independence to teach their executive that he is their servant, not their master—their instrument, not their dictator."—*Examiner*, August 5, 1863, quoted in *Writings of J. M. Daniel*, 107-109. See also *Ibid.*, 95-96.

⁴⁹*A Rebel War Clerk's Diary*, II, 15.

⁵⁰On the 31st Daniels wrote, "Today closes the gloomiest year of our struggle. No sanguine hope of foreign intervention buoys up the spirit of the Confederate public as at the end of 1861. No brilliant victory like that of Fredericksburg encourages us to look forward to a speedy and successful termination of the war, as in the last weeks of 1862."—*Writings*, 155. Stephens and Governor Joseph E. Brown were particularly active in creating dissatisfaction throughout Georgia. Rhett and Vance, aided by the *Mercury*, carried out a like program in the Carolinas. Dodd, 300-301. I think Dodd is wrong in classing H. V. Johnson as an opponent of the administration, at any rate before the latter part of

more intense. All of this brought the administration into further discredit with the dissatisfied element and made it inevitable that an effort should be put forth to give tangible expression to this opposition in the coming Congress. The President's message set forth, in language as hopeful as possible,⁵¹ the condition of affairs and urged the passage of stricter measures to maintain the efficiency of the Army, increase the revenue, and provide for a wider extension of martial law.⁵²

These recommendations were all eventually embodied in appropriate bills, but the opposition were able to include many amendments undesirable to the administration, and in some cases mustered a formidable number of votes against the measures. That the bills went through at all was due more to the necessities of the war than to the willingness of Congress to follow Davis's leadership.⁵³ Yet the *Examiner* spoke of Congress as the "subservient tool" of the President;⁵⁴ and Jones records that the executive was so completely master of the situation that in advance of congressional action, "the Secretary of the Treasury had prepared plates, etc., for the new issue of notes before the bill passed calling in the old."⁵⁵

In spite of this general acquiescence on the part of the majority, however, there were those in Congress who attacked the administration at every opportunity. The cabinet, as constituted, had long been a thorn in the flesh to the opposition and its members were frequently called upon to defend themselves against congressional action. On December 10, Senator Johnston of Arkansas brought forward a bill to limit the term of all heads of departments to two years.⁵⁶ This was directed at Benjamin, Memminger, and, as the President rightly conceived, at himself.⁵⁷ It

1864. See Official Records, Series IV, Vol. III, pp. 278-281, 552, 544-9, 662-3.

⁵¹The *Examiner*, while elaborately praising the literary merits of the document, concluded by saying that Davis might prove "a worthy rival to another ruler who never said the foolish thing, and never did the wise one." *Ibid.*, 154.

⁵²This was again urged in a special message. *Journal*, VI, 744-746.

⁵³*A Rebel War Clerk's Diary*, II, 161.

⁵⁴*Writings of J. M. Daniel*, 215.

⁵⁵*Diary*, II, 153.

⁵⁶*Journal*, III, 454.

⁵⁷*A Rebel War Clerk's Diary*, II, 132.

was referred to the Judiciary Committee, a majority of whom reported in its favor, but never came to a vote in the Senate though called up from time to time until the end of the session.⁵⁸

Another never failing source of contention was the commissary department, which was repeatedly censured for incompetency and gross dishonesty. A special committee charged with the investigation of its affairs was appointed by the House early in the session;⁵⁹ while later Henry S. Foote of Tennessee, the chief spokesman of the opposition, introduced a resolution calling for the removal of the quartermaster general. The motion was laid on the table by a vote of 46 to 20;⁶⁰ but in the Senate the matter was not so easily disposed of. Col. A. C. Myers, the former quartermaster general, had been relieved the preceding August and General Lawton appointed by Davis in his stead. Lawton's name, however, had never been sent to the Senate for confirmation. A resolution was therefore reported from the Committee on Military Affairs in January declaring Myers still to be the quartermaster general. When put to a vote this motion carried by a majority of 15 to 6;⁶¹ necessarily widening the breach between the President and the Senate. Matters of minor importance, relating chiefly to passports, exemptions from military service, appointments, etc., similarly developed friction between the two departments of government and by the time adjournment came Congress and the President were decidedly at outs and parted in "bad temper."⁶²

This was the last session of the old Congress. The new body began its duties on May 2, 1864,⁶³ in a spirit of seeming coopera-

⁵⁸*Journal*, III, 566.

⁵⁹*Ibid.*, VI, 525.

⁶⁰*Ibid.*, 681. Jones states that twenty votes upon which Foote counted failed him. *Diary*, II, 136.

⁶¹*Journal*, III, 621; *Diary*, II, 134; *Messages and Papers of the Confederacy*, I, 392-394.

⁶²*Ibid.*, 161. In February Benjamin voiced the administration's disapproval of Congress. "There has been less promptness and energy in the legislation by Congress than we had hoped for, and less than the magnitude of the interest at stake warranted us in expecting." Benjamin to Mann, in *Messages and Papers of the Confederacy*, II, 623. For the deplorable condition of the country at large, see the special message of Davis, February 1, 1864. *Ibid.*, I, 395-400.

⁶³Forty members of the old Congress were not re-elected. *Ibid.*, p. 153. Owing to his opposition to Davis—an opposition which I have touched

tion with the President. A strong majority sided with him on every important measure, and the opposition was weaker than at any other session; while there is good reason to believe that most of the bills were "dictated by the executive and written in the departments."⁶⁴

In spite of such apparent harmony, however, criticism of the President was not entirely hushed. In the Senate the appointment of Bragg (a few days after the adjournment of the preceding Congress) was bitterly assailed by Orr of South Carolina and Wigfall of Texas, the latter going so far as to say that there was an entire want of confidence in the executive.⁶⁵ In the House a severe attack was made upon Memminger, secretary of the treasury. Foote, as ever active in harassing the administration, introduced a resolution calling for the removal of Memminger because of his lack of financial ability. A motion to lay the matter on the table was at once made, but failed by a vote of 37 to 45.⁶⁶ The bill was eventually referred to the Committee on the Judiciary, from which it was not reported before the end of the session.⁶⁷ Shortly after the adjournment of Congress, however, Memminger resigned his position and Trenholm assumed the office in his stead.

The congressional recess lasted nearly five months. When the members finally reconvened on November 7, their attitude toward Davis was unmistakably hostile, probably more so indeed than it had ever been before. Some members doubtless resented the charges of the press that they were but a "secret power for registering the will of the President";⁶⁸ while others, realizing the

upon only incidentally—Stephens absented himself from the seat of government. R. M. T. Hunter was elected President of the Senate *pro tem*. Bocoock was chosen again as Speaker in the House.

⁶⁴*A Rebel War Clerk's Diary*, II, 215. Rhodes, V, 479. Davis, however, vetoed five bills during this session.

⁶⁵*A Rebel War Clerk's Diary*, II, 220. The *Examiner* spoke of Bragg's appointment as "an illustration of that strong common sense which forms the basis of the President's character," and continued, "this happy announcement should enliven the fires of confidence and enthusiasm, reviving among the people, like a bucket of water on a newly kindled grate." See also Alfriend, 489.

⁶⁶*Journal*, VII, 110; *A Rebel War Clerk's Diary*, II, 222.

⁶⁷*Ibid.*, 119. The second Congress held the following sessions: May 2 to June 14, 1864; November 7, 1864, to March 18, 1865.

⁶⁸The *Examiner* and the *Mercury* were particularly loud in their denunciations of weak kneed Congressmen who made no efforts to check the

desperate condition of the Confederacy and deeply dissatisfied with the course of affairs, voted almost in sullen despair against the plans of the administration.⁶⁹ Evidence of this new spirit was soon manifest. One of the chief recommendations in the President's message was for the employment of 40,000 slaves in the Confederate armies, but as soldiers only in the last extremity. It was also recommended that such negroes as were taken into government service should be emancipated at the close of the war.⁷⁰ This proposition was not very cordially received. Not only did it involve great pecuniary loss to the owners of impressed slaves but seemed to strike at the very basis of the entire system, as well as to involve a serious question of constitutionality. "We have been denying all along," said one opponent of the plan, "that freedom is a good thing for the negro; yet now we promise to give him that freedom in return for enlistment in our armies." But in the existing crisis practical necessity had more weight with Davis than any argument based upon mere consistency of opinion. "Strenuously," he says, "I argued the question with members of Congress who called to confer with me . . . and finally . . . used the expression . . . 'If the Confederacy falls, there should be written over its tombstone, Died of a theory.'"⁷¹

Although General Lee added his influence to the efforts of the executive to secure an immediate passage of a bill embodying Davis's recommendation, it was not brought to a vote in the House until February 20 when it went through by the narrow margin of 40 to 37.⁷² In the Senate the contest was even sharper. Here

executive. See Pollard, *Secret History of the Confederacy*, 418, and Daniel's editorials in the *Examiner*. In Georgia the Legislature, at the bidding of Brown, Johnson, and Stephens, had passed resolutions criticizing Davis and condemning his conduct of the war. Dodd, 336; Pendleton, *Alexander H. Stephens*, Ch. XV.

⁶⁹On January 8 Howell Cobb wrote Seddon, "I regret to say that gloom and despondency rule the hour, and bitter opposition to the Administration, mingled with dissatisfaction and disloyalty is manifesting itself." As a remedy Cobb urged the reinstatement of Johnston and Beauregard and the institution of a popularly demanded system of recruiting. *Official Records*, Series IV, Vol. III, p. 1010.

⁷⁰*Journal*, VII, 254-255.

⁷¹*Rise and Fall of the Confederate Government*, I, 158. Benjamin, the practical, had probably influenced Davis to take this step.

⁷²*Journal*, VII, 612. The bill had been greatly enlarged in its scope by the time the vote was taken. For an excellent discussion of the various bills relating to the use of negroes as soldiers introduced both in

the opposition succeeded in delaying final action until March 8 when they came within one vote of defeating the measure.⁷³ While in a second trial of strength on another matter they came off victorious. On December 8 the House, by a vote of 50 to 44,⁷⁴ had made provision for a renewed suspension of the writ of *habeas corpus*; but when the bill was presented in the Senate, its opponents, after delaying action upon it until March 16, were able to defeat it by a vote of 6 to 9.⁷⁵ The President's veto, which was more freely used at this session of Congress than at any other, was almost uniformly overridden by the necessary two-thirds vote in the Senate, and not infrequently in the House as well.⁷⁶

Many bitter attacks, likewise, were made at this session against individual members of the cabinet, and much ill feeling resulted from the President's refusal to dismiss those who had long been out of favor with Congress. The principal assaults were made upon Benjamin and Seddon, who was now secretary of war. Resolutions censuring the former for a speech made in Richmond were brought forward in the House,⁷⁷ while his moral integrity was called into question by the Louisiana Representatives on the ground that he had taken bribes for passports.⁷⁸ A demand for his resignation submitted by Wigfall to the Senate failed only by a tie ballot, the vote standing 11 to 11.⁷⁹ As for Seddon, his position became so uncomfortable that he left the cabinet on February 9, J. C. Breckenridge being appointed in his stead.⁸⁰

Senate and House, and the delays and defeats experienced, see Stephenson, "The Question of Arming the Slaves," *American Historical Review*, XVIII, 295-308.

⁷³The *Journal* (IV, 670) records nine affirmative and eight negative votes in the Senate. The Senate bill introduced on February 7 was indefinitely postponed on the 21st by a vote of 11 to 10. Stephenson gives as the reason the constitutional difficulty of State authority. *American Historical Review*, XVIII, 300-301. In the bill finally passed this was avoided.

⁷⁴*Ibid.*, VII, 350.

⁷⁵*Ibid.*, 721; *A Rebel War Clerk's Diary*, II, 451. One reason for this, according to Jones, was the retention of Benjamin in the cabinet.

⁷⁶*Journal*, IV, 490, 502, 687; VII, 502, 523, 645, 790.

⁷⁷*Journal*, VII, 582.

⁷⁸*A Rebel War Clerk's Diary*, II, 416.

⁷⁹*Journal*, IV, 552, 553.

⁸⁰*A Rebel War Clerk's Diary*, II, 415; Rhodes, V, 65. See also Bocock's letter to Davis, January 21, 1865, in which he advises Davis to reconstruct his cabinet in order to forestall a vote of lack of confidence in its

Nor were these denunciations confined merely to the cabinet. Davis himself was characterized on the floor of Congress as "mediocre and malicious,"⁸¹ while the disasters of the South encouraged the most radical of the opposition in a desperate movement to place General Lee at the head of the government as dictator, and only the refusal of the latter to act against Davis prevented a counter revolution.⁸²

In addition to the sources of discord which have just been mentioned there were certain others that should be touched upon in closing. The refusal of Davis to begin peace negotiations at the urgent request of the Senate;⁸³ his removal of Johnston and stubborn unwillingness to reappoint him even at the request of a concurrent resolution of the two houses;⁸⁴ his attitude toward the question of trade as it affected various states;⁸⁵ the tone of his last message which a select committee of the Senate regarded as tending to destroy the "legitimate and constitutional influence" of the legislative branch "by Executive admonitions"⁸⁶—all of these helped to destroy the President's influence over Congress and weaken his leadership. Yet with the people at large Davis seems to have regained some measure of his popularity toward the end. His remarkable speech in the African church at Richmond on February 6 greatly strengthened his position throughout Virginia and created a new enthusiasm for a dying cause.⁸⁷ Congress, also, to a large extent lost popular sympathy by its continued "crimi-

members by Congress, three-fourths of whom will approve such a resolution if presented. *Official Records*, Series I, Vol. XLVI, pt. 2, p. 1118.

⁸¹By Haynes of Tennessee and Wigfall of Texas.

⁸²Its backers were Stephens, Atkins of Tennessee, and Rives of Virginia. Dodd, 346. *Writings of J. M. Daniel*, 217. The proposition was put forward in at least two numbers of the *Examiner*, that of December 29, 1864, and that of January 17, 1865. See also *A Rebel War Clerk's Diary*, II, 372, 389, 390.

⁸³Rhodes, V, 79, and authorities quoted; Dodd, 347, shows even more clearly how strongly the current was running against Davis in both houses.

⁸⁴*Journal*, IV, 454; VII, 463; Rhodes, V, 110.

⁸⁵*Messages and Papers*, I, 505-513.

⁸⁶*Journal*, IV, 731; *A Rebel War Clerk's Diary*, II, 454; *Lost Cause*, 653-654.

⁸⁷Stephens, *War between the States*, II, 623-624; Alfriend, 611; Rhodes, V, 72.

nation of the President and a certain contemptible frivolity."⁸⁸ Indeed, as late as February 22, when all of its powers should have been employed in averting threatened ruin, this body was occupied in devising a new flag.⁸⁹ Even its final adjournment was marked by a pitiable exhibition of ill humor against the executive.⁹⁰

It is difficult to say how far this lack of harmony that existed between the President and Congress was responsible for the defeat of the South. Although Davis was frequently annoyed by the opposition, which became strong or weak as the tides of Southern misfortune rose or fell, and at times perhaps seriously handicapped,⁹¹ it is nevertheless true that he was master of the situation during his entire administration. His mastery, however, was often secured at the expense of concord; and while Congress yielded to his will they did so often without enthusiasm and gave him but lukewarm support. The President himself was probably much to blame for this. Stubborn in his likes and dislikes, he allowed them to influence his appointments, whether civil or military, to the serious detriment of his own government and of the Confederate arms. In a jealous desire to maintain the prerogatives of his office, he sometimes alienated those whose cooperation was most valuable,

⁸⁸Alfriend, 599. The requests for "information" upon trivial matters, and the heckling "resolutions" directed against the President bear out this opinion. See *Messages and Papers*, I, 499-570, *passim*.

⁸⁹*Ibid.*; *A Rebel War Clerk's Diary*, II, 409. Pollard styles the legislation of Congress during this session as "puerile, absurd, and contemptible" to the last degree. *Lost Cause*, 660.

⁹⁰Congress, owing to an urgent request from Davis, who hoped for foreign assistance, prolonged its sitting from March 10 to 18, when it adjourned *sine die*. For the diplomatic phase of these last days, see Callahan, 239-276.

⁹¹Alfriend's censure of Congress does not fall far wide of the mark. "Mr. Davis," he says, "never could consolidate the resources of the South as he desired, being constantly hampered by demagogism in Congress, which could at all times be coerced by the press hostile to the Administration, or influenced by the slightest display of popular displeasure. Pretending to place the whole means of the country at the disposal of the President, Congress yet invariably rendered its measures inoperative by emasculating clauses providing exemptions and immunities of every description." Alfriend, 576. A later biographer asserts that the opposition outside of Congress, created by Stephens, Rhett, Brown [Yancey and Vance] was "a most important, if not the greatest, cause of the final collapse of the Confederacy." Dodd, 268. Of the two, the opposition mentioned by Dodd was unquestionably the more injurious to the Southern cause, but Congress also played its responsible part. The truth of the saying was confirmed—"A house divided against itself can not stand."

or created needless dissatisfaction. Yet for all this, it must be confessed that the executive showed himself superior to Congress in ability and handled an impossible task in no mean fashion. Unless our judgment is at fault, no man in the South could have maintained the Confederacy so long as did Jefferson Davis.

ADMINISTRATIVE PROBLEMS OF THE CONFEDERATE
POST OFFICE DEPARTMENT.

II

L. R. GARRISON

4. RELATIONS WITH THE TREASURY DEPARTMENT

The post office department and the treasury department of the Confederate States bore the same relation to each other as the corresponding offices in the United States Government. That is, the first auditor of the treasury was charged with the duty of auditing the accounts of the postal service without being subject to the revision of the comptroller of the treasury. He likewise conducted all suits and legal proceedings for the collection of sums due the department, instead of referring such cases to the department of justice as other departments did.¹ This arrangement with the treasury Mr. Reagan thought entirely suitable, and when the work became too heavy for the first auditor, he asked Congress for assistants and clerks for that officer of the treasury. But the relations between the two departments were not always quite amicable, as there were occasional differences of opinion between the postmaster-general and the secretary of the treasury because of Mr. Memminger's instructions to the accounting and disbursing officers. One of these incidents led to a sensational episode, in which threats of criminal prosecution were made before matters were adjusted.

The postmaster-general on June 27, 1863, made a draft on the treasury for ten thousand pounds in the current exchange for specie, the money to be placed on deposit in England to the credit of the department. The treasurer declined to honor the draft on the ground that the department had no specie to its credit, and that the draft should have called for \$145,000, which was the currency value of the \$50,000 demanded in specie. Reagan in turn declared that he certainly ought to have at least \$67,000 of specie in the treasury, because all postage had been paid in coin

¹*Report*, Dec. 7, 1863, p. 20.

prior to October 15, 1861, the date on which the first stamps were delivered, and when treasury notes became acceptable for postage stamps.² To Memminger's excuse that postal funds had not been kept separate, the postmaster-general replied that they should have been; and he said that if the money were not forthcoming, he would report the treasurer to the President for removal, as having violated the law requiring him to keep the funds separate. When he finally did have to refer the matter to the President, Mr. Reagan concluded his statement of the case by saying:

The Secretary of the Treasury has on other occasions embarrassed the operations of this Department by what seems to me an improper interference in questions relating to its connections with the accounting and disbursing officers; . . . it is important for me to know whether the funds of the Post Office Department are under his or my control.³

"Attorney-General Watts, to whom President Davis referred the papers, in returning them to the President, said in his report that the brief paragraphs at the end of the letter of the Postmaster-General so aptly stated the law that he copied them in his opinion."⁴ The attorney-general plainly said that the postmaster-general had as full power over the funds belonging to the post office department as the secretary of the treasury had over other public moneys; and that his power to make and enforce all necessary regulations for the collection, safe-keeping, and disbursement of the funds of the post office department, embracing within the scope of such regulations the treasurer and auditor for the post office department, was as full and complete as that of the secretary of the treasury in relation to other public moneys.

Proposing to renew the correspondence, Memminger wrote that he agreed with the attorney-general, but answered Reagan's claims by saying that the amounts deposited in the treasury were not kept separate, and that he could not tell what money had been paid in coin. As for paying creditors in specie, he said the holders of the twenty million dollar loan were then entitled to

²*Report*, Feb. 28, 1862, p. 10.

³*Letter Book*, I, 719-720, 721-722.

⁴Quoted from Reagan's *Memoirs*, 158. The full opinion is quoted in *Letter Book*, I, 739-743.

specie for their notes, but that coin was not to be had. To pay one creditor in coin, then, would be an injustice to others. Moreover, he could not see how the post office department could claim any specie, since, as far back as September 30, 1861, that department's account at the treasury was overdrawn \$944.01, and since there had been two deficiency appropriations, for which Congress furnished only treasury notes. The only coin on hand was, he said, from the Bank of Louisiana, and must be accounted for at par. To deliver any of it to the postmaster-general would be to lose to the treasury two-thirds of its value. "Besides all this," ended Mr. Memminger, "it is believed that there is more urgent need for all this money in other Departments than for the Post-office."⁵

The postmaster-general did not answer the letter from the secretary of the treasury. However, he did call the attention of the treasurer, Edward C. Elmore, to the legal aspects of the situation.⁶ First, he said that Secretary Memminger should not have mixed up the moneys, for the law forbade exchange of specie for other funds. In the second place, all deposits of the post office department had been made in coin up to October 16, 1861, and the amounts of such ought to be ascertainable, if the books had been properly kept. He said that it was untrue that "coin and Treasury notes being at par, they were received and paid out as called for without discrimination," for the post office department had never got specie except on special demand, and had used it only for stationery from Europe. He said the secretary of the treasury was forgetting that under the law, which he had admitted was correctly interpreted by the attorney-general, he was not at liberty to put the coin belonging to the post office department into hotch potch with the funds of the General Treasury, and pay out in its stead . . . other and less valuable funds for it.

To do so would be to subject the treasurer to removal and prosecution. Nor was it unjust, said Mr. Reagan, to pay the postmaster-general in specie when others could not be so paid, for the postmaster-general, so far from being an ordinary creditor,

⁵*Letter Book*, I, 748-750.

⁶Reagan's *Memoirs*, 159.

had the same control over post office funds as the secretary of the treasury had over other public moneys. How could he hold over \$68,000 in specie belonging to the post office department, and then ask that department to pay over \$145,500 for \$50,000 in specie, needed to keep the post office going? As for the "deficiencies," these had been appropriated and provided for before the post office department ever drew a dollar of warrants, because they were provided to fill up estimated deficiencies before a dollar had been spent. The actual money of the first "deficiency" appropriation was paid into the treasury five days before the first warrant was issued. The books of the auditor showed that instead of being overdrawn \$944.01 on September 30, 1861, the department had in the treasury and its branches subject to warrant \$314,651.89, and ever since, larger sums.

If, as suggested by the Secretary [said Mr. Reagan] the only coin now in the Treasury is that taken from the Bank of Louisiana, then there has been an unlawful use made of the specie belonging to this Department, and it is his duty to replace it out of any other specie in the Treasury.

Resting on the legal right of this Department, it is not necessary that I should raise any question with the Secretary about the propriety of his undertaking to decide on his own authority as to the relative necessities of the different Departments and their right to use the specie in the Treasury.

As to the material facts of this case, there need be no controversy. They can all be settled by the records. The law of the case has already been stated by the Attorney General. And I must say with all due respect, that this seems to me to be simply a contest as to whether the will of the Secretary of the Treasury or the law of the land and the plain rules of right shall prevail.⁷

Mr. Reagan says in his *Memoirs* that he expressed the hope that the treasurer's action "would render it unnecessary for me to report him to the President for removal from office." And he dismisses the matter thus: "Mr. Elmore said he knew then what to do and paid over the \$50,000 in coin."⁸ Apparently nothing could better illustrate the Confederacy's financial demoralization, or the lack of harmony existing in its highest official circles.

⁷*Letter Book*, I, 750-756.

⁸Reagan's *Memoirs*, 159.

5. RELATIONS OF THE POST OFFICE DEPARTMENT WITH THE RAILROADS OF THE CONFEDERACY.

When Mr. Reagan took charge of the post office department of the Confederate States he felt that the United States post office was extravagant, and that its extravagance was nowhere more unnecessary than in the amounts it paid to the railroads for transportation. At the rates paid by the old government, the department could never become self-sustaining and at the same time render anything like adequate services. Accordingly, he took the initiative in calling a general convention of railroads of the South to meet at Montgomery in April, 1861. The response was gratifying, and speaks well for the spirit of the day; for all the leading lines of road in the Confederate States, with one or two exceptions, and some of the roads in other States, were represented. It was said that the members of this convention represented 4376 miles of road, and \$107,607,000 of capital. Inasmuch as some of the delegates came prepared to continue carrying the mails, whether paid or not, until arrangements could be made, the post-master-general had no difficulty in getting an agreement by the roads to accept one-half their former compensation, and to submit to a division into three classes as before, with the provision, however, that the roads should no longer continue to deliver the mails from stations to post offices.⁹ It was agreed, too, that the post-master-general should classify the roads after Congress had established a proper basis for such action.

This the Provisional Congress did within a few days (on May 9, 1861). It defined the roads to be placed in Class One as "the great through lines connecting important points and conveying heavy mails." Class Two was to consist of "completed railroads connecting less important points, but carrying heavy mails for local distribution." Roads on which less important mails were conveyed, short branch roads, and such unfinished roads as did not carry great mails or connect important points were placed in the third class. For first class roads, Congress authorized \$150 per mile to be paid; for the second class, \$100; and for the third class, \$50; while twenty-five per cent additional was authorized

⁹*Report*, April 29, 1861, p. 13; *Semi-Weekly Richmond Enquirer*, April 30, 1861, quoting from the *Charleston Courier*.

if one-half of the service should be night service. Employees of the department were given the right to free passage on the roads.¹⁰

But the enthusiasm which made possible this arrangement was short-lived. Disillusionment followed fast, and for the rest of the Confederacy's troubled existence the department and the railroads were mutually suspicious. The railroads, even those that entered into contracts, felt that they had been drawn into a hard bargain which continued to grow more irksome with the increasing abnormality of business conditions; and the postmaster-general, believing the arrangement justified, came to regard the railroads as monopolistic corporations quite devoid of reason or patriotism, and ready to mulct the Government of huge sums without having performed proportionate services for them. Inconvenience and irregularity of railroad schedules brought down the wrath of many people on the head of the postal service, which, in turn, endeavored to shift the blame to the railroad service, where, in fact, much of it belonged. By considering specific instances, the views of the postmaster-general as expressed in letters and his official reports, and the views of various people as expressed in the newspapers, the reader will doubtless reach the conclusion that, if each party did not have reason to accuse the other of malicious acts, each at least had ample cause for feeling aggrieved.

In the first place, railroad officials objected to the classification of the roads as made by the postmaster-general. It was one thing to get a convention to agree that there should be three classes, as under the United States Government; it was another to pacify a railroad president who felt that his road had been underclassified. The department patiently and courteously explained the extravagance of the former service, and the present necessity for making expenditures come within the revenues. Yet one is apt to think Mr. Reagan might have been more tactful than when he said: ". . . The railroad companies are, as a general thing, doing a better business than they ever did on account of the war, while all other interests are suffering." The department announced that it was forced to rely upon the patriotism of railroad officials, and expressed the hope that the roads would consent to a reduction. In case a road failed to fulfill the department's hope, it was asked

¹⁰*Statutes at Large, C. S. A., Acts Prov. Congress, 2d Sess., 105.*

to inform the postal authorities when it would cease carrying the mails, so that the road might be paid for its services up to that time at the rate originally proposed by the department. This might have been expected to bring the roads to terms,¹¹ for they hardly dared refuse to carry the mails at all. By November, 1861, only fifteen of the ninety-one railroads in the Confederacy had entered into contracts. The postmaster-general charged the remainder with intending to avoid responsibility and the legitimate control of the department by refusing to enter into contracts, although he admitted that they declared themselves willing to perform the service, "but under some protest . . . generally that they must have higher pay." In order to coerce the roads, Mr. Reagan ordered no payments made after June 30 to those who refused contracts, on the ground that the law forbade payment until contracts were made.¹²

That Mr. Reagan was sorely tried may be seen in this extract from his report for November 27, 1861:

It is proper . . . to say that, even at the reduced rate of compensation allowed to the railroads under the recent act of Congress, they receive a higher rate of compensation than the railroads of any other country for similar service except the railroads of the United States. And that Government has for some years past remonstrated against the extravagance of those rates, and it is reasonable to infer that nothing but the great influence of so many and such powerful monopolies has prevented this wholesome and necessary reform. Their usefulness and importance in the conveyance of the mails, as in the matter of commerce, travel, and the operations of the army, are fully recognized by this Department; and the patriotic and public spirited conduct of a number of them . . . serve to show how wrong those are who disregard all other interests than their own, and make use of their important franchises, granted by the several States for the public good, for the injury of others and the public. . . .

Failure to receive one's mail at the proper time is annoying. When the press of the South had their all-important exchanges

¹¹Reagan to T. C. Perrin, Pres. Greenville and Columbia Railroad, of S. C., Nov. 6, 1861, and Jan. 11, 1862, *Letter Book*, I, 226, 242; H. St. Geo. Offutt, Chief of Contract Bureau, to Thos. H. Walker, Pres. Ala. and Tenn. Railroad, Selma, Ala., Nov. 16, 1861. *Letter Book of C. S. P. O., Contract Bureau* (Confederate Archives, U. S. War Dept.), 62-63.

¹²Report, Nov. 27, 1861, pp. 13-14.

delayed, their indignation—if we are to judge from such papers as the *Charleston Courier* and the *Savannah Republican*—knew no bounds. The *Courier* asked why and how the Richmond papers reached Columbia a day before they reached Charleston. The *Republican* did not hesitate to answer:

In the first place the mails are taking care of themselves, and just go in any direction they take a notion to. The most unmitigated incompetency pervades the whole department. The immediate reason, though, is, they are not distributed before arriving at the point where the roads diverge to Charleston and Augusta. We have no regular way of getting our Richmond mail in Savannah; Charleston is on the direct route, as everybody knows except the postmasters and mail agents, but we get it quite as often *via* Augusta and a day behind time.

And the *Republican*, “in behalf of a vast majority of the people,” ends by inviting Mr. Reagan “to give place for some man who understands the business.” A little later, “the mails seem to be in a hopeless state of derangement.” The *Republican* is “tired of complaining,” and its “patience is exhausted. Nowhere is the irregularity more manifest than on the main line from Richmond south,” where the mail “fails as often as it comes through. This is past endurance, and the fault is obliged to lie at the door of the government officials.” Again the *Republican* invites the postmaster-general to withdraw from official connection with the postal service.¹³

There was a lamentable amount of truth in what the *Republican* said, and Mr. Reagan admitted as much, though he stoutly defended the department’s efforts. “The railroad service was designed to be daily, and it was hoped, with proper schedules and speed, this would answer the public wants.” But the department had “encountered innumerable difficulties in trying to get proper schedules adopted,” and had had as much trouble in getting them conformed to, after being adopted, as in getting them adopted in the first place. Moreover, the special agents sent out to investigate the distribution system, had reported “many and great abuses.” “These things, with the ordinary causes of delay and loss of connections, such as running off the track, breaking of bridges, . . .”

¹³*Savannah Republican*, Oct. 5, 1861, and Dec. 30, 1861.

had made the mail "so irregular, as to make it an accident, now, instead of the rule, to have regular connections between any distant and important points." Such irregularities the department had done everything in its power to prevent, and was not responsible for them. Finally, the railroad companies had been "pretty generally notified" that the department would do all it could "by way of fines and deductions for failures, in order to compel regularity of service."¹⁴ In short, Mr. Reagan absolved the highest officials of the department from blame, and placed it on the railroads.

After having read the postmaster-general's report, the *Republican*, although it acidly inquired the reason why the mails were just as tardy on the roads making contracts as on those refusing to do so, was somewhat mollified on reflecting that the post office department must be self-sustaining. If the service in vogue, "the worst . . . in a quarter of a century," with its heavy postage rates, was a failure, then the *Republican* declared "the Constitutional restriction must be abolished and a more enlightened system adopted by Congress."¹⁵ This really was the only correct solution of a vexing problem, but conjectures are idle as to what might have been done.

Between 1860 and 1862 the railroads in operation in the Confederacy increased from 7,009 to 8,265 miles. At the date of the postmaster-general's first detailed report there were ninety-one railroads and branches "known to the Department," and only fifteen of these had entered into contracts for carrying the mails. By February, 1862, Mr. Reagan cheerfully announced the existence of one hundred and nine roads and branches, embracing "nearly all the important railroads in the Confederate States," of which fifty-five had made contracts.¹⁶ But there is no evidence to show that the service was materially bettered.

On the contrary, the irregularities in the service southward had become so vexing that they were inquired into by Congress. Between February 14 and March 29 there were forty failures to make connections for the mails on the roads between Richmond

¹⁴*Report*, Nov. 27, 1861, pp. 15-16.

¹⁵*Savannah Republican*, Jan. 22, 1862.

¹⁶*Report*, Feb. 28, 1862, pp. 3-4.

and Charleston, due either to wrecks, accidents to engines, or heavy loads of soldiers.¹⁷ To the Senate's request for the reason for an habitual delay of the Atlanta mail at Lynchburg of eleven hours down and seven hours up, Mr. Reagan replied that it was due to the refusal of the president of the road to run a night train, which the postmaster-general had no power to compel him to do. He said he had secured promises of better connections, but nothing else.¹⁸

Various efforts [he reported] have been made by the Department to secure more certain connections of the mail trains on the great Southern route between this city [Richmond] and Charleston, Savannah, and Montgomery, by co-operating with the several railroad companies in the adoption of new schedules at a reduced rate of speed, but without success, and the Department is not possessed of the power to make schedules for mail trains upon railroads, without the consent of the companies, so that the evils arising out of the present irregularities in the arrivals and departures of the mails upon that line, must continue to be felt by the public, until the railroad officers can agree to a new schedule that can be run with more certainty than the one now in use.

The only remedy in the power of the department, consisting, as it did, of a rigid imposition of penalties for failure to run in conformity with existing schedules, was ineffective.¹⁹

Incidental troubles in relation to railroads also arose from time to time. General Lee complained of delay and difficulty in communicating with Richmond from the camp near Fredericksburg, and asked for better service.²⁰ And then the treasurer of the Western and Atlantic Railroad of Georgia withheld postal funds, which he had collected in excess of the amount due the road, on the excuse that part of this excess was due for services rendered the department before July 1, 1861.

Mr. Reagan denied the justice of any such claim, and asked Governor Brown—for the State owned a large part of this road—to induce the treasurer to deliver the money on a second demand. He even hinted, in no uncertain terms, at criminal prosecution of

¹⁷Reagan to President Davis, April 3, 1862, *Letter Book*, I, 416, 417.

¹⁸Reagan to A. H. Stephens, Sept. 11, 1862, *Ibid.*, I, 479-480.

¹⁹*Report*, Jan. 12, 1863, p. 11.

²⁰Lee to Reagan, Nov. 27, 1862, *Off. Rec.*, Series I, vol. XXI, 1035.

the treasurer under the Georgia law for "Theft or Larceny after a trust has been delegated, or a confidence reposed. . . ." But Governor Brown, on the contrary, claiming that the Confederate Government owed the State of Georgia over \$500,000, instructed the treasurer of the Western and Atlantic not to yield any surplus sums due the post office department. Reagan then wanted to prosecute both the governor and the treasurer of the road under the law named above. The attorney-general thought the governor's excuses only a pretense, but he said it would be necessary to show fraudulent intent; and it was clearly impossible to argue that either the treasurer of the Western and Atlantic or Governor Brown had at any time attempted to disguise his action. The postmaster-general had to be satisfied with having the attorney-general's opinion recorded in his letter book, where it now bears eloquent witness to the timidity of the central government in dealing with the officials of a state.²¹

By the end of 1863 most of the railroad companies had made contracts, but some held out in spite of an offer of the maximum compensation for first class roads. While willing to carry the mails for the department, they still refused to come under its limited control. Without contracts the only checks in the power of the department were to withhold payment for services performed without a contract, and, in case of continued refusal, "to withdraw the mails from such roads and endeavor to obtain some other mode of conveyance."²² This was actually done in one instance, in which withdrawal of mails from the Virginia Central Railroad cut off a large, thickly settled district from official means of communication with the rest of the world. And though a great outcry was raised against this injustice to the people, the condition had to be endured for nearly a month before a compromise was effected.²³

²¹Reagan to Gov. Brown, Nov. 7, 1862, *Letter Book*, I, 511-512; Attorney-General Watts to Reagan, Dec. 12, 1862, *Ibid.*, 712-714.

²²*Report*, Dec. 7, 1863, p. 11. Cf. Reagan to L. E. Harris, president Richmond and Danville Railroad, Dec. 18, 1862, and March 3, 1863, *Letter Book*, I, 552-554, 635-638; Reagan to R. R. Cuyler, president Georgia Central, July 7, 1863, *Ibid.*, 722-724.

²³Correspondence between the President of the Virginia Central Railroad Company and the Postmaster General in relation to Postal Services. Richmond, Va., 1864 (a pamphlet now among the Reagan papers, Texas

The only other authority the department ever tried to exercise over mail trains was to require them to conform to schedules, usually arranged in some convention of connecting lines, and agreed to by the roads themselves. Yet such was the provincialism of railroads in those days, that if any road forming a link in a great line had been permitted to carry the mails without having been bound by a contract, the post office department would have had absolutely no power to prevent it from adopting any schedule thought to be best suited to its local business, without regard to effect upon the regularity of the mails on its own lines or those of its connections.²⁴ However, the checks in the hands of the postmaster-general were insufficient under the circumstances; the roads felt that their pay was quite inadequate at the best; while Mr. Reagan believed the situation due to the lack of patriotism on the part of public carriers who had already waxed fat upon Government patronage. In this, as in most cases, there was much to be said on both sides.

6. THE EXPRESS COMPANIES AS COMPETITORS OF THE POST OFFICE DEPARTMENT.

In these days when a great federal parcels post service is actually driving express companies into the hands of receivers, it seems almost incredible that any government monopoly so generally acquiesced in as a postal monopoly should ever have had to complain of competition in its business of carrying letters. But from the very inception of the Confederate postal service, its monopoly rights were violated continually and with impunity by the express companies of the South, the chief offender being that known as the Southern Express Company.²⁵

State Library, Austin, Texas); *Richmond Examiner*, Aug. 19, 1864, Aug. 22, 1864, *Daily Richmond Enquirer*, Aug. 22, 1864, Sept. 7, 1864.

²⁴Report, Dec. 7, 1863. Cf. also, Reagan to R. R. Cuyler, president Southern and Western Railroad, Jan. 20, 1862, *Letter Book*, I, 317-318.

²⁵"At the outbreak of the Civil War the Adams Express Company turned its routes in the Southern States, in which it had enjoyed a complete monopoly, over to the Adams-Southern Express Company, created by the Georgia courts for the purpose of assuming this business. The property of the association was to be represented by 5,000 shares, of which 558 were then issued. The Adams Express Company has held to the present day a dominant interest in this association, which it created to facilitate business during the war. After hostilities ceased it resumed some of its

The Confederate Congress, in the first set of laws prescribed for the new post office department, endeavored to safeguard it by a clause prohibiting "express and other chartered companies" from carrying any letters unless they were prepaid by being enclosed in a stamped envelope of the Confederacy. A violation of the act was punishable with a five hundred dollar fine.²⁶ Being reminded that neither stamps nor stamped envelopes of the Confederacy were yet obtainable, Congress renewed and enlarged the act of February 23, giving the express companies greater privileges and at the same time imposing greater restrictions and penalties to prevent violation. It was made "lawful for the Postmaster-General to allow express and other chartered companies to carry letters, and all mail matter of every description, whether the same be enclosed in stamped envelopes or prepaid in stamps, or money." But the mail matter, with the money collected for postage, was to be turned in to some postmaster to be stamped paid. Cancellation of stamps on letters and packages prepaid was enjoined on the company, "under the penalty of five hundred dollars for each failure." Matter given the company to mail and not to deliver had to be prepaid at the regular postal rates from the place where the company received it to its destination, the stamps being cancelled at the point of mailing. The same act required each agent of express companies to take oath to comply faithfully with the laws relating to carrying of mail and obliterating postage stamps.²⁷ In case the postmaster-general should refuse to allow an express company to carry letters, it was probably intended that he should fall back on the old United States laws, which made it an offense, finable at \$150 for a private express company to carryailable material, "except newspapers, pamphlets, magazines and periodicals."²⁸

Mr. Reagan quoted these laws fully in his first official complaint against the course being pursued by the Southern Express Com-

Southern routes by agreement with the Adams-Southern Express Company, whose name had meanwhile been changed to the Southern Express Company. The two companies still work in common and use the same wagons and offices in many places."—Albert W. Atwood in the *American Magazine*, Feb., 1911, LXXI, 432.

²⁶*Report*, Feb. 28, 1862, p. 15; Act of Feb. 23, 1861.

²⁷*Ibid.*, Act of March 3, 1861.

²⁸*Ibid.*, U. S. Act of March 3, 1845.

pany, the only company then known to carry mailable matter. He declared that numerous frauds were being perpetrated by the company's agents upon the revenues of the department.²⁹ That the frauds, in the aggregate, amounted to a very large sum, was revealed by a special investigation. The express company's renderings to such post offices as those at Savannah, Charleston, Columbia, and Wilmington, had decreased from about \$200 each per month to sums ranging from \$1.30 to five and ten cents.³⁰ The postmaster-general ordered prosecutions brought against the company, but it was found that the laws were inadequate. The Southern Express Company was not chartered in every state where it operated; therefore prosecution could not be sustained against it. The only penalty provided was a fine against failure to "obliterate postage stamps" on letters prepaid by stamps; and this was to be assessed against the company itself and not against any person connected with, or employed by it. Accordingly, the postmaster-general refused to allow the Southern Express Company to carry any mailable matter not bearing stamps,³¹ and lost no time in recommending an adequate revision of the postal laws on this subject.³² This recommendation was given by the President to Congress for its "careful attention,"³³ and it resulted in the passage of the act of April 19, 1862.

This act simply struck out of the statutes such parts of the Confederate enactments concerning the carrying of the mails by express companies as had been added to the United States laws on the same subject. That is, nothing but the old prohibitory law of the United States was left in effect.³⁴ The act explicitly said that the laws repealed had been no more than additions or exceptions to the old law, which had in nowise been abrogated or repealed by them. It was also expressly provided that frauds upon the revenues of the post office department and violations of the laws just repealed might be proceeded against and punished under the laws existing at the time the fraud or violation was committed.

²⁹*Report*, Feb. 28, 1862, p. 16.

³⁰Reagan to President Davis, April 10, 1862, *Letter Book*, I, 420-422.

³¹*Report*, Feb. 28, 1862, p. 16.

³²Reagan to President Davis, April 10, 1862, *Letter Book*, I, 420-422.

³³Richardson, *Messages and Papers of the Confederacy*, I, 211.

³⁴See above, page 244.

It is evident that every effort was made to close all possible loopholes through which the Southern Express Company might endeavor to escape from its legal entanglements.³⁵

But "neither law nor solemn oaths" could bind the Southern Express Company, which continued to violate the law with "audacious boldness." Moreover, the postmaster-general, in the spring of 1863, declared that persistent efforts were being made "to get a public opinion in favor of the Southern Express Company . . . and that, too, by unjust comparisons of its facilities and usefulness with those of the Post Office Department." He was amazed "that they should have the brazen effrontery to provoke such comparisons" in the face of their lawless acts. But the truth seems to be that their services were so desirable that people furnished them large numbers of letters and packages to carry over lines that were also mail routes. It began to be hinted that the Southern Express Company could deliver more quickly than the post office could,—even that the Government had no fundamental right to the postal monopoly. And the postmaster-general was incensed to find that the company had "adopted the subterfuge" of advising that all mail to be carried by them should be marked as though it contained money, the company acting on the supposition that they had the right to carry money packages. Thus the company hoped to accomplish "the double purpose of evading the law, and of extorting a larger price for the conveyance of such letters." In spite of all this, the attorney-general was reluctant to proceed against the company or any of its employees. He held back because the company was not incorporated, and intimated, so Reagan heard, that the law was unconstitutional. Mr. Reagan found it impossible to understand such an attitude. If the law was defective, he wanted to know it, in order that he might then bring the matter before Congress and have a remedy provided. To this end he ordered a prosecution against the Southern Express Company "in a number of cases where they had been detected in violation of the law";³⁶ but the results of these prosecutions do not appear.

³⁵*Statutes at Large, Acts Prov. Congress*, 1st Sess., p. 35.

³⁶Reagan to Attorney-General Watts, March 28, 1863, *Letter Book*, I, 666-667; Reagan to I. Henley Smith, March 5, 1863, *Ibid.*, 649-659; Rea-

Experience showed "that nothing short of the most stringent and thorough legislation, excluding all doubts and guarding against evasion," would serve to correct the evil. The postmaster-general wanted a law that would provide adequate penalties and punishments for violations of the law. He wanted the law to reach all companies, whether corporate or not, and each of their employees, as well as every person who should patronize, encourage, or assist them in their violation of the law.³⁷

Impelled by a sense of duty, Reagan had accepted the burdens of an office the prospect of which had already proved too much for two men. Out of almost nothing and within a few weeks, he evolved and carried out a plan for taking over and revising the postal service in the Confederate States. Not only did he have to carry out his plans with a constantly diminishing supply of men and equipment, but he had to content with unsympathetic branches of the government itself. It was with extreme difficulty that he obtained even the rights accorded his department by the letter of the law. It was his disagreeable duty to attempt to discipline railroad companies either by ineffective or inadequate fines, or by temporary suspension of service along certain lines, even though he himself had to bear the brunt of popular criticism for doing so. Because of legal difficulties, he had to sit idly by and watch a greedy express company competing with and actually defrauding the post office department. The people, accustomed to the extravagant service of the United States, resented any curtailment, no matter how great the economy effected. On the other hand, any extension or improvement, or sometimes the bare retention of existing service for facilitating the official correspondence of army officers, was considered by the Secretary of the Treasury an unjustifiable drain on the public resources. Yet, in spite of all opposition and discouragement, the postmaster general doggedly persevered at his tasks; and while he was husbanding the resources of the crippled department, he was devising ways and means for improving the service, and for making it ultimately far more effective and economical than it had ever been. Reagan had the modern idea, his proposals were sound, and, if they could

gan to L. I. Whitefield, Manager Pioneer Express Company, May 14, 1863, *Ibid.*, 704; *Report*, Nov. 7, 1864, p. 9.

³⁷*Report*, Nov. 7, 1864.

have been carried out, who can doubt that the post office department would have had much greater chances to attain that degree of efficiency so much desired by its head?

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³⁸The initials "C. W. R." accompanying a citation indicate that the necessary notes on the work cited were made available to the writer through the generosity of Professor Charles W. Ramsdell of the University of Texas, who made them.

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The State Gazette, Austin, Texas. Found in the Texas State Library, Austin, Texas.

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ST. VRAIN'S EXPEDITION TO THE GILA IN 1826¹

THOMAS MAITLAND MARSHALL

The American fur trade in the Southwest which followed the attainment of Mexican independence has received but scant attention from historians, having been subordinated by them to the merchandise trade over the Santa Fé trail. This viewpoint is mainly due to Gregg and Chittenden. For over half a century Gregg's *Commerce of the Prairies* has been considered the classic for Southwestern trade. It is a vivid account of an eyewitness who made eight trips over the trails. But there are two serious faults in Gregg's book. In the first place he did not engage in the trade until 1831,² and his knowledge of the preceding decades was based upon hearsay or upon a few books of travel.³ As Gregg was a trader in merchandise, a business which had practically superseded the fur trade by 1831, it was but natural that he should convey the impression that the early trade was of the same nature as the later. Our other great authority is Chittenden,⁴ whose admirable history of the fur trade of the far West has frequently been considered the last word on the subject. But Chittenden was strongly influenced by Gregg and the full significance of the Southwestern fur trade did not dawn upon him. He added considerable data, however, by using Fowler's *Journal*,⁵ Pattie's *Personal Narrative*,⁶ the file of the *Missouri Intelligencer*, and some other materials. But the footnotes in Bancroft's *History*

¹A paper read before the New Mexican session of the American Historical Association meeting, Berkeley, Cal., 1915.

²Gregg, *Commerce of the Prairies* (New York, 1845), I, pp. V-VI. The most accessible edition is in Thwaites, *Early Western Travels*, XIX-XX.

³The books used by Gregg were Irving, *Tour of the Prairies* (Philadelphia, 1835), Murray, *Travels in the United States* (London, 1839), and Hoffman, *A Winter in the West* (New York and London, 1835). See *Early Western Travels*, XIX, 161.

⁴Chittenden, *The American Fur Trade of the Far West* (New York, 1902), 3 vols.

⁵*The Journal of Jacob Fowler*, Elliott Coues, ed. (New York, 1898).

⁶*The Personal Narrative of James O. Pattie of Kentucky* (Cincinnati, 1831.) Reprinted in *Early Western Travels*, XVIII.

of *Arizona and New Mexico*⁷ disclose a mass of material which Chittenden apparently did not examine. Still another unused source, which would have thrown light on the subject, is the documentary material in the archives of Mexico. Many of the transactions of the fur traders within Mexican territory were surreptitious, and just as it is difficult to get at the truth about piracy and smuggling, so it is difficult to obtain information about Southwestern fur traders. They left few documents, and those few were usually but adorned tales. The views of Mexican officials are as valuable in explaining the history of the fur trade as are the reports of the English colonial customs officials, or the records of court proceedings in trials of piracy.

The following account of Ceran St. Vrain's expedition to the Gila in 1826 is based upon this class of materials, three *expedientes* being used. One is to be found in the archives of the State of Sonora at Hermosillo, book 42, number 7; the others are in the *Archivo de Gobernación* at Mexico City; one being in the division *Comercio*, number 44; the other in the same archive, in the division of *Jefes Políticos*, 1831-1833, being *expediente* number 1, *legajo* 59, folio 28. These *expedientes* comprise thirty pages. Many of the documents are extremely difficult, being in colloquial Spanish, frequently spelled phonetically, and innocent of accents.

Up to the present time our knowledge of St. Vrain's expedition has been based upon Inman's *Old Santa Fé Trail*⁸ and upon Chittenden. Inman says that late in the spring of 1826 Kit Carson joined an expedition gotten up by Ceran St. Vrain, which was destined for the Rocky Mountains. It left Fort Osage one morning in May and "in a few hours turned abruptly to the west on the broad Trail to the mountains." As to the exact destination the author fails to enlighten us, due no doubt to the fact that his object in introducing this bit of information was to tell the story of a fight with the Pawnees.

Chittenden says regarding the expedition, "It appears that in September of this year a party under Ceran St. Vrain (if we may trust Inman) set out for Santa Fe, arriving there in Novem-

⁷H. H. Bancroft, *History of Arizona and New Mexico* (San Francisco, 1889), 297-299, 332-338.

⁸Henry Inman, *The Old Santa Fé Trail* (Topeka, 1914), 406-410. This work also appeared in earlier editions.

ber; in this party was a runaway boy, Kit Carson, then 17 years old."⁹ But it is evident that in spite of his citation of Inman, Chittenden did not follow that author faithfully. Inman says that St. Vrain started in May, Chittenden says in September. Chittenden's method of arriving at his conclusion that the date should be changed is found when we examine the sources of information regarding Kit Carson. In the *Missouri Intelligencer* of October 12, 1826, appeared an advertisement inserted by David Workman, to whom Carson was apprenticed, which stated that on or about September 1, Kit ran away.¹⁰ Peters in his biography of Carson says that he arrived in Santa Fé in November,¹¹ a statement which is followed by Sabin in his recent work.¹² Chittenden appears to have changed the date as given by Inman to fit the information which he obtained from the *Missouri Intelligencer* and Peters. The statements of both authors are incorrect at least in part. Inman was probably right, as will be shown later, in placing the departure of St. Vrain's expedition in May, 1826, but he was wrong in supposing that Carson accompanied the expedition, for Workman's advertisement, which appears to be good evidence, shows that Kit was in Missouri until about September 1. Chittenden unfortunately changed the only correct part of Inman's statement.

Let us now abandon the historians and examine the documents. On August 29, 1826, Antonio Narbona, governor of New Mexico, issued at Santa Fé the following passport: "For the present freely grant and secure passport to the foreigners, S. W. Williams and Seran Sambrano [Ceran St. Vrain], who with thirty-five men of the same nation, their servants, pass to the state of Sonora for private trade; by all authority to my subordinates, none are to offer any embarrassment on this march."¹³ We cannot be certain of the exact date of the arrival of St. Vrain at Santa Fé, but if we accept Inman's statement that the expedition left Missouri

⁹Chittenden, *The American Fur Trade of the Far West*, II, 508-509.

¹⁰*Ibid.*, II, 538-9.

¹¹Dewitt C. Peters, *Pioneer Life and Frontier Adventures* (Boston, 1873), 30.

¹²Edwin L. Sabin, *Kit Carson Days* (Chicago, 1914), 27.

¹³Archivo del Gobierno del Estado de Sonora (Hermosillo), Tomo 42, No. 7, 1826.

early in May, it is probable that the arrival in the Mexican settlements occurred in the latter part of June. This would give them two months to dispose of their merchandise and unravel the red tape connected with the procuring of a passport.

As to the number on the expedition, the passport which states that there were thirty-five besides the leaders, would seem to be good evidence, but in a letter from Narbona to the governor of Sonora, written two days after the issuance of the passport, the number is given as about a hundred. A complaint made on October 26, 1826, by James Baird to Alexander Ramírez, the president of the El Paso district, stated that there were over a hundred on the expedition. Ramírez in a letter to José Antonio Arce, the vice-governor of Chihuahua, on December 20, 1826, wrote that the reports which he had gathered showed a discrepancy in numbers, but that most of them agreed that there were not less than sixty. Owing to the detailed information given by Narbona to the governor of Sonora and to the fact that the statements of Narbona and Baird practically agree, it seems safe to conclude that there were about a hundred in the expedition.¹⁴

As to the personnel the documents disclose eleven names: Williams, whose initials are variously given as S. W. and J., Ceran and Julian St. Vrain, E. Bure, Alexander Branch, Louis Dolton, Stone, John Rueland or Roles,¹⁵ Miguel Robideau, Pratt, and Joaquin Joon.¹⁶

It is impossible to determine the exact route of the expedition to New Mexico. It probably crossed the plains from Fort Osage

¹⁴Archivo de Gobernación (Mexico), Comercio, Expediente 44. The importance of this is realized when we find that according to Gregg (*Commerce of the Prairies*, II, 160) in 1826 the total number engaged in the Santa Fé trade was a hundred men.

¹⁵Archivo del Gobierno del Estado de Sonora (Hermosillo), Tomo 42, No. 7, 1826.

¹⁶Archivo de Gobernación (Mexico), Comercio, Expediente 44. As to the identity of these men we have some data. The St. Vrains were later partners of the well-known firm of Bent and St. Vrain. Robideau or Robidoux was a famous fur-trader. Pratt was known as a caravan proprietor. Of Williams we cannot be so certain. An Ezekiel Williams was a fur trader who was the hero of Coyner's *Lost Trappers*, a fanciful tale of the early traders. A Lewis Dawson, perhaps the Louis Dolton of the documents, accompanied Glenn and Fowler in 1821, but according to Fowler's *Journal* he was killed by a bear in November of that year. This may be a convenient way of accounting to the people at home for the disappearance of one of the party.

to the neighborhood of Pawnee Rock, a well-known point on the Santa Fé Trail,¹⁷ then by an uncertain route to Taos, the point of entry of most of the early expeditions.¹⁸ As to whether the whole party went to Santa Fé, it is also uncertain. In the Glenn expedition the trappers remained at Taos while the leader went to Santa Fé.¹⁹ The same thing may have occurred in this instance.

At Santa Fé or Taos, and probably the latter, the expedition was divided into four parts, no doubt for convenience in trapping on the various streams. Williams and Ceran St. Vrain led one party of twenty-odd, Robideau and Pratt one of thirty-odd, John Roles a third of eighteen, and Joaquin Joon one of similar size.²⁰ Having organized, the four parties made for the uninhabited regions of the west to trap on the Gila, San Francisco, and Colorado rivers.²¹ In the documents we hear of them at various points, now at the Santa Rita Copper Mines,²² now twelve men appear at Zuñi, now near Tucson.²³ On October 28, 1826, information arrived at the presidio of Tucson that sixteen men were in that region. A troop of soldiers was sent out to find them. Near the Gila the party met seven Indians who had been hunting in the neighborhood, who reported that the foreigners had gone by the Apache trail three days before, and that because of their start, it was useless to follow them.²⁴ It is evident from this that at least part of them had gone into the Apache country, which lay north of the Gila.

The documents from which we have gleaned these facts also throw much light on the methods, not only of these traders, but of other expeditions of the period. Of these documents, the most

¹⁷Inman, *The Old Santa Fé Trail*, 406.

¹⁸Fowler, *Journal*, 104-106; Narbona to the Minister of Interior and Foreign Relations, September 30, 1826, in Archivo de Gobernación (Mexico), Comercio, Expediente 44.

¹⁹Fowler, *Journal*, 95, 137.

²⁰Narbona to the governor of Sonora, August 31, 1826, in Archivo de Gobernación (Mexico), Comercio, Expediente 44.

²¹Narbona to the Minister of Interior and Foreign Relations, September 30, 1826, in *Ibid.*

²²Ramfrez to the governor of Chihuahua, December 20, 1826, in *ibid.*

²³Archivo del Gobierno del Estado de Sonora (Hermosillo), Tomo 42, No. 7, 1826.

²⁴The alcalde of Tucson to the governor of Sonora, November 4, 1826, in *Ibid.*

illuminating is the complaint of a Missourian named James Baird, made at El Paso on October 21, 1826. The full bearing as well as the humor of this document cannot be appreciated until the past history of Baird is known. In 1812 Robert McKnight, Samuel Chambers and James Baird went from Missouri to Santa Fé. They were arrested by the Spanish authorities and sent to Chihuahua, where they were imprisoned for nine years. In 1821, when Mexico attained her independence, John McKnight, a brother of Robert, obtained their release.²⁵ In 1822 Baird and Chambers led an expedition of fifty men from Franklin, Missouri, to Santa Fé.²⁶ At this point Baird drops out of sight as far as the historians are concerned. But the following complaint made at El Paso shows that he remained in New Mexico and became a Mexican citizen, that he engaged in the fur trade and in 1826 was trying to keep Americans out of the field. The statement that for fourteen years he had been a citizen of Mexico and the frequent reiterations of his fidelity are highly humorous in view of the fact that nine out of the fourteen years were spent in a Mexican jail.

Baird's statement is as follows:

For fourteen years I have resided in the provinces, wherein, according to the plan of Yguala, I entered upon the enjoyment of the rights of Mexican citizenship, devoting myself for some time to beaver-hunting, in which occupation I invested my small means with the purpose of forming a methodical expedition which might bring profit to me and to those fellow citizens, who would necessarily accompany me in the said expedition. I was moved to this project by the protection afforded by the laws to Mexican citizens in the employment of their faculties to their own advantage and which excluded by special decrees all foreigners from trapping and hunting, which they might undertake in the rivers and woods of the federation, especially that of beaver, since it is the most precious product which this territory produces. And although it is known to me that for a year and a half past they have clandestinely extracted a large quantity of peltry exceeding a \$100,000 in value, I have kept still, knowing that this exploration had been made by small parties; but now, being ready to set out upon the expedition of which I have spoken, I have learned that with scandal and contempt for the Mexican nation a hundred-odd Anglo-Americans have introduced themselves in

²⁵Chittenden, *The Fur Trade of the Far West*, II, 496-497.

²⁶*Ibid.*, II, 504.

a body to hunt beaver in the possessions of this state and that of Sonora to which the Rio Gila belongs, and with such arrogance and haughtiness that they have openly said that in spite of the Mexicans, they will hunt beaver wherever they please; to protect their expedition, they are carrying powder and balls, in consequence of which no one is able to restrain them. In view of these circumstances, I believe that it is a bounden duty of every citizen, who has the honor to belong to the great Mexican nation, to make known to his superior government the extraordinary conduct which the foreigners observe in our possessions, which transgressions may be harmful, both on account of the insult which they cast upon the nation by despising our laws and decrees as well as through the damage which they do the said nation by the extinction which inevitably will follow of a product so useful and so valuable. I ought to protest, as I do, that in making this report, I am not moved so much by personal interest as by the honor and general welfare of the nation to which I have heartily joined. In view of the foregoing, I beg that Your Excellency may make such provisions as you may deem proper, to the end that the national laws may be respected and that foreigners may be confined to the limits which the same laws permit them, and that we Mexicans may peacefully profit by the goods with which the merciful God has been pleased to enrich our soil. . . .²⁷

The complaint of Baird brought prompt action on the part of the Mexican officials. Alexander Ramírez, the president of the district of El Paso, informed the governor of Chihuahua, who sent back orders that Ramírez was to report concerning the expedition as to numbers, passports, places visited, and destination.²⁸ Similar orders were sent to the alcalde of Tucson,²⁹ and to the comandante general and jefe político of New Mexico.³⁰

On December 20, 1826, Ramírez wrote to the government at Chihuahua that he was not certain of the numbers and that he had heard that they were hunting near the Real de San Francisco in the state of Sonora. "Up to the present time," he said, "they have not been at other points in this state in the present year, but in the previous years they have hunted all along the river of this jurisdiction [the Rio Grande], securing a quantity of beaver

²⁷Archivo de Gobernación (Mexico), Comercio, Expediente 44.

²⁸*Ibid.*

²⁹Archivo del Gobierno del Estado de Sonora (Hermosillo), Tomo 42, No. 7, 1826.

³⁰Archivo de Gobernación (Mexico), Comercio, Expediente 44.

peltry, without having been disturbed by the former judges, or even made to pay a tax for their extraction." He confirmed the statement of Baird that they had talked in an insolent manner.³¹

Even before the complaint of Baird was lodged, the actions of the traders had disturbed Governor Narbona. Two days after the granting of the passport to Williams and St. Vrain he had warned the governor of Sonora that the Americans were going on a secret hunting trip to the rivers of Sonora "to the known injury of our public treasury, in infraction of our laws." He stated that his suspicions were aroused by the large number and by the questions which they asked when they demanded passports. He further observed that they were "all without trade or other visible object."³² On September 30 Narbona wrote to the Minister of Interior and Foreign Relations, "I am suspicious that the Anglo-Americans, who are returning to their country, are lingering a long time, as they are retiring from the inhabited places along the banks of the rivers in the pursuit of beaver trapping and they do the same in the center of the states of Sonora and Chihuahua." He complained of a lack of cavalry to patrol the frontier, saying that with the greatest difficulty he had maintained ten men in the neighborhood of Taos. He also said that unless something were done at once the beaver would soon become extinct in that region. In the letter Narbona betrays his anxiety. He had granted the Americans a right to trade, but now was trying to make the authorities at Mexico City believe that he had granted the traders a passport to leave the country and that they had violated their privileges by trapping instead of leaving.³³ In a letter to the governor of Chihuahua on February 14, 1827, Narbona again pointed out the inadequacy of his forces to patrol the frontier. He said that there were many foreigners in the country without permits, a condition which had existed since 1822, the year, according to the governor, that Americans began to penetrate into the country.³⁴

Still further light is thrown on the operations of the traders

³¹ Archivo de Gobernación (Mexico), Comercio, Expediente 44.

³² Narbona to the governor of Sonora, August 31, 1826, in *Ibid.*

³³ In *Ibid.*

³⁴ In *Ibid.*

and on the Santa Fé officials in a report from Chihuahua made to the central government in 1831, but which was based largely upon observations made in 1827. The report in part says, "The taking of peltries of beaver is a branch of trade profitable only for the Anglo-Americans, who make up hunting parties and also establishments for them which last several months; as a result the specie will soon be destroyed." In the report was embodied a statement from Don Rafael Sarracino, who had been in New Mexico in 1827. Sarracino's statement ran as follows:

The Anglo-Americans, well provided with arms and instruments for hunting, particularly for beaver, are purchasing of the inhabitants of Santa Fé the license which they in their name obtain from the judge of that capital, for making a hunt for a certain length of time and in certain places, which the same judge designates for many leagues distance in the mountains and deserts which the Rio Bravo [Rio Grande] washes; with the subterfuge of the license, the Anglo-Americans are attacking the species without limit or consideration and are getting alarming quantities of peltries, frequently without paying even an eighth of the customs to the treasury. Formerly they refused [to pay] so much that in 1827 (I being in Santa Fé), I was acquainted with an arrangement which they made with a wretch named Don Luis Cabeza de Vaca, the miserable fellow, that he should receive smuggled goods in his house which he has in the desert; and a man of like ilk, for resisting the attack on that [house], was unfortunately killed by a bullet wound which was directed by the soldiers who assisted the alcalde in capturing [it]. The alcalde succeeded in getting twenty-nine tercios [tierces] of very valuable beaver skins, which were forfeited in the season of that summer in the storehouses of the deputy commissioner of the territory.³⁵

The letters of Narbona, the complaint of Baird, and the resulting inquiry aroused the Mexican government. In March, 1827, the vice-governor of Chihuahua sent the documents, which had been collected from the officials of New Mexico and Sonora, to the Secretary of State and Foreign Relations, and on April 5 a protest was made to Poinsett, the United States Minister, in which he was asked to have his government restrain the traders. On the 9th Poinsett replied, expressing his regret at the infraction

³⁵Ygnacio Madrid to the Secretary of State and Foreign Relations, April 14, 1831, Archivo de la Secretaría de Gobernación (Mexico), Jefes Políticos, 1831-1833, Expediente 1, Leg. 59, ff. 28.

of the laws by citizens of the United States, and assuring the Mexican government that he would submit the request to his government, "with full confidence that it will adopt measures, as the laws permit, to stop the repetition of similar acts on the part of citizens of the United States."³⁶ I have found no evidence to show, however, that the United States took any action to restrain the traders.

In the light of the evidence, it seems fair to assume that the history of the Santa Fé trade must be revised, giving the fur trader his place beside or ahead of the merchant. St. Vrain's expedition was only one of many similar enterprises. It was chosen as the central theme of this paper because the documents, which have thus far been gathered, are more complete on this expedition than on others. But the archives of Mexico have only begun to give up their stores. The writer has seen enough in these and other documents to convince him that the history of the Santa Fé Trail has not yet been written.

³⁶ Archivo de Gobernación (Mexico), Comercio, Expediente 44.

DIFFICULTIES OF MAINTAINING THE DEPARTMENT OF SAN BLAS, 1775-1777

CHARLES E. CHAPMAN

In a recent article the writer endeavored to show how important the supply ships from San Blas were in maintaining the early Spanish settlements of Alta California, and how ably the viceroy of New Spain performed the difficult task of getting supplies and ships to the northern establishments in time to prevent abandonment of the province.¹ The difficulties of Viceroy Bucarely and the precarious existence of the new colonies will be even better understood when it appears that maintenance of the Department of San Blas was in itself no small problem. The period covered by this article has been selected because it was long enough after the founding of the department to avoid the effect of abnormal conditions, and also because it was before permanence of the Alta California settlements had become assured by development from within. First, however, a review of the department's history to 1775 will be attempted.²

The founding of the Department of San Blas grew out of the need for a port as a base of supplies in conducting wars against the Seris of Sonora, but it would seem to have been associated from the outset in the mind of *Visitador* Gálvez with conquests in the Californias as well. As early as December, 1767, we learn that Gálvez was ardently at work on plans for formation of the department, having charged one Rivero with the duty of establishing a port there.³ The official objects of the department are stated in Viceroy Croix's instruction of January 11, 1768, for settlement

¹Chapman, "The Alta California Supply Ships, 1773-76," in *THE QUARTERLY*, XIX, 184-94. "Alta California" is used, as also in the present article, for what is now California of the United States to distinguish the more clearly from Baja California of Mexico, or from "California" or "Californias," which formerly included both. Names of individuals appearing in this account have been identified for the most part, where they were important enough to require it, in the above article.

²I have relied wholly on materials of the Archivo General de Indias (A. G. I.) of Seville, Spain. Copies of some of the documents used are now in the Academy of Pacific Coast History, Berkeley.

³Rada to Arriaga, Dec. 27, 1767. A. G. I., *Estado Aud. Mex.* 1, Doc. 99.

of San Blas. After the measures necessary for pacification of Sonora and other frontier provinces should be taken, he said, it had been deemed indispensable to found a port for the advantage of boats employed on such expeditions and available for commerce with Sonora, and for the preservation and advancement of the Californias.⁴ Gálvez proceeded to San Blas in May, 1768, and established the department. Whatever place the Sonora wars may have had in the original plans, the Department of San Blas was to serve primarily as a base of supplies for maintaining the two Californias. The selection of San Blas for this purpose was open to objection, for the port was not a good one, and the site was unhealthy and not suited to either agriculture or stock-raising.

Some idea of the nature and operations of the department may be gained by consulting the *reglamento*, or instrument of government, for the Californias and San Blas of the year 1773. The intimate relation of San Blas to Alta and Baja California is to be noted, for they were regarded as essentially an unit. The principal document in the file which was eventually to become the *reglamento* (for no single document was drawn up embodying the results of deliberations to this end) was a recommendation of May 19, 1773, by Juan José de Echeveste, at that time purchasing agent for the Californias in Mexico City, giving detailed suggestions as to what the *reglamento* should be. The document begins with an estimate of the number of men and cost per year of each of the Californias and San Blas. San Blas was considered under three heads: the department proper; the arsenal or shipyard; and the fleet. The following men were needed: in the department proper, a commissary, an accountant (*contador*), a paymaster and storekeeper, three scribes, an amanuensis, a chaplain, and a sacristan; at the shipyard, a master-workman (*maestro mayor*), a cooper, a rope maker (*corchador*), and a boatswain; in the fleet: for the frigate, a captain and pilot, a second pilot, a boatswain, a boatswain's mate, a steward, a carpenter, a calker, two cabin boys, six steersmen, twenty-seven ship's boys (*gurutemes*), and thirty sailors; for each of two packet boats, a captain and pilot, a second pilot, a boatswain, a boatswain's mate, a steward, a carpenter, a calker, two cabin boys, six steersmen, ten

⁴A. G. I., 104-6-15.

ship's boys, and sixteen sailors. The annual cost of the department proper was calculated at 8,691 *pesos*, 4 *tomines* (or *reales*), 6 *granos*, including rations for 127 men in the Californias;⁵ of the shipyard, at 12,355 *pesos*, 2 *tomines*, 6 *granos*, mostly for repairs to ships; and of the fleet, at 34,037 *pesos*, 5 *tomines*. Thus the total cost for San Blas would be over 55,000 *pesos* a year, with only three boats in service. As an offset, the salt mines of San Blas produced about 25,000 *pesos* a year. Besides the three ships provided for, which were to serve as supply ships, there were two other packet boats, one sloop, and a schooner in the department for which no funds were assigned. Echeveste recommended that very careful, detailed accounts should be kept at San Blas of goods shipped to the Californias.⁶ A *junta de guerra y real hacienda* of July 8, 1773, sustained the recommendations of Echeveste that have been quoted here, but recommended sale of the extra four ships. Special notice was also taken of complaints received from Campo, an official at San Blas, that there were not enough funds on hand even to pay wages to the men,⁷ and the necessity was recognized for early despatch of money to San Blas to cover expenses for the rest of the year 1773.⁸ Bucarely's decree of July 23 amounted to an agreement with the *junta* until the king should decide upon a new *reglamento*.

Additional duties were placed upon the department in connection with Spanish voyages of exploration to the northwest to see whether the Russians had formed establishments upon American soil. This called for more ships and men and officers. In a letter of July 27, 1773, Bucarely asked Arriaga to send some naval officers from Spain for use in the projected explorations.⁹ Arriaga's reply of August 24 informed him that six were being sent.¹⁰ One voyage was made, however, before their arrival, that

⁵Except for four muleteers and the missionaries this number accounted for the entire Spanish establishments of the Californias.

⁶In *Testimonio del Reglamento Provisional*, 1773, A. G. I., 104-6-16, Cuad. 2.

⁷Campo's letters, dated January 27 and February 14, 1773, are in *Testimonio de las representaciones del Comisionado de S. Blas*, A. G. I., 104-6-16, Cuad. 5.

⁸In *Ibid.*

⁹A. G. I., *Estado, Aud. Mex.* 1, Doc. 1.

¹⁰Cited in Bucarely to Arriaga, Nov. 26, 1773. A. G. I., *Estado, Aud. Mex.* 1, Doc. 4.

of Pérez in the frigate *Santiago* in 1774. The burden placed upon San Blas was a heavy one. Bucarely expressed an opinion in his July 27 letter that voyages of exploration would cost less if conducted from Manila. Gálvez suggested to Arriaga, December 18, 1773, that the Manila galleon should be ordered to stop at Monterey on its voyage to Acapulco and leave goods for Alta California, a cheaper method, he believed, than by reliance upon San Blas.¹¹ So great were the financial burdens of San Blas that one body, the *Tribunal de Cuentas* (Tribunal of Accounts) of Mexico recommended that the department be done away with. This extreme view called forth several protests, among others from Gálvez, who characterized the suggestion as nonsensical, saying that the department was indispensable.¹² One of the problems in the use of San Blas was the great cost and labor involved in getting goods across New Spain to that port, owing to the width of the viceroyalty at that point and the difficulty of the route. It was virtually impossible to get artillery across New Spain to San Blas, necessitating recourse to Manila. This caused Bucarely to send one Agustín Crame to the Isthmus of Tehuantepec to see if a route might be found for transportation of artillery. Crame's expedition was a complete success. Writing of it to Arriaga, March 27, 1774, Bucarely remarked that the Tehuantepec route might be used for transportation not only of artillery but also of goods for Alta California and the ships employed in exploring voyages. It would cost less to send goods that way than it did by way of San Blas, and would take less time than it would if recourse were had to Manila.¹³ Despite manifold objections to it, however, San Blas was to remain for many years the seat of the marine department for the northern shores of the Pacific coast of New Spain. We may now proceed a little more in detail to consider its difficulties in the years 1775-1777.

The Pérez voyage of 1774 to the far northwest was followed by voyages of Heceta and Bodega in 1775, while supply ships continued as before to visit Alta and Baja California. It had been intended to follow up the 1775 voyages to the northwest with others, but even before the return of Heceta and Bodega it was

¹¹A. G. I., 104-3-4.

¹²Gálvez to Arriaga, March 8, 1774, A. G. I., 104-6-16.

¹³A. G. I., *Estado, Aud. Mex.* 1, Doc. 9.

clear that there were going to be difficulties. The Department of San Blas had exhausted its funds and had been obliged to borrow 7,976 *pesos* because of the expense involved in fitting out the 1775 voyages. Bucarely more than made up the deficiency by remitting 20,000 *pesos* chargeable to explorations.¹⁴ A more serious difficulty arose when the port of San Blas began to fill in. Bucarely referred to this in a letter to Arriaga of June 26, 1775. The department might have to be moved to another port, he said.¹⁵ On August 27, he wrote two letters to Arriaga on this subject. In one, he said that he had directed Miguel de Corral, a lieutenant colonel of engineers, to make soundings of San Blas and other ports in the vicinity.¹⁶ In the other, he said that he was suspending decision about removal of the department from San Blas, until he should hear whether any Russian establishments had been found upon the northwest coasts, in which case he implied that a better port than San Blas would be necessary. If no more should be required than to send supplies to Alta California, San Blas would answer the purpose.¹⁷ The scant depth of the port of San Blas continued to give trouble, however. On July 27, 1776, we find Bucarely writing to Gálvez, who had become *ministro general de Indias* upon the death of Arriaga, of measures that had been taken in view of the filling in of San Blas. The nearby ports of Chacala and Matanchel had been explored, and there was something to be said in favor of moving the department to one or the other. Barring urgent necessity, however, no such course should be taken, for if discoveries in the northwest were to be continued, either San Francisco, Alta California, or Trinidad, Guatemala, would be a better site for a marine department.¹⁸ Gálvez's reply of January 9, 1777, gave orders to continue the department at San Blas until its port should become wholly useless, and then to move it temporarily to Acapulco. Ultimately, it might be established in some good port of Alta California.¹⁹ None of these plans for a change of site matured.

¹⁴Bucarely to Arriaga, May 27, 1775. A. G. I., 104-6-16.

¹⁵A. G. I., 104-6-16.

¹⁶A. G. I., 104-6-17.

¹⁷*Ibid.*

¹⁸A. G. I., 104-5-24. Trinidad was suggested, it would seem, because more accessible by land from the Atlantic coast than was San Blas.

¹⁹A. G. I., 104-5-24.

One of the greatest difficulties that the department had to encounter arose from lack of boats enough with which to carry on its duties, despite the fact that there were five boats in the department in 1776. Several factors arose in that year to complicate this problem. Orders had been received for fresh voyages of discovery to the northwest to be made in the year 1777; Alta California had developed to such a point that more supplies were needed than formerly; and finally, Bucarely's *fiscal*, Areche, had been named *visitador* to Peru, and must needs have a ship for the journey to Peru. As the writer has already indicated in a former article much that was done to solve this question,²⁰ little need be added here. Bucarely recommended that two new frigates be built in Peru.²¹ Gálvez informed Bucarely, December 24, 1776, that he approved of the suggestion,²² and on the same day gave orders to the viceroy of Peru to construct promptly two good frigates for use in explorations.²³ The chance arrival of a merchant ship at Acapulco permitted of Areche's going to Peru in that. Bucarely wrote to Gálvez, December 27, 1776, that he was also sending Bodega, a naval officer of San Blas, to Peru to see if he might purchase a frigate there.²⁴ Gálvez approved,²⁵ and gave orders to the viceroy of Peru that only one frigate needed to be built for Bucarely, if Bodega should succeed in purchasing a frigate.²⁶ This matter need not be pursued. The voyages of exploration were officially postponed to December, 1778. One boat was procured in Peru, and another built at San Blas, and they left San Blas for the northwest coast in February, 1779.

It may be wondered why the ships were not built at San Blas in the first place. One reason why they were not was the inability of the department to procure ordinary manufactured articles of which it stood in need, such as iron, tools, artillery, canvas, and tackle. In a letter of August 27, 1775, Bucarely asked of Arriaga that a supply of iron and tools be shipped from Spain to Vera Cruz

²⁰Article cited in note 1, at pp. 191-94.

²¹Bucarely to Gálvez, Sept. 26, 1776. A. G. I., 104-6-17.

²²A. G. I., 104-6-17.

²³*Ibid.*

²⁴A. G. I., 104-6-18.

²⁵Gálvez to Bucarely, March 19, 1777. A. G. I., 104-6-18.

²⁶Gálvez to the viceroy of Peru, March 19, 1777. A. G. I., 104-6-18.

for use at San Blas. He had already asked for a supply of the other effects from Havana, he said.²⁷ In a letter of September 26 he asked for 2,500 binding plates (*planchuelas*) for use in making water-barrels for the San Blas ships.²⁸ Grimaldi, acting for Arriaga, who was sick, gave orders that the iron and other effects from Spain be assembled at Cádiz for shipment to Vera Cruz,²⁹ and that the materials sought from Havana be shipped from there as soon as possible.³⁰ On the same day, December 22, 1775, he wrote to Bucarely reciting what he had done.³¹ There was a comparatively prompt response to the orders as regards effects sought in Spain. On April 9, 1776, Ruiz informed Gálvez that they had been sent to Vera Cruz.³² Articles sought in Havana, however, were not forthcoming. On October 21, 1776, Bonet, the naval commander at Havana, wrote to Castejón, of the ministry of marine in Spain, that it was in the interests of the service that the effects desired for San Blas be procured in Peru rather than at Havana.³³ Castejón addressed Gálvez about the matter on December 31,³⁴ and the latter wrote to Bucarely³⁵ and to the viceroy of Peru³⁶ on January 4, 1777, to see if they might arrange as Bonet had suggested. Bucarely replied, April 26, 1777, that he had written to the viceroy of Peru, remarking also that it would be less expensive if the goods could be procured in that viceroyalty.³⁷ Nearly two years had passed since he first asked for them, and they seemed to be no nearer arrival than ever.

Added to these other lacks at San Blas that have been mentioned, there was also a lack of the men required for operation of the department. A letter from two officers of San Blas, Diego Choquet de la Isla and Juan de la Bodega y Cuadra, to Antonio Reggio of Isla de León, Spain, dated February 13, 1775, recited some of the needs of San Blas in this respect, telling also of the

²⁷A. G. I., 104-6-17. He enclosed a detailed list of the effects needed.

²⁸A. G. I., 104-6-17.

²⁹Grimaldi to Felipe Ruiz, Dec. 22, 1775. A. G. I., 104-6-17.

³⁰Grimaldi to Macuriges, Dec. 22, 1775. A. G. I., 104-6-17.

³¹A. G. I., 104-6-17.

³²*Ibid.*

³³A. G. I., 104-6-18.

³⁴*Ibid.*

³⁵*Ibid.*

³⁶*Ibid.*

³⁷*Ibid.*

unhealthfulness of the site and disorderliness of ships' crews.³⁸ The letter was forwarded to Arriaga,³⁹ who wrote to Bucarely on November 3, 1775, requiring him to provide San Blas with a surgeon and a chaplain, both of which were lacking at the time, and to send soldiers enough to compel crews to observe a proper respect for authority.⁴⁰ In a letter of February 25, 1776, Bucarely spoke of a need for carpenters, pilots, and a calker at San Blas.⁴¹ Gálvez seems to have taken up the matter with Castejón, for the latter wrote to him on June 14 that two pilots, two carpenters, and one calker would be supplied for use at San Blas.⁴² Francisco Manxón of the Casa de Contratación wrote to Gálvez from Cádiz on July 5 that he was awaiting orders to send the calker and carpenters, but that the two pilots had not yet put in an appearance.⁴³ Gálvez replied, July 12, that these men and the pilots should be sent at government expense on the first boat from Cádiz,⁴⁴ and on the same day he wrote to Bucarely of the orders that he had given.⁴⁵

It had been contemplated that boats for the department should be built in the shipyard of San Blas itself. If there were to be boats, however, there had to be men who knew how to build them. Bucarely wrote to Gálvez on November 26, 1776, stating that a shipbuilder, boatswain, and other shipyard employees were needed at San Blas. He was seeking a builder in Havana, but wanted one from Spain if he could not get one in Cuba.⁴⁶ On December 27, he wrote that Goya of San Blas had asked for eighty sailors, two boatswains, twelve shipyard employees, four phlebotomists, two light-tenders (*faroleros*), and two armorers. Bucarely had ordered fifty sailors, a boatswain, and twelve shipyard employees sent there, and had told Goya to try in future to recruit men from the neighborhood.⁴⁷ By February 24 he was able to inform

³⁸*Ibid.*

³⁹Reggio to Arriaga, Sept. 26, 1775. A. G. I., 104-6-18.

⁴⁰A. G. I., 104-6-18.

⁴¹A. G. I., 104-6-17.

⁴²*Ibid.*

⁴³*Ibid.*

⁴⁴*Ibid.*

⁴⁵*Ibid.*

⁴⁶A. G. I., 104-6-18.

⁴⁷*Ibid.*

Gálvez that he had procured twelve shipyard employees in Vera Cruz.⁴⁸ Bonet was unable to find a ship-builder in Havana,⁴⁹ but Gálvez wrote to Bucarely on February 15 that a ship-builder would be supplied.⁵⁰ He took the matter up with Castejón, who replied on April 20 that José Chenard had been designated to go,⁵¹ and Gálvez sent a letter next day to Bucarely to that effect.⁵² Bucarely wrote at length, May 27, 1777, reiterating the need for a ship-builder,⁵³ for it was not until July that he learned of the destination of Chenard.⁵⁴ Chenard did not go to Mexico, however. On October 22 Castejón informed Gálvez that Chenard was unable to go, and asked if there was still need for a ship-builder at San Blas.⁵⁵ Gálvez replied on October 27 that the king desired that such a man be sent,⁵⁶ whereupon Castejón notified Gálvez on November 22 that Francisco Segurola had been appointed to go.⁵⁷ Gálvez sent word to Bucarely to that effect the following day,⁵⁸ giving orders at the same time to one Francisco Rábago of Coruña to send Segurola by the next boat.⁵⁹ This arrangement did not please Segurola, who wrote to Gálvez on the 30th that his precipitate departure would compel him to abandon his family.⁶⁰ Segurola's wishes seem not to have been considered, however, for we find a petition of Antonio de la Cuesta, dated December 13, 1777, asking that Segurola's son Ramón be allowed to take the next boat to Havana, so as to join his father there,⁶¹ a request which was granted through Gálvez's letter of the 23d to Rábago.⁶²

The above review is enough to give an idea of the difficulties

⁴⁸*Ibid.*

⁴⁹Bonet to Gálvez, Jan. 31, 1777. A. G. I., 104-6-18.

⁵⁰A. G. I., 104-6-18.

⁵¹*Ibid.*

⁵²*Ibid.*

⁵³*Ibid.*

⁵⁴Bucarely to Gálvez, July 27, 1777. A. G. I., 104-6-18.

⁵⁵A. G. I., 104-6-18.

⁵⁶*Ibid.*

⁵⁷*Ibid.*

⁵⁸*Ibid.*

⁵⁹*Ibid.*

⁶⁰*Ibid.*

⁶¹*Ibid.*

⁶²*Ibid.*

experienced by the Department of San Blas. Bucarely did all that he could to repair the deficiencies, but delays were unavoidable, for the things wanted were not always at hand or readily assembled. Yet with this lame equipment he had been able to sustain and develop the Californias and to carry on the exploring voyages to the northwest coasts.

MAJOR GENERAL JOHN A. WHARTON

CAPTAIN WILLIAM WHARTON GROCE

Major General John A. Wharton was born four miles from Nashville, Tennessee, at the home of his father's sister, Mrs. Betsy Wharton Washington, July 3, 1828. He was the only son of his parents, William H. and Sarah Ann (Groce) Wharton.

The history of his ancestors can be found in Macaulay's *History of England*, and in other books on biography, but I will begin with John Wharton, son of Sir William Wharton and brother of Lord Philip Wharton, who came from England to Culpepper County, Virginia, 1760. His wife was Jane Miller. They had one son, John A. Wharton, born in England, 1740, and he came to America with his father at the age of twenty years and settled in Ceresville, Albemarle County, Virginia, near North Garden. He married Rhoda Norris of Hanover County, Virginia, of same family as Richard Norris, a member of the Virginia convention of 1830. They had seven sons, George, William H., John, Austin, Jesse, Samuel L., and Dabney. I have the complete history of all these seven sons, given me by a great granddaughter of the eldest son, George, Mrs. Minnie Wharton Robertson, of Nashville, Tennessee, but since this is a history of General John Wharton of Texas, I will begin with his grandfather, William H., the second of the seven sons, who was born 1768, married Judith Harris of Amherst County, Virginia, and died February, 1816. His wife died February 8, 1816, just one week later. They left five children, all of whom made their home with their uncle Jesse, who became their guardian. Their names were Betsy, Martha, William H.,—born 1802, emigrated to Texas in 1827, died March 14, 1839,—Thomas, Jesse, who was born in 1804, and was drowned at age of fifteen, and John Austin Wharton, born 1806,¹ emigrated to Texas in 1829, and died unmarried in 1838. Betsy, the eldest of these children, had two grandchildren, who married Dr. Goodlet of St. Louis, and Louis Strobel of Texas. Their descendants are

¹These dates are taken from the family Bible of the Whartons in Tennessee.

still living here. I knew them well, for they have visited in my home. William H. Wharton, the third of these five children, was a lawyer of ability. He married Sarah Ann Groce, whom he met in Nashville, where she was attending school. She was an intimate friend of his sister Betsy. December 5, 1827, they were married at "Bernardo," Texas, Republic of Mexico, the home of her father, Jared Ellison Groce.

Jared E. Groce emigrated to Texas from Georgia in 1822,² bringing with him nearly one hundred slaves. He thereby acquired from the Mexican government ten leagues of land. Having had his only daughter with him so short a while since her return from college, he was loath to part with her, and offered to her young husband one-third of his vast possessions and many slaves if he would only remain in Texas. He also argued that Texas needed just such men as Wharton at that time. They remained, and her father gave them all the lands which he possessed in Brazoria County.

Knowing that his daughter had never been accustomed to do without comforts, back in the old home, and wishing to shield her from the many hardships which so many of the early settlers in Texas (then almost a wilderness) were compelled to go through, he wrote to a firm in Mobile, Alabama, for lumber, etc., to build a large and commodious dwelling. This was sent on a schooner from Mobile to the mouth of the Brazos and up the river twelve miles to the place selected for the home. Among the slaves whom he had brought with him were two brick masons and six finished carpenters, for which he had paid several thousand dollars. The surroundings were ideal for this beautiful dwelling. The plantation lay between the Brazos River and Oyster Creek, twelve miles from the Gulf of Mexico. There were originally two leagues of land. On one side of the house the lawn ran down to a beautiful lake, and the whole place was surrounded by large live oak trees. Upon their arrival, they found that an eagle had built her nest in one of these and they called the plantation "Eagle Island." This home had all the comforts of a city, for in those days the

²Groce's application for land in Austin's colony was dated July 26, 1824. How long he had been in Texas at that time is not stated. He had ninety slaves.—Spanish Titles, General Land Office, Volume 1, page 258.—EDITORS.

city did not have gas, etc. It contained eight or nine rooms, each twenty feet square. Her father furnished it with the handsomest mahogany, velvet carpets, etc. It was while this young couple were in Nashville selecting the furnishings that their son, John Austin Wharton, was born.

When this baby was old enough to take a sea voyage, they returned to Texas, and here amid the scenes of the revolution, patriotism and honor, General John A. Wharton spent his childhood. It was at Eagle Island that many a consultation took place among the noble men who lived and died for Texas. It was here that the weary travelers were always received with hospitality. Here also were the scenes of many joyous occasions when the young people gathered together for merry making. And there is not a survivor of the old Texas band who will not remember with love the woman who braved all the trials of the first "Three Hundred," the liberal lady who for so many years dispensed to all comers true Texas hospitality at "Eagle Island," the noble mother of Major General John A. Wharton. He was but seven years old, when his father, William H. Wharton, was sent with Stephen F. Austin and Branch T. Archer, to the United States to secure help for the colonists, and his uncle, John A. Wharton, was at the time a member of the general council at San Felipe. These were exciting and anxious times for the mother and little son. One of the relics of this stirring period still in the possession of the family is the original copy of Santa Anna's farewell to the Texan army, which John A. Wharton brought home with him after the battle of San Jacinto. When eight years old, he was sent to "Bernardo," the home of his uncle, Leonard Groce, to be under the instruction of Mr. Deans (a very brilliant man from Boston), who had been recommended to my father as a tutor for his eldest son. Mr. Deans afterwards founded a college in Galveston, and John Wharton was under his instruction there, until the age of fifteen, when he was sent to Columbia, South Carolina, where he graduated at the age of twenty years.

His father, William H. Wharton, died at the residence of his brother-in-law, Colonel Leonard Waller Groce, on March 14, 1839—from an accidental wound received in his left hand and breast, when drawing his pistol from the holster, to examine it, on the

eve of leaving with some friends for his residence, "Eagle Island." His remains were sent to "Engle Island" to be buried, accompanied by Colonel Leonard Groce and Dr. Branch T. Archer. The latter is also buried at "Eagle Island," where he died September, 1856.

William H. Wharton was a member of the convention of 1833; and was one of the three commissioners appointed by the consultation to the United States. He was a member of the first senate of the Republic of Texas; and was the first minister to the United States. After his return, he was again elected senator, which position he held until his death in 1839. Wharton County of Texas is named for him. His brother, John A. Wharton, Sr., was distinguished not only as a statesman and a lawyer but as a soldier. He was adjutant general at the battle of San Jacinto, and at his grave President D. G. Burnet said of him, in an oration, "The keenest blade on the field of San Jacinto is broken." He died a bachelor December 17, 1838, while a member of the Texan congress.

To return to the subject of the sketch, General Wharton, while at college in Columbia, read law under William C. Preston, one of the most eminent lawyers of South Carolina. It was in Mr. Preston's home that he met his future wife, Penelope Johnson, the only daughter of Governor Johnson of that state. After her mother's death, she made her home with the Prestons. She was a most beautiful and brilliant girl, and it was not surprising that the two young people, thrown together every day for years, should form an attachment for each other. They were married in 1848, a few days after his graduation; and sailed for Texas, accompanied by his mother, who had gone on to attend the wedding.

Two children were born to them, Sarah Ann, who died while yet a baby, and Kate Ross, who died at Eagle Island August 8, 1872, age eighteen years. With her perished the last descendant of the branch of Whartons that came to Texas in 1827. After his return home John Wharton read law in the office of Jack Harris (his cousin) and E. M. Pease (afterwards governor of Texas). Upon receiving his license to practice, he connected himself with Clint Terry. The firm being Wharton and Terry of Brazoria. He was still a member of this firm in 1861.

When Frank Terry raised his famous cavalry regiment, "Terry's Texas Rangers," Wharton joined it with a company, and when Terry was killed in Kentucky, when his regiment for the first time came under fire, Wharton was elected to fill his place.

After arduous service in the retreat of General Albert Sydney Johnston's army from Kentucky to Corinth, Mississippi, Wharton distinguished himself in the battle of Shiloh, and was severely wounded there.

In Forrest's dashing raid through middle Tennessee Wharton was again wounded, when Murfreesboro was captured in July, 1862, and had not fully recovered when he rejoined his regiment for the invasion of Kentucky under Bragg and Kirby Smith. Just before the battle of Perryville, Wharton's brilliant charge at Bardstown, where with greatly inferior force he defeated by impetuous attack a movement fraught with grave peril to our forces, won him promotion to the rank of brigadier general.

His services before and during the battle of Murfreesboro, and with Wheeler's raid through Tennessee while Rosencranz was at Chattanooga, and, later, in the campaign of Chickamauga, gained him a major general's stars.

He was transferred west of the Mississippi in 1864, to command the cavalry corps in that department, and arriving just after Dick Taylor had routed Banks's army, first at Mansfield and again at Pleasant Hill Wharton handled the cavalry of the army with such skill and energy, in the pursuit of Banks down Red River, as brought him high compliments from General Taylor in general orders to his army.

In an altercation with one of his subordinate officers, Colonel Baylor, Wharton was killed at Houston, Texas, April 6, 1865.

The following is a clipping from a paper printed during the Civil War:

The Jackson Mississippian introduces Polk's order complimenting Col. Wharton for the Bardstown affair, as follows, for which as a friend of the Rangers, and especially of their gallant commander, we thank that paper. He couldn't compliment a more deserving man.

The name of Wharton is identified with the struggle of Texas for her independence. There were none more gallant in the field, nor more wise and eloquent in her councils than those who

bore it. When the Southern States absolved their connection with the Northern members of the late Federal Union, Texas, imbued with the spirit of her Whartons, and her Austins and her Rusks, of other days, united with them, laying her choicest offerings upon the common altar. Among the gallant leaders whom she has given to the war, is the distinguished officer whose name heads this article—the worthy son of a noble sire—a very Chevalier Bayard without fear and without reproach.

Col. Wharton is the commander of the famous Regiment of Texas Rangers, whose exploits have become a part of the history of the Army of the West. Below we publish a copy of the general order in special compliment to this brave and skillful officer, and his heroic band, issued by General Polk. The exploit to which it refers is certainly one of the most brilliant of the war, as the order of Gen. Polk abundantly attests. We learn from a source entitled to the highest credit that the entire force of the Rangers on the occasion was only 250, while that of the enemy actually engaged was four regiments, supported in the rear by a battery of artillery and a large force of infantry. It was a hand to hand conflict, and the gallant Texans, led on by the intrepid Wharton, bore themselves in a manner (to quote the language of Gen. Polk) “worthy of the applause and emulation of their comrades of all arms in the army.”

The author of this sketch being a first cousin of General John A. Wharton, raised with him from childhood, and during the war a member of his staff, is personally qualified to corroborate the truthfulness of the following article published at the time of his death in April, 1865. It reads in part:

Maj. Gen. John A. Wharton,—though not to the manor born, he was in the true sense of the term, a native Texan. The talents of his father and uncle, elicited during the stormiest period of the Republic of Texas, made the name of Wharton a tower of strength throughout the land; and Gen. Wharton, being the only male issue of the line, has most nobly sustained the title. Soon after coming to the bar, he was elected District Attorney of the First Judicial District, and to this day the efficiency and firmness which John A. Wharton brought to the discharge of his official duties, are spoken of with admiration by all who knew him in that capacity. He was a Breckenridge elector for this State, in the Presidential campaign of 1860, and by his powerful oratory contributed largely to the success of his party in Texas. Educated in the South Carolina school of politics, he was an uncompromising States Rights man, and vindicated his

political principles in a series of speeches, that have never been surpassed, and rarely ever equaled, in this State. He was the finest orator that the writer has ever heard. He had made rhetoric and elocution a particular study, and a natural vigor of delivery largely enhanced the effect of his oratory. In energy and power of persuasion, in penetration and power of reasoning, in the adaptation of the parts to the whole, in strong and melodious language, in felicity of expression, he probably surpassed any speaker of his day. This alone can explain his great influence over his contemporaries. The results of the Presidential election of '60 found him an advocate for immediate secession, and he was sent as a delegate from Brazoria (the county of his residence) by the unanimous voice of the people, to represent their views in the convention that framed the ordinance of secession. In this deliberative assembly he was a leading spirit. As early as February, 1861, he volunteered for the Brazos Santiago expedition. The objects of this expedition having been successfully accomplished, he turned his attention to raising troops for the Confederate service, and was made Captain of one of the finest companies in the regiment of the lamented Terry. His military career was a brilliant and successful one, and its details befit the future historian more than they do the circumscribed limits of a newspaper article. Suffice it to say that he illustrated the virtues, heroism and abilities of his ancestors, on more than a hundred battlefields, and rose rapidly, by merited promotion, from the rank of Captain to that of Major General. Without a military education, he bent the energies of his mind to the acquisition of military science, and achieved complete success. It is said of him, by competent judges, that our cause had produced no cavalry officer who was his superior. While he exacted from the men and officers under him the strictest compliance with the requirements of duty, to the soldier he was ever a gentle and compassionate friend.

His was one of those rare characters in which the elements so harmonized that there was a predominance in no especial line, but an excellence in all. It may be said of him, that he was successful in every thing that he undertook. As a lawyer, statesman and soldier, he was equally good. A man of strict temperance, the restraining influence of his moral character was felt wherever he went. No man ever possessed, in a greater degree, the faculty of attaching devoted and affectionate friends to himself than Gen. Wharton; and his proudest epitaph might be embraced in the simple line "that those who knew him best, loved him most."

When General Wharton's mother died, having lost husband, son and grandchildren, she left to me and my children her home,

"Eagle Island," and all of her personal effects, with the request that I send to the State capital the oil portraits of her late husband (Wm. H. Wharton) and his brother, John A. Wharton. Although I regretted parting with them, I complied with her wish, and sent the portraits to Austin in 1878.

I have been requested to state for the benefit of the Confederate Veterans what became of the handsome saddle presented to Major General John A. Wharton by the Texas Rangers. General Wharton had sent me back to Texas in 1862 to raise more recruits, and requested me while there to move his family and slaves from "Eagle Island" up the country near my father's home, "Liendo," for safety. We rented the Shelton Oliver place on the Brazos, near Hempstead and a few miles from father's. It was there that his family was living when General Wharton was shot in Houston, and this is the reason that his remains were carried to the Groce burial grounds to be interred. His saddle, sword, etc., were carried to the Shelton Oliver place, where a few months later the house and all its contents were burned to the ground while the family were away from home.

Although, as stated above, there are no descendants of this noble line of Whartons, who emigrated to Texas in 1827, there are many cousins in Nashville, Tennessee; also cousins in Jackson, Mississippi, descendants of Judge Jesse Wharton. Another cousin is J. Houston Wharton of Conroe, Texas, a descendant of George Wharton, the eldest of the seven sons of John A. and Rhoda Norris Wharton.

A GLIMPSE OF THE TEXAS FUR TRADE IN 1832

CONTRIBUTED BY EUGENE C. BARKER

The following letter from one Francis Smith, at Tenoxtitlan, offers an interesting glimpse of busy commerce at the westernmost settlement in Texas in the spring of 1832. Tenoxtitlan was established in pursuance of an order from General Manuel de Mier y Teran, commandant of the Eastern Interior States, to Colonel Elosua, principal commandant of Coahuila and Texas, dated April 24, 1830.¹ Elosua was instructed to send Lieutenant Colonel Francisco Ruiz from Bexar with the company of the Alamo to establish a post on the Brazos River west of the Bexar-Nacogdoches road. The garrison was to form a nucleus for a civil settlement of Mexican colonists; and the whole enterprise was a part of the general scheme of Mexican counter-colonization projected against the Americans by the law of April 6, 1830. On September 20, 1830, Teran approved the location of the fort six leagues west of the point where the Bexar-Nacogdoches road crossed the Brazos. This would place it near the present intersection of the Brazos river and the International & Great Northern Railroad. In December, Teran wrote the minister of *relaciones* that forty Mexican families were already settled at the place,² but this is somewhat doubtful. The troops abandoned the fort in August, 1832, during the general rising against the Bustamante forces.

The letter here quoted is addressed to Messrs. A. G. and R. Mills, Brazoria, Texas, and the original is filed in the Nacogdoches Archives in the Texas State Library. The census reports of the Department of Nacogdoches in this same collection estimate the value of furs and peltry exported from Nacogdoches as follows: 1828, eight thousand dollars; 1830, five thousand dollars "more or less," the decrease in the trade being accounted for by the "multitude" of Indians coming in from the north, who "diminished the catch" and presumably sold through other channels; 1831, six thousand

¹Spanish Records, Vol. 53, page 126, General Land Office (Texas).

²University of Texas transcripts from archives of the Department of Fomento (Mexico), Legajo 5, expediente 34.

dollars; 1832, "six or seven thousand dollars more or less"; 1833, seven thousand dollars; 1834, ten thousand dollars in a total export estimated at twenty thousand dollars for the year. Smith's vision of a forty thousand dollar profit in a year is probably too large, but it is evident that the Texas field offered attractive possibilities to a keen trader. Furs mentioned in the Nacogdoches census reports were beaver, otter, badger, bear, buffalo, deer and cattle. Census reports from Austin's Colony are generally lacking after 1828 and do not mention the fur trade when available. Reports from Bexar and Goliad show no trade of any kind.

Tenoxtitlan March 11th 1832

Gentlemen

I have been very sick but am now in good health again I have wrote to you several times and I know not what I have wrote for I have always been in a hurry and full of business at the time I was going to send down pack horses I had wrote to you giving a full description of my ideas of the prospects of trade here & thousands of fortunes that is not yet made as the dates are old and I wish to see you before long I decline sending those letters A French Indian trader came in to night with 80 buffaloe robes he asks me \$5.25 apiece for them he is offered \$5.50 but he likes my goods best in the morning I expect to buy his robes.

My cart is now loaded with beef hides deer skins buffaloe hides & robes some leopard & beaver, my oxen are tyed to the wheels and are to start for Brassoria tomorrow morning

As the mail leaves here early in the morning I send this to let you know it is a great way to hawl goods and that a bad article is not worth hawling. the keg of tobacco I can not give to the indians. I have sold wine several times it has been returned as often. Sweet wine is the sort for this place cheap tobacco in boxes also. I now need soap whiskey sugar good orleans 2 barrels coffee 2 sacks 1 box tobacco, rice, raisins, almonds, sweet wine, anniseed $\frac{3}{4}$ white domestic, black silk hankfs. more of those fine bowls & pitchers with red flower on the side, a few small deep plates, fishing lines large & small, a few gimblets, spurs a few peices of good calico &c. Some tin cups axes & tomahawks

The beaver I have bought I had to pay half cash at \$3.00 per lb on account of not haveing indian goods.

I have \$450 on hand. the money is about done here untill more comes on I sell some for Bolets [bullets?].

I have learned that the common strouding is not good for those beaver hunters that they will not wear but tolerable good broad-cloth. I wrote before for brass kettles & beaver traps I think I could sell 100 next fall & summer 3 or 4 dozen rifles would not come amiss between now and fall.

I want a carpenter to help build a skin press and a cistern to keep peltry in to save the cost of beating I want a baker, make out my load with flower, molasses I want.

If R has gone to Orleas please write to him to send to Cincinnati for a first rate large ox waggon for the road with an English bed well turned up before tire not less than 2 inches wide but more will do

I can not do without it I am willing to pay the price but I want one that will please me I have the money laid by to pay for it

French or Mc a Knaw blankets is all the sort that will sell here I think that 40 thousand dollars worth of Indian produce can be taken in here between now and the first of next Feby perhaps much more [for] the Cherokees, Shawnees, Delawares & Kickapoos have been very successfull at beaver this winter they say that they will all go and sweep them the next.

As I have in all my letters mixed every thing up together please hunt through them & understand if you can

I know not how to get my money to you I can not shut up and go down for I am the only one that has any thing to sell of consequence

Some American hunters will be here in a few days with about 200 beef hides let we know soon if I had better pay part money to get them and what they are worth.

Francis Smith

If you can buy a large likly pair of steers for me unbroke not less than 4 years old let white put them in the team The pair of boots that is in the box please hand to Mr Young

Those prunella shoes would never sell here they have two faults no heels & square toes. Please never send me any square toes.

I send you one doz of them and keep the half doz to not be without shoes I think they may last me 17 years if I take good care of them I want some ladys shoes small size round toes and high heels.

Sperm candles that I can aford to sell for $12\frac{1}{2}$ cts. awls all large size 4 or $5\frac{1}{2}$ inch augers 2 doz strong negro shoes. open ended thimbles. 8 or 10 pieces of white Domestic $\frac{3}{4}$ & $\frac{4}{4}$. 2 pieces stout Lowel. mens cotton socks white & colored 2 or 3 lb of flax thread strong large fish hooks

Small check calico yellow & other collours Jews harps iron and brass. Strait awls fire steels a small assortment of Pocket knives some good tin pans

Addressed:

Mr A G and R Mills
Brazoria

BRITISH CORRESPONDENCE CONCERNING TEXAS

XVI

EDITED BY EPHRAIM DOUGLASS ADAMS

KENNEDY TO ABERDEEN¹

Private.

Her Majesty's Consulate.
Galveston, September 23rd. 1844.

My Lord,

In a letter which I had the honor to address to Your Lordship, on the 8th day of May last, I communicated the following information.

"I have heard, and I believe truly, that General Jackson has used all the influence which he possesses with the President of this Republic, as his old political and Military leader, to induce him to aid in accomplishing the Annexation of Texas to the Union."

That I did not err in giving credit to this Statement will be seen by the enclosed printed Copy² of a "Private" letter, addressed, on the 16th of February last, by President Houston to General Andrew Jackson. A small portion of this letter appeared some time ago in the Newspapers of the United States. The whole has been recently published in an Administration Journal of Eastern Texas, for the purpose, I believe, of promoting the election to the Presidency of Mr Anson Jones, by showing that the Government of which he is a Member is in favour of Annexation. Eastern Texas contains a large majority of the population, and the bent of the public mind, in regard to the predominant question of the day may be inferred from the motive assigned for this epistolary development.

A lately published letter of Mr Clay's seems to indicate that he has found it necessary to modify his declared opinions on the subject of Annexation. It is impossible that a people so shrewd,

¹F. O., Texas, Vol. 10.

²A cutting from *The Galveston Civilian*, September 11, 1844. Houston's letter is calendared by Garrison as printed in U. S. Pub. Docs., 444, Doc. 271, p. 110.

so land-loving and so anticipatory, as are the people of the United States, can fail to perceive the advantages that would accrue to them from the acquisition of Texas. The longer the settlement of Texan affairs is delayed, the more fixed and general will be their conviction of these advantages. Whatever professions may be put forth by American Statesmen of the East, or the West, the North, or the South, it ought not to be forgotten that, for *forty years*, the heads of each party have laboured in turn to extend the South-Western flank of the Republic towards the Rio Grande. It is a Stake worth playing for, and, in the estimation of General Jackson, even at the cost of War.

Representations of the probability of Mexican invasion have brought to this Port the United States Cutter "Woodbury" previously employed in the revenue department, but, at the present, commissioned for service here. The "Woodbury" arrived in Galveston Harbour on the morning of the 20th Instant, and will, it is said, remain until relieved by another vessel. After reporting the Cutter's arrival, a local Newspaper adds: "We also learn that there are two Schooners, a Steamer, and a Sloop of War lying in the Port of Pensacola, expecting daily to receive orders to sail for the Coast of Texas and Mexico."

It appears by the Texan papers that combinations injurious to the public peace have, under the names of "Regulators" and "Moderators," disturbed some districts on the North-Eastern frontier. It appears, also, that the authorities have, without difficulty, broken up these Combinations, and I only notice the matter because of the comparatively large Militia force (amounting to above Six hundred men) alleged to have been engaged in their suppression. This force was concentrated at a place called "Shelbyville," close to the United States boundary line, and distant about two days' March from Fort Jessup.

Had the project of Annexation been favourable to the interests of the traders resident at Corpus Christi, I have good grounds for apprehending that United States' troops would, before this time, have been camped on the Texan territory. If I have not been misinformed, it was suggested to the traders that, if they would manage to "get up" a pretext for their presence, they would soon be forthcoming.

I have been told that, after the failure of the Treaty of An-

nexation in the Senate of the United States' Congress, General Henderson, the Special Minister of this Republic at Washington, recommended President Tyler to take Military possession of Texas. This has been conveyed to me from a usually well-informed source. General Henderson is at present in Eastern Texas, where he resides.

On the 20th Instant, Commodore Moore attended a public dinner in Galveston, in full uniform, from which and the current reports, the fact of his acquittal by the Court Martial may be assumed. The sentence will not be made public until the Meeting of Congress.

The death of General Howard has left this Country without a representative of any Foreign Power. A Mr Barton of Louisiana, is mentioned as the probable successor of the late Chargé d' Affaires of the United States. The "*New Orleans Republican*"—(an Administration Journal) recommends the selection of Mr Barton for a Mission "the importance of which cannot be underrated by any Citizen of the United States,"—because, "it is peculiarly fit that the Minister who will be called upon to vindicate the rights of this Section of the Union, by watching and frustrating English Abolitionism, should be one identified with Southern interests."

Although some returns are still wanting from the outlying Counties on Red River, it is admitted on all sides, that Mr Anson Jones has been elected to the Presidency, and by a considerable Majority.—Should the Country again retain its independence, persons supposed to have an early knowledge of these Matters say that General Houston will reappear as a candidate for the Presidential Office, after Mr Jones has served his time. Mr Jones owes his election to Houston's influence, and to the impression, which he has himself countenanced, that he will follow in his (Houston's) footsteps.

The sultry season, which, this year, commenced in May, and of which even the Southern born have complained, as being unusually oppressive, is at an end, and the relaxed European frame derives renewed vigour from the bracing Northern breezes. The earth has been prodigal of its returns to the farmer,—want is a stranger to the resident population, and nothing is required but

peace—assured and unshaken peace—to make “the wilderness blossom like the rose.”

William Kennedy.

The Earl of Aberdeen, K. T.

P. S. By a letter from Paris. I learn that Mr. Ashbel Smith has announced his intention to return to Texas next Spring.—A Paris paper—“*La Siècle*”—speculates upon Texas being placed under the “protection” of France, as an arrangement to be desired.—The point has been noticed by a New Orleans paper.

September 26th.

The Steam Schooner for New Orleans, with characteristic regularity still lingers in Port.

About ten days ago, President Houston was on his way from Eastern Texas to the Seat of Government.

At the Public Dinner given in Galveston, a few days ago, to Commodore Moore, the Second Toast from the Chair was.—The Annexation of Texas to the United States.

George Bancroft, the able historian of the United States, and at present a Candidate for the office of Governor of the State *Massachussetts*, has published a letter in advocacy of Annexation, which has been warmly applauded by part of the Galveston Press.

W. K.

KENNEDY TO ADDINGTON³

Separate.

Her Majesty's Consulate.

Galveston, September 24th. 1844.

Sir,

I have the honor to enclose a letter addressed to His Royal Highness, Prince Albert,⁴ and sent to me for transmission by M. Bourgeau d' Orvanne,⁵ who accompanied the Prince of Solms,⁶ on his visit to this Country.

³F. O., Texas, Vol. 10.

⁴Not found.

⁵Bourgeois d' Orvanne, a French migration agent, who was largely instrumental in forwarding German emigration to Texas. He appears frequently in Texan correspondence with France, and with the Hanse Towns. Garrison, *Diplomatic Correspondence of the Republic of Texas*, III, in *Am. Hist. Assoc. Report*, 1908, II.

⁶An active promoter of German emigration to Texas. He also held the title of Lord of Braunfels, and founded the town of New Braunfels, Texas. He was a stepson of the English Duke of Cumberland who was an uncle of Queen Victoria and in 1844 King of Hanover. Garrison,

M. d' Orvanne, has thought proper to offer explanations with regard to certain engagements to which he is a party, which explanations he appears to consider due to Her Majesty's Government.—I, therefore, take leave to submit herewith a Copy of the Communication addressed to me by that gentleman, merely premising that of his arrangements, or affairs, I know nothing beyond the fact that, two or three years ago, he obtained a Conditional grant of land, for Colonizing from the Government of Texas—I had a similar grant—as you Sir, will doubtless remember—but my subsequent appointment as Her Majesty's Consul at Galveston, led me to doubt the expediency of acting upon it. Well acquainted with the jealous disposition of the North American Republicans, and not ignorant that the best intentions afford no sure protection from interested, or malicious misrepresentation, I decided on relinquishing my interest in the grant, which I did,—retaining no share of its advantages, direct or indirect.

Subsequent observation has satisfied me that this decision was the more convenient one for the public service. Mr Clay, in his letter on the Texan question, dated 17th of April last, has declared that he would regard it as the imperative duty of the Government of the United States to prevent, if necessary by an appeal to arms, the Colonizing of Texas by any European Nation. Without presuming to weigh the intrinsic justice, or practical efficacy of this declaration, I could not but perceive that, by a very slight exercise of perverted ingenuity and bold asseveration, an excitable people might be brought to believe that the private enterprize of a foreign Agent had originated in the "Ambitious designs" of the Country to which he belonged.

The never-ending clamour respecting "British influence" and "interference," which is heard in this part of the world, must be my apology for travelling into personal details

William Kennedy.

Henry U. Addington, Esq.

P. S.

The Prince of Solms has accompanied President Houston to a place appointed for arranging a Treaty with the Comanche Indians.

W. K.

ORVANNE TO KENNEDY⁷

[Enclosure]

San Antonio de Bexar.

Copy.

30th. August 1844.

Dear Sir.

It is painful to inform you of a fact as unexpected as extraordinary. The German Association forgetting the Conditions of the Contract entered into between themselves and me, which bound us together, has violated the Condition of our joint obligation.

I would not give you this notice, if, in soliciting the favour of the English Government, I had not taken on myself the responsibility of all the acts of the Association. Now, I am compelled to decline this same responsibility

“Signed” A. S. Borgeau d’ Orvanne.

P. S.

Be pleased to forward the enclosed letter to His Royal Highness Prince Albert.

[Endorsed.] In Mr Consul Kennedy’s letter to Mr. Under Secretary Addington, marked “Separate” and dated Septr 24th. 1844.

KENNEDY TO ABERDEEN⁸*Private.*

Her Majesty’s Consulate.

Galveston, September 30th. 1844.

My Lord,

Information has been conveyed, by a private channel, from the Seat of Government, that the Attorney General (Mr Terrell) of whom I wrote to Your Lordship on the 9th Instant, is nominated to succeed Mr Ashbel Smith as Chargé d’ Affaires in England; that Major Reilly,⁹ who represented this Republic in the United States, about two year ago, is to resume his former functions at Washington; and that Mr Ashbel Smith is likely to be elected to fill the Office of Secretary of State, under the newly chosen President, Mr Anson Jones.

Mr Terrell’s nomination is considered by those who mention it adverse to Annexation.—He came to Texas from Tennessee, of

⁷F. O., Texas, Vol. 10.⁸F. O., Texas, Vol. 10.⁹James Reilly, Texan chargé d’ affaires at Washington, D. C., from March to August, 1842.

which State General Houston was at one period Governor.—His understanding is good, his education he owes mainly to himself, and as a public Man he has the reputation of being straightforward and sincere. I first met him in the beginning of the year 1842; and all that I know of his course of Conduct is creditable to his judgment and public spirit.

William Kennedy.

The Earl of Aberdeen, K. T.

P. S.

By the last accounts from the Seat of Government, it appears that President Houston has proceeded towards the Northern frontier, for the purpose of making a Treaty with the Chiefs of the Comanche Indians, long hostile to Texas.

W. K.

KENNEDY TO ABERDEEN¹⁰

Private.

Her Majesty's Consulate.

Galveston, October 2d. 1844.

My Lord,

The continued delay of the Steam Schooner "Republic" enables me to add this to the Communications of previous dates which I have had the honor to address to Your Lordship.

General Duff Green,¹¹ whose name is known in England as an American advocate of free trade views, arrived at this place late in the evening of the 29th Instant. He left the United States in the War Steamer "Union," for the purpose of proceeding, by way of Galveston to Vera Cruz, with despatches from his Government to the American Legation in Mexico. The "Union" having, it is said, sustained some damage in her Machinery, and the weather being stormy, General Green was landed at Velasco, at the Mouth of the river Brazos, whence he reached Galveston. Soon after his arrival, he arranged for proceeding to Vera Cruz, in the United States Cutter "Woodbury," which left this Port, with him on board, yesterday afternoon.

¹⁰F. O., Texas, Vol. 10.

¹¹Duff Green, b. 1780 [approx.] d. 1875. Though educated for the law, he early became a newspaper writer and proprietor, conducting the administration organ (*The United States Telegram*) at Washington during Jackson's first term. He later became a follower and partisan of Calhoun and was a vigorous advocate of the annexation of Texas. (Appleton, *Cyclopedia of American Biography*.)

On his return from the City of Mexico, General Green is to enter upon the duties of United States Consul at Galveston, to which office he has been appointed. At the date of his leaving Washington, the United States Government were not apprized of the death of General Howard, their late Chargé d' Affaires in Texas.

Persons professing to speak from authority intimate that the Missives of which General Green is the bearer are by no means of a conciliatory character towards Mexico. The payment of the portion of the indemnity owing to the United States will, it is said, be strongly urged, nor will the affairs of Texas be forgotten.

General Duff Green has already tasked his skill as a Newspaper writer in sustaining the pretensions of General Burleson to the Presidency of Texas, and I am disposed to think that his ability as a Journalist, and political Manager have weighed as deeply in his appointment to Galveston, as with his desire, or his qualifications, for the Consular office.

William Kennedy.

The Earl of Aberdeen, K. T.

KENNEDY TO ADDINGTON¹²

Separate.

Her Majesty's Consulate.

Galveston., October 24th 1844.

Sir,

In reference to my Despatch marked "Separate," and dated the 24th Ultimo, I have the honor to inform you that the Prince of Solms, arrived in Galveston on the 12th Instant. It appeared that the account of his having accompanied President Houston to the Indian Treaty Ground, was incorrect. It had been his intention to accompany the President, but the unexpectedly sudden departure of the latter prevented him from carrying his intention into effect. The Prince is still in Galveston, and I only regret that the circumstances of the Country do not enable me to render his stay more agreeable

As I was inclined to anticipate, I find, on conversing with the Prince of Solms, that M. Bourgeois d' Orvanne had no just ground of complaint against the German Association. The facts

¹²F. O., Texas, Vol. 10.

seem to stand thus: The German Association, desirous to aid emigrants of their Country, arranged with M. Bourgeois d'Orvanne to avail themselves, for this purpose, of his grant of land from the government of Texas. This grant, as I mentioned on the 24th Ultimo, was conditional. To avoid forfeiture, it was requisite that a specified number of families should be placed upon the lands within a specified time, or the grant itself renewed. The Contractor (M. B. de O.) having failed to fulfill either of these conditions, forfeited his grant, and was consequently unable to execute his part of the arrangements between himself and the German Association, who, as the matter presents itself to me, are more "sinned against than sinning"

The Association have arranged to avail themselves of another conditional grant, obtained by a Mr. Fisher, and the Prince of Solms is in expectation of the early arrival of a portion of the German emigrants at Galveston—To plant successfully the *first* body of European Settlers, in the unpeopled region of the West, will be a difficult undertaking—and I fear that the Association have been somewhat slow to perceive the character of the Measures essential to its success. They have, however, an able and active representative in the Prince of Solms, and it is by no means too late to retrieve the effects of past miscalculation. Their object is every way laudable, and it were a pity that they should not succeed.

William Kennedy

Henry U. Addington, Esqr.

ELLIOT TO ABERDEEN¹³

Separate.

Philadelphia October 28th 1844

My Lord,

I have the honor to report that I shall set out to my post between the 7th and 10th Proximo, after having passed a few days with Mr Pakenham at Washington, to which place I am about to proceed on the 1st Proximo.

I take this occasion to mention to Your Lordship that I have received a few private lines from Mr Anson Jones, the Secretary of State in Texas, dated on the 24th September, confirming the

¹³F. O., Texas, Vol. 9.

accounts of his success in the late Presidential election in that Country.

May I request that any despatches to my address may once more be addressed to the care of Her Majesty's Consul at New Orleans.

Charles Elliot.

To The Right Honorable,
The Earl of Aberdeen, K. T.,
Downing Street.

KENNEDY TO ABERDEEN¹⁴

No 26.

Her Majesty's Consulate
Galveston, October 29th. 1844.

My Lord,

I have the honor to enclose two copies of a Return of Charges on British Vessels, at the Port of Galveston, in accordance with the terms of Your Lordship's Circular Despatch, dated June 13th 1844, and received by me on the 21st Instant.

William Kennedy.

The Earl of Aberdeen, K. T.

No. 1¹⁵

A Return Of all the Tolls, Dues, Fees and other Charges imposed by Public Authority on British Shipping, in the Port of Galveston, Republic of Texas.

Custom House Charges

Tonnage Duty. Sixty cents per ton, according to registered Tonnage.

Entrance. For every Ship, or Vessel, of less than One Hundred tons burthen—One dollar and a half—For each Ship or Vessel, of one hundred tons and upwards—Two dollars and a half.

Clearance. The same fees as for entrances.

Post Entries. For each post entry, two dollars.

Permits Permit to land goods—twenty Cents; to load goods for exportation, that may be entitled to debenture, or other official certificate—twenty cents.

¹⁴F. O., Texas, Vol. 10.

¹⁵F. O., Texas, Vol. 10.

Any Bond taken officially Forty Cents.

For every document required by any Merchant, owner, or Ship-master, not before enumerated—Twenty cents.

Pilotage

The rates of Pilotage at Galveston are regulated by Act of Congress:

On all vessels drawing less than eight feet water, Two dollars Fifty Cents per foot—On all vessels drawing eight feet water and more Three dollars per foot.

Pilots detained waiting on vessels, bound for Sea, or vessels prevented from entering Port, by contrary winds, or otherwise, are entitled to Three dollars a day, for each day's detention, after the first four and twenty hours.

Any Pilot taking charge of a vessel in distress, from the loss of anchors, spars or rudder, will be entitled to such compensation, as the Collector of Customs, under the circumstances of the case, may think proper to award.

Any Pilot speaking a vessel inward bound outside the Bar, or a vessel outward bound inside the Bar, and offering his services, will be entitled to full pilotage, whether his services be accepted or not.

Any Pilot speaking a vessel inward bound inside the Bar, is entitled, if employed to half pilotage:—if not employed he is entitled to no pilotage.

Any Pilot speaking a vessel fifteen miles from Shore, is entitled to twenty-five per Cent, more than the regular rates of off shore pilotage.

Any vessel after waiting outside the Bar for four hours, with a Signal for a Pilot flying, may enter the Port free from pilotage charges.

Charges under the Galveston incorporation Acts and City Ordinances

Passenger Tax. For the purpose of establishing and maintaining a public Hospital, the Mayor and Aldermen of Galveston are empowered to exact from the Master, Owner, or Consignee of any vessel, steam boat, or other craft, arriving from a Foreign Port, the Sum of One dollar for every free White passenger.

Harbour Master. The Harbour Master is entitled to receive one Cent and a half per ton, according to registered tonnage.

Port Wardens. Scale of Port Wardens' Fees: Survey of damaged goods--Five dollars per diem. Survey of hatches—Two dollars. Survey of Stowage—Two dollars. Copying Certificates—One dollar each Copy.

Ten dollars per diem for all services rendered beyond the City limits, with payment of travelling expences.

Vouchers

Vouchers are given for all charges on Shipping at the Port of Galveston.

No 2.

An Account of all the Charges which are levied on British Vessels at Galveston, and which are not levied on Vessels under the Texan Flag, together with a Statement of any Commercial, fiscal, or other advantages, enjoyed by Texan Vessels from which British Vessels are excluded.

Coasting Trade

The privilege of the Coasting Trade, with freedom from Tonnage duties, is, by a recent Act of Congress, granted exclusively to vessels bearing the Texan Flag. This is the only advantage possessed by such Vessels over British Ships.

William Kennedy.

Galveston

October 29th 1844.

KENNEDY TO ABERDEEN¹⁶

Private.

Her Majesty's Consulate.
Galveston, October 30th 1844.

My Lord,

In a Communication dated the 2d Inst I had the honor, to inform Your Lordship of the arrival of General Duff Green at Galveston, his appointment as Consul at this Port, and departure for Vera Cruz, in the United States Cutter "Woodbury." General Green has not returned, nor has a Chargé d' Affaires from the

¹⁶F. O., Texas, Vol. 10.

United States yet arrived in Texas to fill the vacancy created by the death of General Howard. Mr Donaldson, a relative of General Jackson, is, according to confident rumor, to fill the Office.

The Annexation papers, in this part of the Country, are censuring the appointment of Judge Terrell as Minister to England, although the appointment has not, up to this time, been publicly announced. They complain that he will misrepresent the popular sentiment in regard to their favourite Measure

President Houston returned to the Seat of Government on the 15th Instant, from the Waco Village, where he met the heads of the Comanche and other Indian Tribes, for the purpose of forming a treaty.—Captain Boon,¹⁷ of the United States Army, attended as a Commissioner from his Government. The Texan papers say that a satisfactory Treaty has been concluded between Texas, and the Comanches, with “ten other of the wild Indian Tribes.” The President was to leave the Seat of Government on the 21st Instant, to join his family on the river Trinity

The “*Galveston Civilian*”.—the Government paper, which is usually considered an authority for official intelligence, states that Lieut. Stevens, of the United States Army, arrived at Washington (Texas) on the 12th Instant, bearing despatches from Washington in the United States, “represented to be of a character favourable to Texas.”

Some of the Texan prisoners released by the Mexican Government have arrived at Galveston.

According to recent accounts from the West, all is quiet on the Rio Grande.—And a Mexican invasion is no longer to be apprehended. The people of the departments bordering upon Texas, are, it is said, much more desirous of Commercial intercourse than War

Mr Anson Jones had a Majority of about fifteen hundred votes over General Burleson, at the late election for the Presidency Until the result of the Presidential election in the United States is known here, there is likely to be a pause in political agitation.

William Kennedy.

The Earl of Aberdeen, K. T.

¹⁷Captain Boone, United States commissioner to the Indians in 1844. Garrison, *Diplomatic Correspondence of the Republic of Texas*, II, 310, in *Am. Hist. Assoc. Report*, 1908, II.

P. S.

The Brig "Rover" by which I transmitted a letter marked "Private" and dated the 9th Ultimo, was, I find, thirty two days in reaching New Orleans.

W. K.

KENNEDY TO ABERDEEN¹⁸

Private.

Her Majesty's Consulate.
Galveston, November 12th. 1844.

My Lord,

Major Donaldson, whose probable appointment to the Office of Chargé d' Affaires of the United States in Texas, I mentioned in a Communication which I had the honor to address to Your Lordship on the 30th Ultimo, arrived in Galveston on the 10th instant.—In the hurry of his departure for this Country, he has found it necessary to await the transmission of the documents which usually accompany an Officer of his Class.—At this place, I have had an opportunity of conversing with him, and, so far as that opportunity presented grounds for an opinion, he seemed to be a person, well adapted to promote the main object of his Mission among the people of Texas. His solicitude for "Annexation" is, I understand, quite as lively as might be anticipated from a Nephew of General Andrew Jackson.

The only intelligence that has transpired respecting General Duff Green and his movements, since he sailed from Galveston, is in a paragraph of the "Pensacola Gazette," which mentions that—"the United States Brig of War "Lawrence," sailed from Pensacola on the 13th Ulto for Vera Cruz, to await the return of General Duff Green from the City of Mexico, and should he have despatches—to convey him, or them, to any port of the United States which may be designated."

All the Texan prisoners in Mexico have been liberated with the exception of one—of Mexican origin—and the greater part of them arrived at this Port, from New Orleans, on the 10th Instant.

If my memory deceive me not, during an interview with which I was honored by Your Lordship about two years ago, I adverted to the circumstance of Don Manuel Godoy (el Principe

¹⁸F. O., Texas, Vol. 10.

de la Paz¹⁹) being resident in Paris, where I understood he subsisted on a small pension, allowed him by His Majesty the King of the French.—It appears by the Spanish Journals, that the exile, in his Seventy Seventh year, has returned to Madrid, and the credit of his restoration is claimed here for M. de Saligny, French Chargé de Affaires in Texas. The matter attracts notice, as it has been alleged that the “Province of Texas,” previous to the year 1804, was ceded to Don Manuel by Charles IV.

President Houston will remain with his family on the Trinity until the last of this Month—about which time Mr. Ashbel Smith, who has been offered the appointment of Secretary of State, is expected to arrive from Europe.

It is said that Her Majesty’s Chargé d’ Affaires, and the Chargé d’ Affairs of France will soon return to their posts. I trust I shall be pardoned for saying that their residence at the Seat of Government, at least during the approaching Legislative Session, will be highly desirable. I am instructed to believe that it had been better, as regards the question of Annexation, if they could have been at Washington, between the close of the Presidential Election and the Meeting of the Texan Congress. Mr Anson Jones, Secretary of State, and President elect, writing to me, on the 2d Instant, observes.—“I am truly sorry your Government have not an accredited Minister here, at this time.”

By a letter from a trust-worthy Correspondent, dated, New Orleans, October 24th, I am informed that, “—large quantities of Military Stores, Waggons, etc., were being forwarded, by the Government of the United States, to the Texan frontier on the Red River.” The writer surmises these preparations—“to be intended to counteract Mexican movements.”

It is a standing assumption of the leading advocates of Annexation that the British Government, in their prudential anxiety for peace, will make no *determined* stand against the Measure.

Mr. Terrell (late Attorney General) whose name, as an op-

¹⁹Godoy, b. at Badajoz, 1764, d. at Paris, 1851. He was a Spanish nobleman of inferior rank, who under Charles IV of Spain, held almost supreme power from 1792 to 1807. A fictitious genealogy fabricated for Godoy when at the height of his power, made him a descendant of Montezuma. After Napoleon I seized Spain, Godoy’s part in Spanish affairs ended. He lived in Paris from 1835 until his death. Michaud, *Biographie Universelle*.

ponent of Annexation, I have brought under Your Lordship's Notice, in various Communications,—commencing as early as the 31st of May last,—is at present in Galveston, waiting the departure of the Steamer for New Orleans. He is instructed to proceed as expeditiously as the state of his health will permit, to Europe, where he is to undertake the duties hitherto executed by Mr Ashbel Smith. To what I have already said of him I think it necessary only to add that possessing, as I believe he does, a becoming sense of self respect, he is a modest and unobtrusive Man, and, in harmony with that character, will, I doubt not, feel all the more acutely the gratefulness of the considerate courtesy which Your Lordship, notwithstanding the anomalies of Texan politics, is sure to extend to him.

William Kennedy.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁰

Separate.

Philadelphia, November 13th 1844

My Lord,

Previously to my departure to my post I should mention to Your Lordship that I have recently visited Mr. Pakenham; and pending further Commands I shall of course guide myself in the spirit of the Instructions which he has done me the honor to impart to me. I proceed tomorrow, and I have the honor to be.

Charles Elliot.

The Right Honorable,

The Earl of Aberdeen, K. T.

KENNEDY TO ABERDEEN²¹

Private.

Her Majesty's Consulate.

Galveston, December 5th. 1844.

My Lord,

On the 28th Ultimo, the United States Schooner "Woodbury" arrived at this Port, from Vera Cruz, having on board General Duff Green, with despatches for the United States Chargé d' Affaires to this Country, and his son, Mr. Benjamin E. Green,

²⁰F. O., Texas, Vol. 9.

²¹F. O., Texas, Vol. 10.

Secretary of the American Legation at Mexico, also with despatches for his own Government. The latter left Galveston for New Orleans, by the Steam packet of the 30th ultimo,—the former proceeded, on the 3d Instant, to the Seat of Government at Washington on the Brazos, where he still remains,—having appointed a Vice-Consul to transact his official business at this place.

On his arrival at Galveston, General Duff Green communicated to the local Journals an abstract of Mexican news, including, among other Matters, an announcement that it was the purpose of Mexico—"to exterminate the present inhabitants of Texas, without regard to age, sex, or condition"—for the reason that—"Mexico sees in the conduct of the Governments of Presidents Jackson and Tyler, and the Southern people of the United States, cause to apprehend still further encroachments on its territory."²²

I have learned, from competent sources, that it will not be owing to General Green's endeavours as a peace-maker if events do not justify the alleged apprehensions of Mexico.—He has urged more than one Member of the Texan Congress, during his sojourn at Galveston, to declare for the invasion of Mexico—with the view that further territorial aggrandizement,—(even it is said, Southward and Westward of the Rio Grande),—should accompany the Annexation of Texas to the Confederacy of the North.—Before the "espousals" are perfected, it is desired that the bride should bring a still more ample dowry. Nor does it seem likely that the affianced will be backward in supplying needful aid for the accomplishment of this provident object. A Correspondent on whom I can rely thus addresses me from a locality in the United States favourable to apposite observation.

—"Be assured that no child's play operations are at hand. The present moment demands all the devotion and energy of British Servants in this quarter. The accumulation of Military Stores on your frontier still goes on. And Arms, Ammunition, Camp equipage and Ordnance Stores for ten thousand men have al-

²²In fact, however, Santa Anna in November, 1844, had announced to Great Britain the conditions upon which he would recognize Texan independence, had asked British aid, and promised that all preparations for attacking Texas should be suspended. F. O., Mexico, 177. Bankhead to Aberdeen, No. 102, November 29, 1844. For text of Santa Anna's proposal, as translated by Bankhead, see Adams, *British Interests and Activities in Texas*, 188.

ready reached Fort Jessup. Mr Calhoun and his party, or section of a party, would prefer war with England to the non-acquisition of Texas, and, to precipitate that calamity upon the United States, or to commit some iniquitous overt act, from which the pride of the people would be unwilling to recede, is, in my opinion the end and aim of the present Administration."

The same Correspondent further remarks—"Texas, it is now sufficiently apparent, is the Key to Mexico, and the fall of the latter and its subjugation by these States are talked of here in a way not to be misunderstood by any but those who are too wise in their own conceit to derive instruction from what is passing around them."

A follower of Mr Calhoun's, General Hamilton, formerly of South Carolina and of some political note, especially as a fervid professor of Free Trade opinions—has published a letter addressed to Mr Webster, in which he sets forth reasons why the New England and Middle States should favour the Annexation of Texas to the Union.—He confines himself to the *argumentum ad crumenam*, which he winds up by a hint that the South might not be indisposed, in return for Northern concurrence, in its Texan views—to adopt an Anti-European Tariff. In his appeal to the Manufacturing heart of Massachusetts, General Hamilton parades with all the emphasis of typography the vulgar metaphor for unreasoning avarice."

"After all, Mr Webster" inquires the General—"What, in the vast advent of ages is the privilege to our Government of *planting its Custom House in Texas, and hoisting on its flagstaff the Close fist of our American System, and excluding Great Britain from all Competition?*"—

The American imagination eagerly anticipates the day, predicted by Humboldt, when the products of European industry should be excluded from this Continent.—It takes at times even a more self-exalting range, and, by means of Settlements on the North Western Shores of the Pacific, dreams of creating a commercial dominion in India and China. I should not be surprised if American Missionaries were to prove as willing instruments of National aggrandizement as the Missionaries of France are apparently expected to be by many of their secular patrons.

A work worthy of the scientific munificence of France, lately

published in Paris, seems entitled to particular notice at the present Juncture. The title of the work is "*Exploration du Territoire de L' Orégon, de Californies et de la Mer Vermeille*":—it was executed during the Years 1840, 1841 and 1842, by M. Duflot de Mofras,²³ an *Attaché* of the Legation of France in Mexico, and has been published by order of the King, under the auspices of the President of the Council, and the Minister of Foreign Affairs. Were other evidences wanting, it would indicate that the French Government is not indifferent to the destinies of this Continent, although there are well-informed Americans in this quarter quick to allege that His Majesty the King of the French has declared that there will be no interference, *as regards the question of Annexation*, on the Part of the Power of which he is the Executive head. M. de Mofras has been so kind as to transmit to me a copy of his work, and I have observed that the Marquesas and Tahiti seem to be laid down on one of his brilliant Charts not merely as convenient touching-points for Whalers, but a "Stepping-Stones" to China.

It appears to me that the question of Annexation will be graduated in its progress by the relations of parties in the United States. It may, on the one hand, be assumed that Mr. Tyler is anxious to draw from it all the political capital it is capable of bringing to an advocate of the Measure,—and, on the other hand, that the Northern Section of the democratic voters for Mr. Polk will be not less anxious to secure that Capital than their own Man and their own party. As Matters now stand, the strength lies with the latter, and the only opening left to Mr Tyler, is apparently some audacious and unexpected Move—Such as war with Mexico—that would produce an embarrassment of affairs, and leave warm work and divided laurels for his successor.

The Polk party, or rather the Jackson party, are in the ascendant here, as well as in the United States,—the New President, Mr Anson Jones, owing his election almost entirely to the support of General Houston. The present United States', *Chargé d' Affaires* in Texas is General Jackson's Nephew, and the particular friend of Mr Polk.—General Duff Green may be designated

²³Duflot de Morfras. His book is that of a traveller and observer, and such ideas of French action as are presented are wholly directed to the expansion of French interests in the Pacific.

the representative of Mr. Tyler—while the latter exhorts the Texans to instant invasion of Mexico, the former probably contents himself with concerting Measures of united action between this and the Northern Republic, to be carried into effect after Mr Polk's induction to the Presidential Office, on the 4th of March next.

Major Donaldson (United States Chargé d' Affaires to Texas) arrived at the Seat of Government on the 21st ultimo.—On the 29th he delivered his letter of credence to the Secretary of State, and, on the same day, was presented, in his official capacity, to the (then) President—Complimentary speeches were exchanged on each of these occasions, Generals Jackson and Houston were respectively lauded, and Annexation was insinuated in the language of bland allusion. I quote a sentence from the published reply of Mr Anson Jones—which commands notice from the Speaker's position as President Elect. He refers to the assurances given by Major Donaldson of "the Sincere desire of the President of the United States to improve and render stable the good understanding now existing between the two Republics."

"The sameness of the origin and interests of the two Countries by which you have so kindly alluded"—(said Mr Jones)—"has led the people of this, on all occasions, to desire the maintenance of the most friendly relations; and if the hope which they have sometimes indulged, that these considerations might lead to the accomplishment of a common destiny, should be disappointed, I trust they will not be lost in their influences upon either Country, in the preservation of those paramount principles which they hold in common keeping."

The Congress of Texas, called upon by law to assemble on the 2d Instant, was duly organized on the 3d.—The retiring President (Houston) sent in a Message on the 4th, which is chiefly remarkable for the quietude with which it passes by the topic of Annexation. Of this Message I shall have the honor to enclose a copy.

On Monday the 9th Instant Mr Anson Jones is to enter upon the discharge of his duties as President.

Galveston. December 16th.

On the 6th Instant. Her Majesty's Ship "Spartan" Commanded by the Hon. Charles Elliot, appeared off this Port, and on the

following day, Her Majesty's Chargé d' Affaires to this Republic, who was on board the "Spartan" came ashore. He remained at Galveston until the 12th, when he left for Washington on the Brazos, which he would probably reach about the 20th Instant. In consequence of the return of Her Majesty's Chargé d' Affaires, this Correspondence, which was commenced by me, under instruction, on the 31st of May last, will terminate with the present letter.

The United States Schooner "Woodbury," remained in the Harbour until the 11th Instant, on which day a vessel, understood to be the United States Sloop of War "Falmouth," appeared off the Bar, and made signal to the "Woodbury" to join her, which she did, and the two vessels put out to Sea in company. The Lieutenant in Command of the "Woodbury," when in port, spoke of Annexation as inevitable, and said that, within two Months, the Castle of San Juan de Ulloa would be occupied by troops of the United States.—I mention this only as an additional indication that President Tyler is for War with Mexico. Mr Tyler's Annual Message has not yet reached Galveston.

On the 14th Instant, a vessel (the second this season) arrived from Bremen, conveying German Emigrants for the Colony which the Prince of Solms is engaged in settling in Western Texas. The emigrants appear to possess the proper requisites for life in the wilds.

Galveston, December 18th

Another vessel, with settlers for the Colony of the German Association, appeared in the Roads on yesterday.

I enclose a copy of the late President's Message, and a copy of the Inaugural Address delivered by President Jones. In neither of these documents is the word "Annexation" to be found.²⁴

There is one aspect of affairs which (if I may presume to offer an opinion) may render Texas too important a point to be lightly regarded in the progress of diplomatic arrangements.—The United States may have gone so far in respect to Annexation as to be unwilling to bear what might be deemed the humiliation of retreat. This possible obstacle to the adoption of more moderate

²⁴Printed copies of Houston's message, December 4, 1844, and Jones' inaugural address, December 9, 1844.

Councils would be removed by the refusal of Texas to negotiate farther for incorporation into the Union.

William Kennedy.

The Earl of Aberdeen, K. T.

P. S. Galveston Decr. 21st.

I have the honor to enclose a copy of President Houston's Farewell Address,²⁵ which has just come to hand.

A public Meeting in favour of "Annexation" was held in Matagorda County on the 7th Inst. The "opposition" papers urge other Counties to follow example.

Major Donaldson, United States Chargé d' Affaires, arrived here on yesterday from the Seat of Government and leaves today in the Steamer for New Orleans. General Duff Green remains at Washington on the Brazos.

W. K.

KENNEDY TO ABERDEEN²⁶

Private.

Her Majesty's Consulate
Galveston, December 6th. 1844.

My Lord,

I have the honor to enclose to Your Lordship a copy of a communication forwarded to me on the 3rd Instant, by the Prince of Solms, at present in this Country, with a copy of my reply to that communication, bearing this day's date.

I have had opportunities of knowing that the Prince of Solms, is an acute observer of passing events, and of recognizing fitness for the arduous enterprize of planting European Settlements in the wastes of Texas.

In despatch No. 21 of this years series, dated 9th September, and addressed to Your Lordship, I bore favourable testimony to the character of German emigration to this Country. Still greater success may be anticipated for that emigration when conducted under the auspices of so respectable and enlightened a body as the German Association represented by the Prince of Solms. Their first company of Colonists, which arrived here lately, from Bremen, in the Ship "John Dethard," is composed of persons that would be a Valuable acquisition to any Country where

²⁵Printed copy of Houston's farewell address, December 9, 1844.

²⁶F. O., Texas, Vol. 10.

extensive tracts of unoccupied land solicit the labours of the husbandman. To the introduction of such Colonists, on however large a scale, no sensible friend of independent Texas would, I conceive, offer any obstacle.

The lands appropriated for the German Colonization lie towards the West, and are exposed to the troubles of that Frontier. For this reason,—and without looking to the very serious contingency alluded to by the Prince of Solms,—it is desirable that the Settlers should be well armed and equipped. In the absence of due provision against aggression, a single Indian inroad might break up the first establishments, and affect disastrously the entire plan of the Association.

The Prince of Solms is in expectation of the early arrival of three additional vessels, bringing emigrants from Germany.

William Kennedy.

The Earl of Aberdeen, K. T.

PRINCE OF SOLMS TO KENNEDY²⁷

Copy.

On board the Texan Revenue Cutter
“Alert,” Galveston Bay, Decr 3d. 1844

Dear and Honoured Sir.

I am hardly on board this vessel and under sail for Matagorda Pass, before I take the pen to express to you the regret I feel that our last conversation, before my hasty departure, could only be so short a one.

The more I think of what General Duff Green, the United States Consul, expressed to me this morning, during the long visit with which he honoured me, the more important I think it, that you, dear Sir, as the only representative of Her Britannick Majesty in this country at the moment, should have every possible knowledge of what at present is going on.

I am too well acquainted with your activity in Her Majesty's Service, to suppose that I can tell you any thing you had not heard and appreciated long before, but I think it always good (in important matters) to hear even the same thing from different people, and in all different ways; you are by that the more able to make some new discovery, or to look at a question on a

²⁷F. O., Texas, Vol. 10.

side you might not have remarked before. Let me then, Dear Sir, give you a report of what General Duff Green was kind enough to communicate to me this morning.

General Green began by praising the enterprize of Colonization which brought me to this country, and even called it a laudable one. This was the first thing that made me infer that the noble General is as true a Yankee as any one living, because I am fully convinced that he wishes me and my good German Emigrants any where else than in this country. He then proceeded with some flattering remarks about my own humble person, which were shot off to make me sure of his good intentions towards me and my native country. The next thing he tried was to get out of me my opinion about "Annexation."—My answer was that I had heard a great deal about Annexation, and that I really could not tell what might be the result; but that I remembered having heard, before I left Europe, that this could be a case of war between the European power and the United States.—On that point, he told me, I was mistaken, because the United States had received notice from France, that this Power would not interfere at all in the question.—The General now began to speak about the existing state of affairs in Mexico, expressing his belief that Santa Anna was strong enough to overpower the recent attempt at Revolution, but that, whichever party proved victorious, Mexico was pledged to invade Texas,—to make it a desert, and to exterminate the inhabitants, men, women, and children; not even sparing the child in the mother's womb!—As the noble General saw me smiling at the eccentric idea, he stopped to enquire what I believed of this matter. Forbidden, of course, by politeness, from replying—"nothing"!—I contented myself by intimating a modest doubt that such a thing could be done in our days—it being what the French call,—"*hors de saison*."—The General, however, assured me that his statements were exactly true, and declared his intention to proceed himself, this day, to Washington on the Brazos, to communicate the same to the gentlemen now assembled in Congress.

General Green next urged me to open a correspondence with the Russian Consul at Matamoros, for the purpose of being always "*au fait*" of the movements of the Mexican army and fleet. The General must have made extraordinary discoveries, as he gave

me even the details of the plan of invasion which Santa Anna will follow, for the purpose of "extirpating" the Texan women and children.—One part of the army is to enter by the Rio Grande, steam-boats, with supplies, following the same along the line of coast; a plan which would leave all the force of this country assembled on their flank. The second part of the Mexican army is to land at Galveston, and proceed, by way of Houston, to the interior. The deduction drawn by General Green from all this is that (the hostile intentions of Mexico being known) Texas ought at once, to take up the game, and carry the war—the sooner the better—into the enemies' Country.

The noble General was now so kind as to ask my opinion on all this. I answered that, under these circumstances, an invasion of Mexico would be a very natural step, but that I did not quite perceive from what source Texas would draw the means to undertake the war. He told me this,—the General said—he was not authorized, but he asked me whether the United States, so closely connected with Texas, would ever permit such a thing as extermination to be carried into effect; if they did permit it; it would throw everlasting shame upon their policy. What (he inquired)—would Germany do in a similar case—would it allow brothers and sons to be exterminated—would I suffer the Emigrants who had come out for me to be treated in this way? The conclusion drawn by General Green was that the war against Mexico ought to begin as early as possible, and that it was his duty to urge the people of this country to it—showing them the prospect that awaited them and their families.

General Green inquired when I should be at Washington on the Brazos,—because he would have further to communicate to me about the defence of Western Texas, as I was going to settle my Emigrants in that part. He was very anxious to get my opinion about the whole of his long talk, which I gave him in the few words that—, in the event of war,—I considered those sums of money which I had already expended, and those which I might expend, up to that time—as utterly lost.

"Well,"—said he—"that is just the impression I wished to take from you, and I beg and request of you to write to your friends in Germany not to be at all alarmed about it, because this war is

a necessary crisis—nothing will be lost, and just exactly after the war you will go on the safer.”

—So far the conversation with the noble General, who wanted—*“de me tirer les vers par le nez.”*

Now, my dear Sir, take the abundant quantity of nonsense and humbug off from this conversation, and what does it amount to?—That General Duff Green who, if I am not mistaken, is on an express Mission to this Country, pushes, and urges, the people of Texas to war, promising every aid of money, or troops, from the United States, for the sake of “Annexation”; for if the United States’ troops are once within this territory, they will certainly not leave it voluntarily.—And may not the United States Government deem the present moment of internal difficulties in Mexico favourable for extending the boundaries even beyond the Rio Grande, and securing in this way, the whole trade of the Gulf?—I believe, dear Sir, that with our knowledge of Yankee character and head, we may indeed have reason for apprehension.

I am,—as you, dear Mr Kennedy, know; far from presuming to advise any political measures, but as you also know the especial interest which I feel in the welfare of Her Majesty, Your Most Gracious Queen, and the British Empire, you will excuse me if I ask you to take the following suggestions and observations into particular consideration, and to state, in your next despatches home, what of these you have found worthy of being mentioned.

I believe there is no doubt of the importance of this Country for the trade on the Gulf, and the United States, once in possession of it, will decidedly command the whole commerce upon those waters. The Rio Grande as the frontier between the United States and Mexico, will not long prevent the “go-a-head Yankee nation” from trying to possess the rich Mines of Chichuahua, if, as I before observed, the Government of the United States do not consider the present moment the most favourable for making the attempt. Knowing the character of the Americans, and their contempt of every European Power, one cannot be surprised at any mad, or desperate thing that may come on. Whether the design indicated happen in a few months, or in a few years, can it be indifferent to England,—nay to any European Nation?—And if not, how can it be prevented?

It appears to me that there is a very obvious step to be taken,—

and that is to fill this Country, and especially the Western part of it, as soon as possible, with a large number of Europeans. And how can this be easily accomplished?—I am disposed to believe that the Association for Protecting German Emigrants in Texas could be of great use in the matter.

Should the enlightened Government of Her Majesty the Queen approve the idea, it would be easy to make some arrangement with the Direction of the said Association, and send, even by the end of next Spring, some twenty, or thirty, thousand individuals, well armed and equipped, to this Country. This number of men could be got in Germany, which suffers from a redundant population, that causes three times the amount to leave their native shore annually for the United States. English and German ships could carry them to this Country,—able and active young officers, of every arm, would accompany them. English arms—(by the testimony of every English officer, who served in the wars of the Peninsula)—were effective weapons in the hands of the German soldiers of the Legion. They would do as well to stop American encroachment towards the South. In fact, this force once established, I may pledge my word for the safety of the future, on this side.

At the present moment, the German Association has a right to introduce as many Emigrants into Texas as they are able to transport, and so large a number, promptly established, who will dare to drive them out? This is the moment for doing it, might it seem so to you—might Her Majesty's Ministers, if you think these ideas worthy of being transmitted to the other side of the Atlantic; see the real truth, and believe what I state from what we daily hear and see.

And so I send you this long letter, and suggest these thoughts to you, my dear Mr Kennedy.—My intentions, in placing all this before you, is a pure one; it is to serve my native country, as well as Great Britain—that noble Empire, always so nearly and faithfully allied with Germany, and, to show my zeal and solicitude for the service of your Most Gracious Queen, on whom may God bestow his richest blessings!

(Signed)

Charles Prince of Solms.

William Kennedy, Esqr.

Her Britannick Majesty's Consul,
Galveston.

[Endorsed]. No. 1. In Mr Consul Kennedy's despatch marked
"Private" of December 6th. 1844.

KENNEDY TO PRINCE OF SOLMS²⁸

[Enclosure.].

Her Majesty's Consulate.

Copy.

Galveston December 6th. 1844.

Dear Prince Charles,

I have the honor to acknowledge the receipt of your interesting communication, dated the 3rd Instant.

It will afford me great pleasure to be the medium of submitting the suggestions contained in your letter to the consideration of Her Majesty's Government.—As an officer of that Government, I beg to tender my respectful acknowledgments of the friendly sentiments you have expressed towards the British Crown—Germany and England, as you remark, have always been "nearly and faithfully allied," and who can doubt the permanence of an alliance whose basis has been, not merely a common interest, but harmony of a national character and reciprocal good faith?

Permit me to add that I very sensibly appreciate your obliging expressions with regard to myself.

William Kennedy.

To. H. S. H.

Charles Prince of Solms.

[Endorsed.] No. 2. In Mr Consul Kennedy's despatch Marked
--"Private" of December 6th 1844.

ELLIOT TO ABERDEEN²⁹

No 15.

Galveston December 10th. 1844.

My Lord,

I have the honour to report my arrival at this place on the 7th Instant in Her Majesty's Ship "Spartan" (sailed on the same day to Vera Cruz) and I shall proceed by the first opportunity to Washington.

²⁸F. O., Texas, Vol. 10.

²⁹F. O., Texas, Vol. 9.

The new President Mr. Anson Jones, will have been inaugurated yesterday, and I have no reason to think that there will be any material difference between the language of his communications to Congress, having any reference to annexation, and that of General Houston. The temper and turn of events in that Assembly cannot be spoken of, in the same way. Indeed it must be superfluous to repeat to Your Lordship that the representations and influence of the Government of the United States will have great weight in that quarter, and there can be little doubt that strenuous efforts will continue to be used, to indispose the people of Texas from agreeing to any settlement recommended by the Governments of Her Majesty, and the King of the French.

So far as I can judge the purpose is less to forward immediate annexation, (or at least there is less hope of effecting that result immediately,) than to break up the prospect of any other arrangement, trusting perhaps to quarrels with Mexico, or future Contingencies, for some convenient opportunity of adjusting the question in the only way that adjustment would be agreeable to that section of the Democratic party now in office in the United States.

I may state that in connexion with that view that General Duff Greene (whose name and agency in the annexation agitation have probably already attracted Your Lordship's notice) has recently arrived here from the City of Mexico, on his return to the United States, and I have it confidentially from a reliable source that he has gone up to Washington with earnest recommendations to this Government at once to renew vigorous offensive hostilities against Mexico, with proposals of an extensive nature for the further acquisition of territory and schemes for the raising of men and funds, founded upon those acquisitions.

There can be little or no doubt that the Government of Texas will turn aside from any projects of that kind, neither do I believe that they will be made by the Authority of the Government of the United States. But it is possible that these hints of probable difficulties between the United States and Mexico, arising out of the late discussions³⁰ between Mr. Shannon³¹ and Senor

³⁰Refers to the Shannon-Rejon correspondence, of 1844, in which both the American minister to Mexico and the Mexican minister of foreign

Rejon, and exaggerated statements of the disturbed condition of Mexico, may have a prejudicial effect on the dispositions of Congress here.

Reviewing the whole subject as attentively as I can, and with the limited means of judging comprehensively, open to me, (a circumstance for which I am sure Your Lordship will make full allowance in the case of error or misconception,) I certainly have formed the impression that a very advanced stage of this affair has now been reached. But although the power of effectual interference for the safe and honourable adjustment of this question appears to me to be rapidly passing away from Mexico, I still think that there is yet time and opportunity for decisive and advantageous action from that quarter, and I have availed Myself of the occasion of the "Spartan" to communicate my impressions to Mr Bankhead. If the people of Texas are indeed willing to be annexed to the United States, I see no better mode of meeting that emergency, and none more moderate or more just, than immediate proposals from Mexico adapted to the several contingencies of the safe and durable Independence of Texas, or suitable terms of annexation, or lastly, a secure truce, if this shall not be deemed to be a convenient Moment for permanent arrangement.

If events depended in any considerable degree upon the dispositions of this Government, I should have no serious apprehension of the result; but that is by no means the case, and I believe that Mexico must either shape it's proceedings to meet another state of facts, or resign herself to a combination of a very dangerous character, immediately considered, and probably still more so, in point of ulterior intention.

Charles Elliot.

The Earl of Aberdeen, K. T.

affairs, had used imprudent and irritating language likely to stir enmity between the two nations.

^aWilson Shannon, b. 1802 in Ohio, d. 1877 in Kansas. Educated as a lawyer, he became Governor of Ohio, 1838-1840, and again 1842-1844. He was sent to Mexico as Minister in 1844. After two years as Representative in Congress, 1853-1855, he was appointed Territorial Governor of Kansas, 1855-1856. Appleton, *Cyclop. of Am. Biog.*

BOOK REVIEWS AND NOTICES

Beginnings of the American People. [The Riverside History of the United States, I. William E. Dodd, Editor.] By Carl Lotus Becker, Professor of European History in the University of Kansas. (Boston: Houghton Mifflin Company. [1915.] Pp. 279, xviii. \$1.25 net.)

It has long been a matter for wonder that so little of the most important results of recent and contemporary research in American colonial history has found its way into the text-books, even the latest on that period. Professor Becker is practically the first text-book writer to make appreciative use of this material. He approaches his subject from the broad point of view of one who regards the young colonies as "disjected particles of ancient Europe," and who, in following their development, never loses sight of the fact that they were but parts of a great English imperial system.

The volume is a bit of real literature, a brilliant and charming piece of historical writing. Nowhere can there be found in small compass a more vivid and telling description of the European background of the discovery of the New World than is in the first thirty pages of this little volume. Equally successful are the accounts of the social development and intellectual life of the colonies, especially in the eighteenth century. It is in these aspects of the period that Professor Becker seems most interested, but as already indicated he is careful to explain England's commercial and colonial policies, and the tendencies of American industrial and political life, all of which of course determined the political and administrative relations between the mother country and her offspring. And here one criticism may be offered. Too little attention is given to the evolution of those colonial political institutions, particularly the assemblies, by means of which the colonists were able to gain control of their own local affairs and to strike at the imperial system which bound them, and in defense of which they finally broke with the empire and sought independence.

As to the Revolution itself, our author's point of view is again

illustrated by the fact that more than twice as much space is given to the preliminary quarrels than to the war itself. The volume goes no further than the treaty of peace, 1783.

While Professor Becker's book will be a genuine pleasure both to the general reader and the student, it is not likely to be wholly successful as a text-book because it is frequently lacking in that definite concrete information which is an essential prerequisite to the formation of generalizations of any value and which therefore must form the basis of any successful college course.

CHAS. W. RAMSDELL.

Union and Democracy. [The Riverside History of the United States, II. William E. Dodd, Editor.] By Allen Johnson, Professor of American History, Yale University. (Boston: Houghton Mifflin Company. [1915.] Pp. xii, 346, xvi. \$1.25 net.)

Expansion and Conflict. [The Riverside History of the United States, III. William E. Dodd, Editor.] By William E. Dodd, Professor of American History, University of Chicago. (Boston: Houghton Mifflin Company. [1915.] Pp. xvi, 329, xxiv. \$1.25 net.)

Together these two little volumes survey the history of the United States from the close of the Revolution to the end of the Civil War, with the election of 1828 as the dividing line between them. They are designed primarily as text-books for college classes, but are likely to find their greatest field of usefulness among general readers desiring a brief, readable, interpretative discussion of the period. Professor Johnson's task has been essayed so often and from so many different angles that little opportunity for originality remained. It is a good, clear narrative, but, except for a slightly greater emphasis on the economic influences which shaped our early constitutional development,—probably a more or less unconscious response to Beard's somewhat spectacular thesis,—his book has little to distinguish it from others of approximately the same compass. Chapter XIV, analyzing the motives and influences of the Westward Movement, and Chapter XVI, describing the New Democracy that came into its

own with Jackson's rise to the presidency, are the newest features of the book, and they are excellent.

Economic history, and particularly the economic history of the South, has only begun during the last decade to attract the serious attention of investigators, so that in the field which is peculiarly his own Professor Dodd has been able to put into convenient form a great deal of analyzed and interpreted information not elsewhere readily available. Though both books are as non-partisan in spirit as human fairness and honesty can make them, the writer does not remember to have seen a more uncompromising characterization of the abolition movement from the Southern point of view than Professor Dodd's: "In no other country of that time could a movement like American abolitionism have gained such a hearing. In England the Government, that is the people, never dreamed of destroying without compensation the millions of property in West Indian slaves. But American abolitionists declared that there could be no property in man, just as the socialists say there can be no property in land. To destroy outright the property which underlay the Southern political power and the Southern aristocracy was the aim of Garrison, and he found able men, owners of large estates in the North, who were willing to do what he urged." On the refusal of the House in 1836 to debate petitions concerning slavery, "John Quincy Adams declared that the rights of his constituents, as guaranteed in the Constitution, were . . . abrogated. On the other hand, Calhoun declared in the Senate, with equal truth, that the constitutional rights of his constituents would be jeopardized if the petitions were received and debated." The interplay of sectional interests is remarkably well depicted.

Numerous maps and charts are a feature of both books, but a considerable number of these will not prove as useful as they are probably expected to be because neither they nor the texts provide the data necessary for interpretation. Moreover, the scale upon which they are drawn is too small for practical use. The plan of the books does not allow footnotes, but brief bibliographical suggestions follow each chapter. In these it is gratifying to notice the steady reliance upon McMaster.

EUGENE C. BARKER.

The New Nation. [The Riverside History of the United States, IV. William E. Dodd, Editor.] By Frederick L. Paxson, Professor of History in the University of Wisconsin. (Boston: Houghton Mifflin Company. [1915.] Pp. 342, xiv. \$1.25 net.)

In attempting to tell the story of the United States from the Civil War to the middle of Woodrow Wilson's administration, Professor Paxson has assumed a most difficult task. So infinitely varied and complex has our social and economic life become that one who would traverse our recent history can seldom be sure of his path. Lack of perspective and the influences of prejudices, which are frequently the more dangerous because subconscious, hinder at nearly every step.

To say that Professor Paxson has succeeded in giving in the main a clear and convincing narrative is, therefore, high praise. He has rightly given chief place to that economic growth which has contributed so powerfully to the development of a truly national but complex social organism and which has brought with it the tremendous problem of readjusting to this condition an old system based upon a relatively simple and homogeneous condition of society. To his mind the Civil War was but incidental to the development of this life and reconstruction equally so. One chapter of barely twenty pages suffices for his treatment of the latter subject and nowhere does he give evidence of any appreciation of the profound change in our constitutional system which was wrought by the stress of war and reconstruction. The subjects chiefly dealt with are the intimate relation of big business and politics, already apparent in the years immediately following the war; the development of the far West; the greenback and granger movements; the tariff; populism; free silver; the trust and corporation problems; Roosevelt and the New Nationalism. But one chapter is given to the Spanish war, which again is merely incidental to the larger developments of the country's economic growth. The narrative comes down to 1914.

CHAS. W. RAMSDELL.

History and Geography of Texas as Told in County Names. By Z. T. Fulmore. (Previously reviewed in *THE QUARTERLY*, XIX, 209-211.)

My attention has been called to certain misconstructions of my review of Judge Fulmore's *The History and Geography of Texas as Told in County Names*, which appeared in the October number of *THE QUARTERLY*, and to certain misapprehensions of my own concerning the plan and purpose of the book. Both of these I wish to correct.

First, as to the misconstructions: In saying that "the origin of county names has been a favorite topic of local Texas history" the reviewer meant merely to state that this is generally a favorite subject of local interest and popular speculation. I mentioned the work of Thrall, Brown, and *A Comprehensive History of Texas* on county history to illustrate this remark. No implication was intended that Judge Fulmore's book covered the same ground as those. On the contrary, his purpose is entirely different; namely, to "outline the origin and history of county names" and to group the resultant sketches "in such a way as to indicate their places in a general perspective of the State's history." The usual collections of county sketches give attention to the agricultural, mineral and other resources; Judge Fulmore's book does not touch upon these features, except in a brief appendix (pp. 299-306), but presents a sketch of almost every man after whom a county was named, and of the geographical terms appearing among the county names. The gathering of the data for these sketches involved considerable expense and immense labor and industry. The result is a unique volume, containing a mass of biographical and geographical information not elsewhere available, as well as many curious and interesting facts concerning the history of the State not previously known.

Now, as to my own misapprehensions: My review was written somewhat hastily and I did not grasp what the author considers the essential feature of the book's organization. I will quote the author's own words upon this subject: "It [the book] is made up, in the main, of a series of sketches which outline the origin and history of the county names of Texas, grouped and correlated in such a way as to indicate their place in a general

perspective of the State's history. It is not, and does not purport to be, a history of the different counties of the State, nor does it purport to be a history of the State, except in so far as that is involved in county names" (Preface). This plan explains why Nolan is included in Chapter I; it is to that period that his connection with Texas history belongs. Similarly Stephens and Young are grouped in Chapter XV with other names that became prominent during the Civil War. Had they died before the Civil War, their sketches would have been placed in some other group. Atascosa, Bosque and other Spanish names excluded from Chapter I are included in Chapter XVII because they are geographical terms. This plan of the book also invalidates the remark about the length of the book's title, and the date of the naming of a county may safely be disregarded.

The sketches are good. The introductory paragraphs are good. The grouping of the sketches into chapters is successful in some chapters. In the application of this plan to all the sketches, however, results are produced which in the opinion of the reviewer will always make it a question whether the advantages of such an arrangement overbalance the disadvantages.

E. W. WINKLER.

Davy Crockett. By William C. Sprague. (New York: The Macmillan Company, 1915. ["True Stories of Great Americans" series.] \$0.50.)

This is a truly interesting narrative of the man whose name is emblazoned upon the history pages of Texas and whose memory is perpetuated through his glorious death in the Alamo.

The book, however, in one or two places, is at variance with events recorded in Texas history. It is regrettable that the author says, on page 146, that "in 1833 the Americans in Texas decided to strike for independence," because, according to Texas history, they didn't. During that year the Texans took steps to obtain separation from Coahuila in order to establish a separate government, but no attempt was made to secure independence from Mexico. Without mentioning dates, the author, a little farther down on the same page, says, "The revolution was now on. The Americans organized a government: Henry Smith was elected

governor, and Sam Houston was made commander-in-chief." Smith and Houston were chosen to their respective offices by the Consultation in November, 1835, and not in 1833, as the book would lead one to believe. The fact that in the same paragraph it is stated that San Antonio was taken December 10, 1835, does not remove the obscurity in dates.

Again, on page 147, the author says the Texas Declaration of Independence was issued December 20, 1835, at Goliad. Nowhere does he mention the Declaration of Independence issued at Washington on the Brazos March 2, 1836. The reader of the book must bear in mind that up until March 2, 1836, the Texans were fighting for Mexico—fighting to preserve the Constitution of 1824—against Santa Anna's usurping power. As none of the members of the Alamo garrison knew independence had been declared, they did not know they were dying that an independent republic might rise from their ashes.

JAMES C. OSLIN.

Martin Ruter. By Ernest Ashton Smith. (Cincinnati: Methodist Book Concern, 1915. Cl. 18mo. Pp. 127. Portrait. 25 cents, net.)

In the pages of this little book is sketched briefly, in broad outline, the character of this pioneer Methodist missionary. Very little is added to the information concerning Ruter's work in Texas, contained in Dr. Cody's article in the *Texas Methodist Historical Quarterly*, I, 7-38, but Professor Smith's chapters on "The youthful itinerant," "The self-taught scholar," "The educational pioneer," "The editor and author," and "The president of Allegheny," give one a perspective that lends a new interest to Ruter's work. The cause of the Texans appealed so strongly to him that in May, 1836, while president of Allegheny College, he tendered to the General Conference his services as a missionary to that country. He crossed the Sabine November 23, 1837, and was claimed by death at Washington on the Brazos May 16, 1838. During the brief period of his ministry in Texas he labored incessantly for the cause of the gospel and of education.

W.

Texas Governors' Wives. By Pearl Cashell Jackson. (Austin: E. L. Steck, 1915. Pp. 156. Illustrated. \$2.00 net.)

The twenty-three sketches composing this book were first published in the *San Antonio Express*. They are well written, represent a good deal of research, and incidentally throw interesting sidelights on the gubernatorial history of the State. Frances Cox Henderson, wife of the first Governor of Texas, forms the subject of what is in many respects the most interesting sketch in the book. She is said to have been able to translate twenty-eight languages, and to have spoken twenty-two of them. She was married in Paris while Henderson was Texan minister to England and France. After her husband's death she returned to Europe, where she remained during the Civil War. One of her daughters married an Austrian count, and two of her grandsons are now officers in the Austrian army and navy.

Texas in the Middle Eighteenth Century, by Herbert Eugene Bolton, 501 pages, illustrated, \$3.50, is announced by the University of California Press. The chapter titles give an idea of the scope of the work: I. A General Survey, 1731-1788; II. The San Xavier Missions, 1745-1758; III. The Reorganization of the Lower Gulf Coast, 1746-1767; IV. Spanish Activities on the Lower Trinity River, 1746-1771; V. The Removal from and the Reoccupation of Eastern Texas, 1773-1779; VI. Bibliography. Some of these chapters are revised and enlarged treatments of topics previously covered by Professor Bolton in *THE QUARTERLY*.

Explorations of the Northern Frontier of New Spain, 1535-1706, and *Texas and Adjacent Regions in the Eighteenth Century* are the titles of two maps compiled by Professor Herbert E. Bolton, and published by the University of California Press (Berkeley). The price is ten cents each.

Famous Living Americans, by Mary Griffin Webb and Edna Lenore Webb, published by Charles Webb & Co., Greencastle, Ind.,

1915, contains (pages 375-84) an interesting biographical sketch of Mrs. Percy V. Pennybacker, President of the General Federation of Women's Clubs. The sketch is written by Grace Julian Clarke, a member of the board of directors of the General Federation. A photograph of Mrs. Pennybacker and a short list of the sources upon which the writer has drawn accompany the biography.

NEWS ITEMS

The University of Texas Library has bought for the Littlefield Collection a file of the *National Intelligencer* (Washington) from 1823 to 1866.

Miss Julia M. Pease has deposited in the Library as a loan four volumes of the *Texas State Gazette* (Austin), extending from August, 1849, to August, 1857.

Mr. S. W. Farrow, of Hico, Texas, who served through the Civil War in the Nineteenth Texas Regiment, Walker's Division, has presented to the Library a collection of eighty-five letters written, mostly by himself to his wife, during the period of the war.

During October, 1915, many newspapers of the State gave prominence to the recovery by the State Comptroller of large quantities of canceled and uncanceled currency of the Republic of Texas which had been stolen from the basement of the Capitol and sold to dealers in curios and antiquities. It appears from a detailed article in the *Sweetwater Daily Reporter* of October 13, 1915, that Hon. R. C. Crane, postmaster at Sweetwater, and a vice-president of the Texas State Historical Association, discovered the theft and conducted the investigation which led to the recovery of the currency.

AFFAIRS OF THE ASSOCIATION

The annual meeting of the Texas State Historical Association will be held at Austin, March 2, 1916, at 10 o'clock in the Main Building of the University, room 158. A meeting of the Executive Council and of the Fellows will precede.

THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XIX

APRIL, 1916

No. 4

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

THE SPANISH SEARCH FOR LA SALLE'S COLONY ON THE BAY OF ESPIRITU SANTO, 1685-1689

WILLIÁM EDWARD DUNN

So much has been written about the work of La Salle in America, and of his fruitless settlement on the coast of Texas, that a word of explanation may not be amiss in presenting an additional article on the subject. Although the main facts of La Salle's last enterprise have been made familiar by Parkman and more recent writers, practically nothing has hitherto been written of the Spanish attitude toward his settlement in the light of the original sources in the archives of Spain.¹ The writer feels justified, therefore, after an investigation of some nine months in the General Archive of the Indies, at Seville, in contributing an article based upon the new material which he has discovered. No attempt will be made at this time to review even in brief fashion the well-known facts of La Salle's settlement in Texas, although additional light is shed thereon by the new material now

¹In the September (1915) number of the *Mississippi Valley Historical Review*, Professor H. E. Bolton discusses the location of La Salle's colony in Texas, identifying the site of Fort Saint Louis beyond all further doubt. Although based upon material from Spanish archives, his contribution is chiefly of a geographical nature, and does not treat of the period covered by the present paper. Bancroft, in his *North Mexican States and Texas*, Volume I, devotes less than a page to the Spanish search for La Salle (exclusive of Leon's expedition of 1689), and his brief account is almost wholly incorrect. Clark's *Beginnings of Texas*, the most exhaustive study hitherto published in this field, adds little to Bancroft's account, and repeats some of the latter's errors.

available. This paper will be confined instead to an account of the way in which the first reports of La Salle's activities reached Spain and Mexico, and of the elaborate search made by the Spaniards for the French settlement during the years 1685 to 1689.²

The First News of La Salle's Colony Received in Mexico and Spain

It is rather surprising that the first news that reached Spain concerning La Salle's expedition in 1684, which resulted in the founding of a French colony on the coast of Texas, should have come by way of America instead of through regular diplomatic channels in Europe. But such seems to have been the case. So well was the secret guarded in France that no inkling of La Salle's enterprise seems to have penetrated to the Spanish court until despatches from Mexico reached the Council of the Indies more than a year and a half after La Salle and his followers had sailed from La Rochelle.

This ignorance seems the more remarkable when it is remembered that at the time of La Salle's preparations Spain was upon her guard against threatened encroachments upon her colonies in America. The policy of France toward the corsair settlements on the northern coast of Santo Domingo and the neighboring islands had made Spain justly suspicious of the intentions of her neighbor. Although France had at first disavowed the action of her adventurous subjects in establishing themselves in the oldest of the Spanish colonies in America, the royal jurisdiction had finally been extended over the pirate settlements. A governor was appointed, and French courts erected in the capital, Petit Gouave, and three other towns. From this center of French influence a horde of pirates began to descend upon the coasts of Spanish America, inflicting enormous damage upon defenceless seaports, fleets, and galleons. Although the French crown claimed that it was unable to control these turbulent subjects, little doubt was

²This paper may be considered as the first fruits of a movement headed by the University of Texas to exploit the archives of Spain for material bearing upon the history of Texas and other portions of the Southwest. Transcripts are now being made of such material in the General Archive of the Indies at Seville, copies of which will be deposited in the manuscript collections of the University of Texas and the Library of Congress.

felt in Spain that their operations met with the approval of their sovereign.³

With the lesson of Santo Domingo before her, Spain was constantly uneasy as to the future designs of the French. In 1678, six years before La Salle's last expedition, news reached Spain concerning the efforts of the renegade Peñalosa⁴ to induce the king of France to undertake the conquest of the provinces of Quivira and Teguayo and the rich mines of northern Mexico. It was reported in Spain that Peñalosa had been assured that his proposals would receive favorable consideration as soon as France should again be at peace. Warnings were at once sent to the colonial officials of New Spain instructing them to be on their guard against the threatened aggression. No definite measures of defence were adopted, however, until 1685, when an *asiento* was granted to Martin de Echagaray, a naval captain of the presidio of San Augustine, for the settlement of fifty families in Florida, and for the exploration of the famous Bay of Espíritu Santo, said to be the finest harbor on the Gulf of Mexico.⁵ By this action it was hoped to protect the province of Florida from the ravages of French and English pirates, strengthen the hold of Spain upon the mainland north of the Gulf of Mexico, and thus anticipate any possible encroachment on the part of France arising from the representations of Peñalosa.

Yet in spite of these measures of precaution and the generally vigilant attitude of Spain, the activities of La Salle, though far more ambitious and threatening than those of Peñalosa, seem to have been absolutely unknown to the Spanish crown, and, as has been stated, the first definite information concerning La Salle's designs was received by way of Mexico many months after the

³Respuesta fiscal, June 28, 1740, summarizing French aggressions in Santo Domingo; manuscript in the General Archive of the Indies, Seville, Spain, Audiencia de Santo Domingo, estante 55, cajón 1, legajo 2.

⁴Peñalosa was a former governor of Mexico, who had suffered disgrace at the hands of the inquisition. Cf. E. T. Miller, "The Connection of Peñalosa with the La Salle Expedition," in *THE QUARTERLY*, V, 97-112, for an account of Peñalosa's activities in France.

⁵Royal cédulas of December 10, 1687, and August 2, 1685; Audiencia de México, estante 61, cajón 6, legajo 20. The complete *autos* of the Echagaray enterprise are found in this *legajo*. Unless otherwise stated, all citations throughout this paper will be understood to refer to this same *legajo*.

settlement of the French on Spanish territory had become an accomplished fact.

The way in which the secret of La Salle's colony came to light, hitherto only vaguely and incorrectly stated, was as follows: While returning from a fruitless treasure hunt to South American waters in the summer of 1685 Admiral Gaspar de Palacios, pilot-major of the Indies, encountered a large fleet of pirate vessels off the coast of Yucatan. He was pursued for some distance, but succeeded in escaping to Vera Cruz, whence he notified the viceroy, Conde de Paredes, of the proximity of the pirates, and of the threatened danger to the coast towns. On July 6 the corsairs, to the number of about seven hundred and fifty men, led by the notorious Agramont (or Grammont), entered Campeche, and sacked and burned the city. They remained there for fifty-seven days, until forced to retire by the arrival of a relief expedition. On September 10 one of the corsair vessels⁶ was captured by the *armada de barlovento* (windward squadron) under General Andrés Ochoa de Zárate,⁷ and taken to Vera Cruz with one hundred and twenty prisoners on board. It was during the course of the examination of these prisoners that evidence was received that a French colony had been planted on the coast of the Gulf of Mexico.⁸

Although this alarming news was contained in the declarations of several of the pirates, the most detailed information was given by a young Frenchman, who claimed to have been a member of the colony that had been established. On October 27, 1685, this

⁶The name of the vessel was Nuestra Señora de la regla, and it was commanded by the French captain, Pierre Bart.

⁷Ochoa died shortly afterwards, and was succeeded by Admiral Antonio de Astina.

⁸Gaspar de Palacios to Don Pedro de Oreytia, president of the Casa de la Contratación, November 17, 1685; Antonio de Astina to the king, November 18, 1685; *auto* of Astina, October 27, 1685, in Testimo de los Autos, y diligencias fechas por el gouo. de la Nua. esp. sobre el reconocimiento. de poblazon de franceses en la Bahia del Espiritu Sancto, 4-5, Audiencia de México, estante 61, cajón 6, legajo 20; Joseph de Murueta Otalora and Francisco Garcia de Arroyo to the viceroy, October 29, 1685, *Ibid.*, 2-3.

The date of the capture of the corsair vessel has usually been given as September, 1684, instead of 1685, and this mistake has caused writers to represent that more than a year elapsed before the first expedition was sent out to search for the French. Cf. Clark, "The Beginnings of Texas," 14 (*Bulletin of the University of Texas*, No. 98); Bolton, "The Location of La Salle's Colony on the Gulf of Mexico," *Mississippi Valley Historical Review*, II, 169; Bancroft, *North Mexican States and Texas*, I, 399.

individual was subjected to a special examination. In reply to the usual preliminary questions, the witness said that his name was Denis Thomas; that he was a native of Longueville, near Dieppe; twenty-two years old; and lately page in the service of the Marquis de Greville. About a year before, he said, he had sailed from France on a royal frigate commanded by a Captain Bonchiut (Beaujeu), in company with three other vessels, which carried all necessary supplies for the founding of a settlement at a place called Mississippi.⁹ The colonists numbered about two hundred and fifty persons, including two companies of infantry, seven priests, and men of various trades and professions. Only four women were taken along, as it was understood that the Indian women would serve as wives. On October 28, 1684, the expedition arrived at Petit Gouave, the capital of the French settlements, on the northern coast of Santo Domingo. Shortly before arriving, there a ketch laden with provisions was captured by the Spaniards,¹⁰ and the expedition was forced to remain at Petit Gouave for more than two months in order to secure additional supplies. During this delay, Thomas said, he decided to abandon the colony and return to France, as he had heard that the voyage would be a very long one. Finding himself without

⁹This name is usually written "Micipipi" in the documents I have used.

¹⁰The writer has taken special pains to obtain some light upon the capture of La Salle's ketch, the Saint-François, but has been unable to find any formal report concerning the incident. According to survivors of La Salle's colony captured in Texas some years later, the ketch had fallen behind the other vessels, and was captured by four pirogues manned by Spaniards (Declaration of Jean de l'Archêvêque, in Autos y Diligencias q se an Executado pr. el Capn. Alonso de Leon . . . sobre el descubrimto de Vna poblazon de franceses q se dijo hauia en el Seno Mexicano, 60; declaration of Pierre Meusnier, in Testimonio de autos en orden a las dilixs. y resulta de ellas pa la entrada a los Paraxes de la Vahya del Spiritu sto, 58). Andres de Pez and Juan Enriquez Barroto, who made several expeditions in search of the French, declared in 1687 that they had sailed with some of the men who had captured the ketch, and that a report of the capture had been sent to Spain (Marginal annotations by Pez and Barroto, in Copia de relacion hecha al Rei Xmo tocante a la Vahia del Spiritu ssto). Whether the capture was really reported to Spain is still a matter of doubt, but it is practically certain that no connection was seen between the incident and La Salle's enterprise until much later. Bancroft has confused the ketch with the pirate vessel captured by General Ochoa, and says: "Information of La Salle's projects was obtained in 1684, probably from the crew of the captured St. François, though she is mentioned as a French corsair taken on the coast of Yucatan" (*North Mexican States and Texas*, I, 399).

employment, he had embarked in the corsair vessel which had been captured and taken to Vera Cruz.

These personal details having been disposed of, the Spanish officials endeavored to learn something more definite concerning the French colony itself. Upon being asked who had discovered the place called Mississippi, and when, Thomas replied that a Frenchman named Monsieur de Salas had discovered it after a search of eighteen years, having made his way from New France to a large river, which he had descended for five hundred leagues until he reached its mouth and the open sea. He had then returned to France, where the king, as a reward for his success, had presented him with a small chest filled with *luis d'ors*, had given him the title of Marquis, and made him viceroy of the country he had discovered. Thomas said that he had heard that Monsieur de Salas had left seventeen men in a fort which he had built on the large river; and that he had planned to conquer some rich mines not far from Mississippi, for which reason the cannon had been brought along. The witness stated that he had heard all of these things from a servant of M. de Salas, named La Esperanza; but that his informant had refused to reveal the exact location of the place at which they were to settle. Many other questions were asked the prisoner, and further details were brought out in regard to the settlement. As the general facts of his story were corroborated by the declarations of several other prisoners, the officials at Vera Cruz were forced to conclude that a French colony had actually been founded within Spanish territory.¹¹

Great was the surprise and consternation caused by this disquieting news. Maps were hurriedly consulted, and attention focussed upon the little-known interior of North America and the equally unfamiliar coast line of the Gulf of Mexico. Although the Spanish officials were completely ignorant of this region, they could see from the map that there was only one river leading from New France to the Gulf of Mexico along whose course one could travel for five hundred leagues. That was the river shown on

¹¹Declaration of Denis Thomas, October 27, 1685, in Testimo de los Autos, y diligencias fechas por el gouo. de la Nua. espa. sobre el reconocimiento. de poblazon de franceses en la Bahía del Espiritu Sancto, 5-13. The full testimony of the pirates examined at Vera Cruz may be found in Audiencia de México, estante 60, cajón 2, legajo 4, 668 folios. Complete details are given in regard to the attack upon Campeche.

the maps of the period as the "Rio del Espiritu Santo." At its mouth was shown the famous Bay of Espiritu Santo, designated by old cartographers as the only good harbor on the northern coast of the Gulf. Admiral Palacios, experienced pilot and navigator, was not long in concluding that the probable site of the French settlement was on this very bay. When he estimated the distance from this place to the various ports of Mexico and Florida, finding that it was only one hundred and twenty leagues from Apalache, one hundred and sixty-five from Tampico, and one hundred and ninety from Vera Cruz, the dangerous proximity of the French colony was immediately realized. From the Bay of Espiritu Santo the French would be able to attack the fleets of the Indies and threaten the whole kingdom of New Spain. Palacios thought that immediate and vigorous action was imperative. He therefore drew up a report to the viceroy, suggesting that steps be taken to ascertain the exact location of the French settlement, and that armed forces be sent to destroy it. The first measure, he thought, would not be difficult. Two fishing boats, with twelve men each, could easily be sent out from Vera Cruz to examine the Gulf coast; and a similar expedition could also be made, with even more facility, from Havana, as the officials there were more familiar with the region in question.¹² The report of Palacios and letters from other officials at Vera Cruz,¹³ who concurred in his opinion, were sent to the capital by special courier, arriving there on November 3. The documents were immediately sent by the viceroy to the fiscal, and a *junta general extraordinaria* was summoned to meet as soon as the latter official should conclude his report. The fiscal was at once impressed with the gravity of the facts disclosed by the declarations of the pirates. The evidence left little doubt, he thought, that a French settlement had been made on the Bay of Espiritu Santo. He recommended, therefore, that the suggestions of Palacios should be adopted, and a suitable person sent from Havana to spy out the location of the French. In the meantime, all available naval forces should be made ready for action. The fiscal made no recommendation in regard to an

¹²Palacios to the viceroy, October 27, 1685, Testimo de los Autos, y diligencias fechas, 14-18.

¹³The complete *autos* are in *Ibid.*, 1-18.

expedition from Vera Cruz, as he understood that Palacios had suggested the one from Havana as a preferable alternative.¹⁴ On the following day the meeting extraordinary of the viceroy's advisory council was held, and the recommendations of the fiscal adopted. The viceroy accordingly ordered, on the same day, that Admiral Palacios should select a suitable person to proceed to Havana, where a vessel and the necessary supplies would be furnished for the proposed expedition. All arrangements were left in the hands of Palacios, and the other officials at Vera Cruz were instructed to co-operate with him to the fullest extent.¹⁵

A week later the order of the viceroy had reached Vera Cruz, and preparations were begun for the expedition. Two pilots of the *armada de barlovento* were selected to make the voyage. Juan Enriquez Barroto, chief pilot of the frigate, Nuestra Señora de la Soledad, was chosen as leader. He was an experienced draughtsman as well as a practical pilot, and, it was said, a man of proved intelligence. Antonio Romero, associate pilot of the flagship of the *armada*, was chosen to accompany Barroto, as he had made many voyages from Havana to Apalache, and was familiar with that portion of the route. With instructions from Palacios for their guidance, Barroto and Romero left Vera Cruz in a private ship on November 21, bearing orders from the viceroy to the governor of Havana for the fitting out of a vessel for the voyage of exploration. Palacios continued to urge the necessity of sending out another expedition from Vera Cruz, lest the vessel of Barroto and Romero might meet with misfortune, but he was unable to find a suitable person to command this additional enterprise, and nothing was done in the matter. Instead it was decided to supplement the expedition from Havana by an exploration overland from the northern frontier of New Spain, an account of which will be given in due time. Little seems to have been expected from the land expedition, however, and it was chiefly upon the efforts of Barroto and Romero that the viceregal authorities based their hopes for the speedy discovery of the colony planted by La Salle.¹⁶

¹⁴Respuesta fiscal, November 4, 1685, *Ibid.*, 18-21.

¹⁵Decree of the viceroy, November 5, 1685, *Ibid.*, 24-29.

¹⁶*Ibid.*, 48-76. In a letter to the viceroy, dated November 26, 1685, Palacios suggested that since the *armada de barlovento* would not be in

Before taking up the series of expeditions that were sent out from Mexico to search for La Salle's settlement, it will be interesting, perhaps, to note the effect produced in Spain by the news of the occupation of the Bay of Espiritu Santo by the French. The first reports reached Spain about the middle of March, 1686. They were conveyed by a special ship (*navio de aviso*) despatched by the general of galleons from Havana, and consisted of letters from Admirals Palacios and Astina and the governor of Havana. These letters stated briefly the facts brought out by the declarations of the pirates at Vera Cruz, and told of the expedition that was being made ready to search for the French.¹⁷ The matter first came before the Council of the Indies at its meeting of March 27, 1686, but action was delayed, in accordance with the usual routine, until a *relator* could examine the documents, and present a summary to the Council. Thus it was not until April 2 that the Council was able to give its serious consideration to the matter.

In Spain, as in Mexico, there was little disposition to doubt the truth of the reports received. Indeed, as has been seen, an aggressive movement by France against the Spanish colonial possessions had been feared for many years. It seems to have been expected, however, that France would work through the medium of the pirates who infested the Gulf of Mexico, just as she had done in the case of Santo Domingo. It was therefore generally believed in Spain, at first, that the reported settlement must have been the work of the most prominent of the corsairs, Agramont. A few days after the official reports from Mexico reached Spain, however, the Council of the Indies received a letter from a trustworthy person in Cadiz, who stated that he had received private advices from Paris to the effect that about a year before five ships had been sent out by the king of France for the purpose of founding a new colony in America. This additional news, following so closely the reports from Mexico, left little doubt in the minds of the members of the Council that a general offensive

condition to put to sea for several months, and that since, in the meantime, the French might receive reinforcements, four vessels then available at Vera Cruz should be utilized to make the attack without delay. No action seems to have been taken in regard to this proposal (*Ibid.*, 54-56).

¹⁷Palacios to Oreytia, November 17, 1685; Astina to the king, November 18, 1685; Munibe to the king, December 29, 1685.

against Spanish America had been inaugurated by the French crown itself, and that the first move thereof was the establishment of the colony on the Bay of Espiritu Santo.¹⁸

The great alarm felt in Spain is clearly shown by the proceedings of the Council of the Indies at its session of April 2. The occupation by the French of such an important region as the Bay of Espiritu Santo was characterized as a most critical matter, and as a movement which threatened the safety of the Indies and the whole Spanish monarchy. Although, the Council concluded, the viceroy of Spain, Conde de Paredas, had doubtless done all in his power to safeguard the royal dominions, it was feared that the forces at his disposal were not sufficient to enable him to expel the French in case they had fortified their settlement. It was necessary, therefore, that reinforcements should be sent from Spain without an instant's delay in order to "pluck out the thorn that has been thrust into the very heart of America."¹⁹ The Council then proposed that two frigates of the *armada del oceano* should be made ready, with the greatest possible number of men and arms, and sent to New Spain. In order to allay suspicion, these vessels should go under the guise of convoys for the fleet that was soon to sail, bearing the new viceroy, Conde de la Monclova, who had been appointed to succeed the Conde de Paredes. Although these measures would necessitate the postponement of an expedition then being prepared for the purpose of relieving the Isthmus of Darien from the ravages of pirates and Indians, there was no other alternative, the Council believed, as the expulsion of the French from the Bay of Espiritu Santo was a matter of supreme importance, to which all other plans should be subordinated. Finally, the Council recommended that the new viceroy should be authorized to use all available forces, even delaying the return of the annual fleet if necessary, in order to expel the French, and that a fort should be built on the Bay of Espiritu

¹⁸*Consultas* of the Council of the Indies, April 2 and April 8, 1685.

¹⁹Por todas estas consideraciones, y otras muchas que se ofrecen a la Junta y porque prepondera la ymportancia deste negocio como el mas critico y en el que se abentura la Conserbacion de las Yndias y de toda la Monarquia de V. Magd. en cuyo pronto remedio conviene ganar las oras, para desarraygar esta Espina que se a Yntroducido en el Corazon del Cuerpo de la America . . ." (*Consulta* of April 8, 1686, *acordada* on April 2, p. 7; i. e., the formal *consulta* was dated April 8, but action was taken on April 2).

Santo if such action seemed necessary in order to maintain the rights of Spain.²⁰

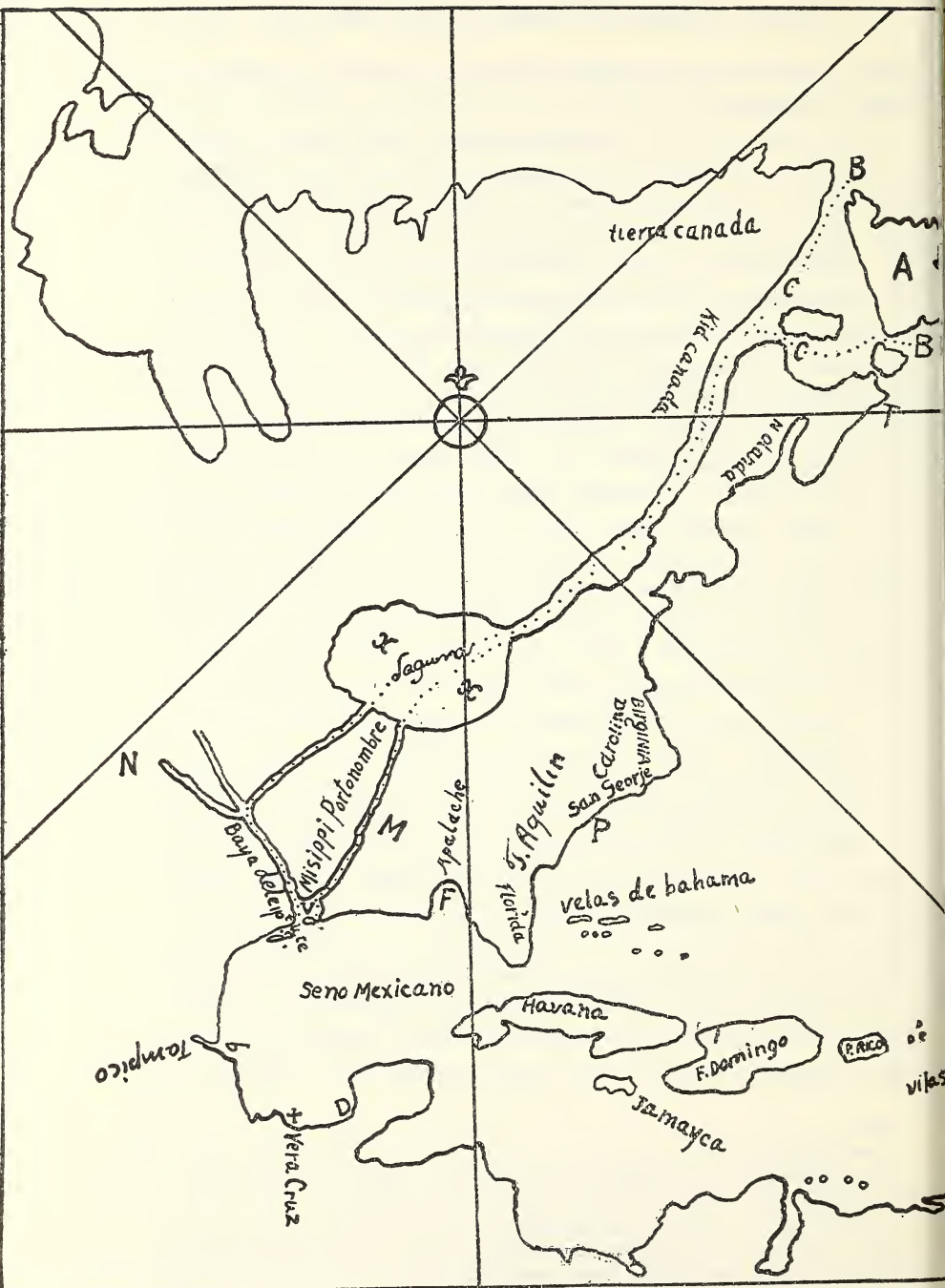
At the same meeting orders were given to the House of Trade at Seville to endeavor to ascertain the whereabouts of Martin de Echagaray, with whom an *asiento* had been made in the previous year for the exploration of the bay now said to be occupied by the French,²¹ and to obtain from him a report as to the status of his enterprise, together with any information that he might be able to give concerning the location of the bay.²² Echagaray was found in Cadiz, and was summoned to Seville to make the desired report. He stated that he had never been in the Bay of Espiritu Santo himself, but had acquired his information concerning it from certain Indians in the mission at Apalache, who lived near the bay. He drew a map showing the general location of the bay, however, based upon his general knowledge of the region. An examination of the map, which is reproduced herewith, will serve to show how little was known by the Spaniards of the interior of North America. The letter "A" represents the Island of Newfoundland. The two mouths of the "Rio de Canada" are designated by the letter "B." The two branches join at "C," and the river has its source in a large lake, designated by the letters "X." Two rivers are shown leading from this lake to the Gulf of Mexico and emptying into the Bay of Espiritu Santo, or "Misipipi," designated by the letter "V." Echagaray said that La Salle had probably reached the great inland lake, had discovered the mouth of one of the rivers flowing toward the south, and that thus inevitably emerged in the Gulf of Mexico at the Bay of Espiritu Santo.²³ If the French had really settled in this region, he said, it was easy to see that they would soon become masters of the whole Gulf of Mexico, and would destroy the commerce of the colonies. In regard to his own enterprise, he confessed himself unable to carry out his agreement to explore the

²⁰*Ibid.*, 1-9.

²¹See page 325.

²²The Secretary of the Council of the Indies, to Don Pedro do Oreytia, president of the Casa de la Contratación, April 2, 1686.

²³Echagaray said that he had obtained this information from the boatswain of a ship at Cadiz, who had been captured by the French, taken to Petit Gouave, and reached Spain again by way of France. The French themselves had told this man of the interior lake.



Traced from a photograph of Martin de Echagaray's Map of April 20, 1686 (Aud. de Mexico, estante 6, cajón 6, legajo 20, archives of Seville)

Bay of Espiritu Santo, on account of the desertion of his financial backers.²⁴

Echagaray's report and map were submitted to Don Juan Cruzada de la Cruz, pilot-major at Seville, who gave his opinion in the matter. The map clearly showed, that official said, the dangerous proximity of the French. He advised that no chances should be taken, but that reinforcements should be sent to New Spain as had been suggested. Since the French had no right to intrude in the dominions of the king, they might be expelled, he thought, without violating the terms of the truce then in force between France and Spain.²⁵

No reasons having been found to alter the plans recommended by the Council of the Indies as embodied in its formal *consulta* of April 8, the king duly adopted the suggestions made, and orders were given to send the proposed reinforcements. On account of various accidents, the sailing of the regular fleet was postponed, and instead only one vessel was ordered to be sent, bearing the new viceroy and the quicksilver indispensable for the operation of the mines of Mexico. This vessel was to be convoyed by the two frigates, which were to be used in the operations against the French. Instructions were drawn up for the Conde de la Monclova on June 25, in accordance with the suggestions of the Council. After consulting with the pilots who had been sent out by the Conde de Paredes, he was to utilize all available forces to expel the French, and build a fort on the Bay of Espiritu Santo if such action seemed advisable. Monclova sailed shortly after receiving his instructions, thus bearing the direct authorization of the king to spare no efforts to find the French and drive them from the territory that they had usurped.²⁶

²⁴Report of Echagaray, accompanied by map, dated April 20, 1686, 3 pp.; Echagaray to Oreytia, April 22, 1686, 3 pp.; Oreytia to Otalora, April 9 and 22, 1686. Echagaray signed his name, "Echagarai."

²⁵Juan Cruzado de la Cruz y Messa to Oreytia, April 20, 1686, 2 pp.

²⁶Conde de la Monclova to the king, December 30, 1686.

Although later advices from the Spanish ambassador in London indicated that little was to be apprehended from La Salle's colony, no definite proof of this statement was forthcoming; and as long as the slightest doubt remained, the Spanish crown fully approved of the many expeditions that were sent out from Mexico to find the French settlement. The writer has under preparation a paper showing Spanish diplomacy at the English court in connection with this subject, which will throw

The First Maritime Expedition in Search of the French

It will now be necessary to return to the situation in Mexico, and show the results of the first efforts made to find the colony of La Salle before the arrival of the Conde de la Monclova. These efforts consisted of the maritime expedition from Havana, and land expeditions from Nuevo Leon and Florida.

As has been stated,²⁷ the pilots, Juan Enriquez Barroto and Antonio Romero, left Vera Cruz on November 21, 1685, bearing orders from the viceroy, Conde de Paredes, to the authorities at Havana for the equipping of a vessel for their voyage. They arrived in Havana on December 3, and delivered the viceroy's orders to Don Andres de Munibe, acting military governor of the port. No time was lost in beginning preparations. As no royal vessel was available, it was necessary to charter one from a private individual. An inspection was made of all ships in the harbor, and a frigate with the verbose name of Nuestra Señora de la Concepción y San Joseph was selected as most suitable for the voyage. It was not ready for sea, however, and a delay of several weeks ensued before the necessary repairs were concluded. Provisions were taken for ninety days; additional cannon secured; and a canoe purchased, to be used in landing at shallow places along the coast. The governor furnished a crew of forty-two men, and this number was increased to fifty-two by the enlistment of various volunteers who were willing to accompany the expedition without pay. Among these was the pilot, Juan Jordan de Reina, who some years later was to play a prominent part in the establishment of the presidio of Santa Maria de Galve, on Pensacola Bay. He wrote a diary of the voyage, which up to this time is the only one that has been discovered.²⁸

Everything finally being in readiness, the vessel set sail on January 3, 1686. It was no ordinary voyage upon which these men were embarking. For more than a century the coast of the Gulf of Mexico between Tampico and Apalache had been very

new light upon the French attitude toward La Salle, and discuss possible reasons for the apathy with which it was regarded.

²⁷See page 330.

²⁸The complete *autos* concerning the preparations in Vera Cruz and Havana are in Testimo. de los Autos, y diligencias fechas, 77-150.

rarely frequented by the Spaniards, and the little information that had once been possessed concerning it had now been almost entirely forgotten. The chief reliance of Barroto and Romero were the instructions given them by Admiral Palacios in Vera Cruz. They were ordered to proceed first to Apalache, where native pilots should be secured. Every indentation in the coast beyond Apalache should be carefully examined, note being taken of the depth of the water and of the position of the vessel at frequent intervals. Upon arriving at Apalachicola River they were to endeavor to learn from the Indians whether anything had been seen or heard of a settlement of white men at the mouth of the Mississippi River, on the Bay of Espiritu Santo. As the Apalachicola was supposed to be only about forty leagues from this bay, great caution should be exercised after passing that river. They should sail only at night, seeking the shelter of the land by day, both in order to escape observation and to question the natives concerning the French. They should take care to arrive at the Bay of Espiritu Santo during the night. Drawings should be made of its situation, and every detail of its topography noted for the benefit of the attacking squadron. Finally, it was ordered that a detailed diary should be kept of each day's happenings.²⁹

These instructions were adhered to as closely as possible. On January 17 the vessel anchored in Apalache Bay, having been delayed several days on account of stormy weather. The acting lieutenant-governor of Apalache visited the ship a few days later. He warned the pilots not to place too much confidence in the Indians at Apalachicola, as they had been angered by the action of the governor in sending out expeditions to expel some English adventurers who were trading with the natives of that region. Two Indians, said to be familiar with the coast, were taken on board at Apalache, and on January 30 the voyage was continued. The Apalachicola was soon reached, but a strong wind prevented them from entering the river. On February 6 the ship arrived at Pensacola Bay, which, according to our diarist, Jordan, was "the best bay I have seen in my life." A visit was paid to the village of the Panzacola³⁰ Indians, who received the Spaniards

²⁹Instruccion y derrota que ha de observar y guardar Juan Enriquez Barroto y Antonio Romero, November 13, 1685, in *Ibid.*, 40-43.

³⁰I have preserved the Spanish spelling of Indian names.

with great friendliness, bearing a cross before them. In reply to inquiries, these Indians said that they knew nothing of any settlement by white men in that region. In April of the previous year, they said, a large ship had entered the harbor, but had sailed away on the following day. They complained of the war that was being waged upon them by the Mobilas, and warned the Spaniards to be on their guard when passing by the territory of these Indians. On February 8 the voyage was continued. Two days later Mobile Bay was reached. It was found to be large, but very shallow and unfit for navigation by large vessels. Here the expedition seems to have remained until February 25, but no details of the sojourn are available. On March 4 the Mississippi River was reached, but it was not recognized as such. The "Misipipi" was supposed to empty into the Bay of Espiritu Santo, and no bay was to be seen. Instead, on account of the great quantity of trees and timber in the mouth of the river, it was called "Rio de la Palizada," a name which was to be used by the Spaniards for many years in preference to its native designation. A prominent landmark in the vicinity was christened Cape Lodo (Mud Cape). At this point a severe storm arose, which drove the vessel out into the Gulf and as far south as latitude 22°. As food was running low, it was thought unwise to attempt to return to the Rio de la Palizada in order to continue the search, and the course was directed toward Vera Cruz, where they arrived on March 13. Seventy days had elapsed since the expedition had left Havana, and in all of the distance traversed no trace had been discovered of the object of the search—the French settlement on the Bay of Espiritu Santo.³¹

Although the voyage had been practically a complete failure, Barroto and Romero were exonerated of any neglect of duty by Admiral Palacios, who assured the viceroy that they had followed instructions, and had done all that was possible under the circumstances. In his report to the viceroy, Palacios stated that he believed that had the expedition been able to continue the exploration, the Bay of Espiritu Santo and the Mississippi River would

³¹This account is based chiefly upon the diary of Juan Jordan de Reina, dated March 16, 1686, and addressed to Governor Munibe, 10 pp. General accounts of the voyage are given in a letter to the viceroy to the king, April 3, 1686, and in a letter of Palacios to the king, September 6, 1686.

have been reached, about thirty leagues west of the Rio de la Palizada. He thought it advisable, therefore, to send out another expedition to complete the exploration of the coast. He said that it was impossible, however, for large ships to navigate the shallow waters along the coast, and that it would be necessary to construct special boats equipped with oars (*barcos luengos*) for that purpose.³²

The suggestions of Palacios, although favorably reported by the factor and the fiscal, were not to be put into execution at this time. The arrival of the king's cédula of August 2, 1685, granting an *asiento* to Martin de Echagaray for the exploration of the Gulf coast and the Bay of Espiritu Santo, changed the whole situation. Here we have an excellent illustration of the difficulties of Spanish colonial administration due to the slowness of communication with the mother country. Although the enterprise of Echagaray, as has been seen,³³ had practically been abandoned by this time, the viceroy was compelled to postpone important measures in view of the belated decree of the king. Since the king himself had already arranged for the exploration of the bay at which the French were supposed to be settled, it seemed unnecessary to send out another expedition for the same purpose. The proposed voyage to complete the exploration of the Gulf coast was, therefore, postponed until a report could be received from the governor of Florida in regard to the progress made by Echagaray in his undertaking.³⁴ As a result, no definite action was to be taken in regard to a second maritime expedition during the remainder of the term of the Conde de Paredes. It now remains to give an account of the land expeditions authorized by Paredes to search for the Bay of Espiritu Santo and the settlement of the French.

³²Palacios to the viceroy, March 15, 1686, in Testimo. de los autos, y diligencias fechas, 161-162.

³³See page 334.

³⁴Informe de Sebastian de Guzman y Córdova, March 21, 1686, Testimo. de los autos, y diligencias fechas, 162-164; respuesta fiscal, March 26, 1686, *Ibid.*, 164-168; junta general, March 28, 1686, *Ibid.*, 168-174; the viceroy to the king, April 3, 1686, 8 pp.

The Search by Land from Nuevo Leon

The first suggestion for an expedition by land to search for the colony of La Salle came also from the fertile mind of Admiral Palacios. He had felt from the first that it was unwise to depend solely upon the voyage of Barroto and Romero, and when his efforts to secure a competent leader for a second maritime expedition from Vera Cruz had been unsuccessful, he conceived the idea of sending out a land expedition from the vicinity of Tampico, believing that the Indians of that region might have some knowledge of the French settlement.³⁵ His persistence finally bore fruit, and the viceroy, on November 19, 1685, ordered the authorities at Vera Cruz to report the best way of making such an expedition, instructing them at the same time to find a suitable person to lead it.³⁶

In obedience to this order, the group of officials at Vera Cruz, including Admiral Palacios, the governor, and the revenue officials of the crown, began to study the matter. They were unable to find anyone at Vera Cruz competent to lead such an expedition. In the course of their investigations, however, they learned that from the town of Monterey, in the frontier province of Nuevo Leon, it was reported to be only six or seven days' journey to the Bay of Espiritu Santo; and that certain salines had been discovered toward the north which were said to be situated on the tributaries of rivers emptying into this bay. They reported to the viceroy, therefore, that the logical person to undertake the exploration by land was the governor of the province of Nuevo Leon.³⁷

This suggestion was adopted by the viceroy, and on January 20, 1686, the governor of Nuevo Leon, the Marqués de San Miguel de Aguayo, was ordered to make the proposed expedition. In order to aid him in the search, instructions were given to remit to Nuevo Leon the documents relating to the discovery of the salines referred to by the officials at Vera Cruz, together with the instructions given by Admiral Palacios for the first maritime

³⁵Palacios to the viceroy, November 14, 1685, Testimo. de los autos, y diligencias fechas, 48-50.

³⁶*Ibid.*, 59-60.

³⁷*Auto de acuerdo*, December 3, 1685, *Ibid.*, 61-63.

expedition.³⁸ In this indirect fashion were the inhabitants of the distant province of Nuevo Leon to be enlisted in the search for La Salle's colony, thereby beginning a movement which was eventually to result in the settlement of the province of Texas.

The viceroy's despatch did not reach Nuevo Leon until June 8, 1686.³⁹ Due to some oversight, the instructions given to Barroto and Romero were omitted, and only the documents concerning the salines enclosed. These documents dealt merely with an *asiento* that had been granted in 1683 to Alonso de Leon, one of the most famous Indian fighters on the northern frontier, for the development of certain salt deposits on the Gulf coast north of Tampico, and threw no light whatever upon the location of the Bay of Espiritu Santo.⁴⁰ Since nothing was known at Monterey about this bay, the governor of Nuevo Leon resolved to call a council of the leading settlers of the province in order to discuss the matter. Couriers were despatched to the neighboring *haciendas*, and on June 11 some twenty-five or thirty frontiersmen assembled in the "royal houses" at Monterey. Although the members of the council were supposed to be familiar with the surrounding country through the many campaigns that had been made against the Indians, it was soon apparent that no knowledge was possessed concerning the Bay of Espiritu Santo beyond that which was contained in the viceroy's despatch. The settlers of Nuevo Leon were

³⁸Respuesta fiscal, December 20, 1685, *Ibid.*, 76; Junta general, January 20, 1686, *Ibid.*, 77; auto de la junta de guerra en Monterey, June 11, 1686.

³⁹The order seems to have been repeated on May 1, 1686 (*Ibid.*).

⁴⁰Some time in 1682, apparently, Alonso de Leon presented a petition to the viceroy, asking to be allowed to develop four abundant salines which he had discovered on the coast of the Gulf of Mexico. He gave his residence as Cadereita, Nuevo Leon, stating that he had served the king for twenty-eight years, first as a soldier in the *armada* of General Pablo de Contreras, and later in the pacification of the province of Nuevo Leon. While reconnoitering the coast of that province, he said, he had discovered two good ports, one on the Rio de Palmas, and the other fifty leagues away, near the salines which he wished to develop. In return for his many services to the king, he asked to be granted the use of the salines for a period of twenty years, in which time he promised to develop them, open roads, establish trade, and "reduce" the Indians. At the end of the period, all would return to the king. On December 12, 1682, the petition was considered by the fiscal, who recommended that the salines should be granted to Leon for fifteen years. The viceroy issued the corresponding decree on January 28, 1683 (*Testimo. de los autos, y diligencias fechas*, 64-74). This was the substance of the documents that had been sent to aid in the search for the French.

apparently still in complete ignorance of the region toward the north and northeast, in which direction it was decided that the bay must lie. The Rio Grande, according to the records of the council, had barely been crossed, and then only at one point—near the town of San Gregorio, about thirty-five leagues from Monterey. Beyond this river lay an unknown country, inhabited by fierce tribes of hostile Indians. The settlers felt, however, that the danger from the French was too great to admit of inaction, and they patriotically agreed to raise and equip a force of fifty men in order to explore the region beyond the Rio Grande. It was decided to assemble at the town of Cadereita on June 25, by which time the governor promised to name a leader for the expedition. The route to be followed was also discussed and agreed upon. They were to proceed directly to the junction of the Rio San Juan and the Rio Grande, and descend the latter river to the sea, thence following the coast until the French settlement should be discovered. In case the first expedition proved to be unsuccessful, it was agreed to make another attempt late in October, when the autumn rains should have ceased.⁴¹

Unfortunately no contemporary accounts have yet been found concerning the expedition thus determined upon from Nuevo Leon, and no details of the journey are available. It is merely known that Alonso de Leon was chosen leader, and that the expedition was forced to turn back on account of high water, after having reached a point on the Gulf coast some distance beyond the Rio Grande.⁴² The fruitless results of the search are stated in a

⁴¹Auto de la junta de guerra en Monterey, June 11, 1686. Shortly after the council, Governor Aguayo received word that an Indian of the Pelon tribe had arrived at a nearby *hacienda*, reporting that near the Rio Grande there lived a number of white men, who planted crops and traded with the natives. This settlement, the Indian said, was only ten days' journey from Monterey, and he promised to guide the Spaniards thither whenever they wished to go. This tale was reported to the viceroy by Aguayo in a letter of June 15, 1686, with which the *autos* of the council were remitted. The governor expressed strong hope that he would soon be able to obtain the desired information in regard to the French settlement (Aguayo to the viceroy, June 15, 1686, with enclosed *autos*, 10 pp. These documents were sent to the king by the viceroy with a letter of July 20, 1686, 2 pp.

⁴²Carta de Don Damian Manzanet a Don Carlos de Sigüenza sobre el descubrimiento de la Bahía del Espíritu Santo, in *THE QUARTERLY*, II, 254 (translated by Lilia M. Casis). The letter of Manzanet, very brief and indefinite and giving no dates, has hitherto been practically the sole

letter of the Conde de la Monclova to the king, written on December 30, 1686, in which the viceroy rays: "The Marqués de San Miguel de Aguayo, Governor of the Kingdom of Nuevo Leon, has written concerning an *entrada* which he sent out by land with sixty [sic] men to discover the Bay of Espiritu Santo, reporting, in substance, that it was unsuccessful."⁴³ The second expedition, which was not made until April of the following year, met with no better success.⁴⁴

Thus the second plan of the Paredes government to discover the French settlement also resulted in failure. But at the same time that the search from Nuevo Leon was in progress, efforts were being made to find the French by way of the province of Florida.

The Search from Florida

Before specific orders were given by the viceroy for a land expedition from Florida, the governor of that province, Juan Marques Cabrera, resolved to undertake one upon his own responsibility. The immediate incentive for his action came as a result of fresh confirmation of the reports concerning the existence of the French settlement. In May, 1686, a force of French pirates attempted to capture the presidio of San Augustine. They were defeated by the Spaniards, and forty-five of their number were summarily executed, among them their captain, Nicolas Brigaut. Before being put to death, Brigaut made a confession, in which he declared, among other things, that the French had really established a fortified settlement on the Mississippi River, near the Bay of Espiritu Santo. The town, he said, was situated about forty leagues above the mouth of the river; it had a garrison of three hundred soldiers, and was protected by twelve cannon and a coasting vessel of eight guns. Brigaut's statement seemed to corroborate quite conclusively the declarations of the pirates in

authority for the first expedition from Nuevo Leon in search of the French. According to this account, the route followed by the first expedition was due east to the Gulf, and thence along the coast, across the Rio Grande, and to the Rio Solo, where they were forced to turn back.

⁴³The viceroy to the king, December 30, 1686.

⁴⁴*Carta de Manzanet*, p. 254; the Bishop of Guadalajara to the viceroy, May 20, 1687, in Autos, Diligencias y Prouidencias Dadas sobre la Provincia de Coaguila, folio 12, Audiencia de Guadalajara, estante 67, cajón 4, legajo 13.

Vera Cruz, and Cabrera decided definitely to send out an expedition to search for the French.⁴⁵

This determination was strengthened by the recent activities of the English colonists of Carolina among the Indians of Florida. Led by one "John Henry," said to be the founder of the settlement of Saint George, English traders had penetrated as far west as the Apalachicola River, and were also thought to be aiming at the Bay of Espiritu Santo. Two retaliatory raids had been made by the Spanish garrison at Apalache in the winter of 1685-1686, and the intruders forced to retire. Governor Cabrera believed that an exploring expedition toward the west would serve not only to effect the discovery of the French settlement, but would also strengthen the hold of Spain upon the unoccupied territory that lay between Florida and Mexico, now threatened by the English as well as the French. The ambitious governor also hoped to open up an overland route to the capital of New Spain, the distance to which he believed to be greatly exaggerated.⁴⁶

Preparations for the expedition were begun in June. Marcos Delgado, an experienced soldier of the presidio of San Augustine, well versed in the language of the natives, was selected as leader. Instructions were given him to explore carefully all provinces, lakes, rivers, and bays between Florida and Mexico. He was warned to take special precautions against falling into the hands of the French. In the event of such a misfortune, however, he was to destroy all of his papers except a letter which was written by Cabrera to the viceroy for the specific purpose of deceiving the French in regard to the real object of the expedition. This letter represented it to be merely an innocent exploring enterprise. The Indians were also to be kept in ignorance of the true purpose of the journey. Cabrera really hoped to open up a route to Mexico, however, and offered a liberal reward to several soldiers who lived in the City of Mexico if they would actually deliver the letter to the viceroy. The starting point was to be from the post of

⁴⁵Cabrera to the viceroy, July 22, 1686, in *expediente* of explorations from Florida, 85; statement of Palacios, accompanying letter of Oreytia to Otalora, September 28, 1686.

⁴⁶Cabrera to the viceroy, March 29, 1686, in *expediente* of explorations from Florida, 17-20; same to same, June 28, 1686, *Ibid.*, 60-61; Cabrera to the king, October 6, 1686, *Ibid.*, 100-101.

Apalache, where Delgado was to be furnished with the necessary men and supplies.⁴⁷

Shortly after the departure of Delgado for Apalache, Cabrera received the viceroy's despatch of March 30 ordering him to report on the progress made by Echagaray, and to send in any information that he might be able to acquire concerning the French. In reply, Cabrera said that nothing had been heard of Echagaray, and that he doubted the latter's ability to carry out his contract. He told of his own action in sending out Delgado, and expressed the hope that he would soon be able to report something definite concerning the settlement of the French.⁴⁸

Delgado left Apalache on August 28, 1686, with a force of thirteen soldiers and forty natives. A diary was kept of each day's journey, the details of which, although of interest for the local history of Florida and Alabama, need not concern us here. The expedition traveled toward the northwest, through an unknown country, being compelled to blaze a trail before them. After passing through several Indian villages, and receiving their submission, on September 17 they reached Miculasa, the first settlement of the Tabasa Indians, more than one hundred leagues from Apalache. Here they were well received by the *cacique*, and on the following day six other chiefs assembled to meet the Spaniards. Delgado presented them with gifts, and told them that he was on a mission of much importance for the service of his king. He asked them for provisions, but the Indians said that they had none to give him on account of the long drought. Following the advice of these chiefs, he despatched messengers from Miculasa to the Mobilas, notifying the latter of his approach, and requesting them to gather a supply of provisions for his men. Already it was seen that the great scarcity of food was likely to endanger the success of the expedition. In a letter to Cabrera, written on September 19, Delgado gave an account of his operations, and expressed the fear that he would be unable to complete the exploration. He pointed out, however, that the expedition would have been a success if nothing more were accomplished

⁴⁷Instructions to Delgado, June 28, 1686, *Ibid.*, 62-63; Cabrera to the viceroy, June 28, 1686, *Ibid.*, 60-61; same to same, July 22, 1686, *Ibid.*, 84-87; Cabrera to the king, September 24, 1686, *Ibid.*, 98-99.

⁴⁸Cabrera to the viceroy, July 22, 1686, *Ibid.*, 84-90.

than to prove to the Indians that it was not necessary to flee upon sight of Spaniards. Four pueblos, he said, had already promised obedience to the king, and treaties of friendship had been made, through his mediation, between several hostile tribes.⁴⁹

While awaiting the return of the couriers sent to notify the Mobilas of his approach, Delgado despatched a number of soldiers to the territory of the Tiquipache, and secured a scanty portion of maize. He then proceeded on his exploration, over country "never before seen by Spaniards or by Christians," but was soon joined by the couriers, who were accompanied by the chiefs of the Mobilas and five other tribes.⁵⁰ The chief of the Mobilas said that it was useless for the Spaniards to attempt to proceed further on account of the scarcity of food. For many days, he said, his own people had been subsisting on shell-fish. In addition to this difficulty, he doubted whether the Spaniards would be able to pass through the territory of the Chatas, as a large number of that tribe were waiting to kill them when they arrived. With his food and gifts exhausted, and his men suffering from fever, Delgado decided to give up the attempt to reach the Bay of Espiritu Santo. He gave Cabrera's letter to the chief of the Mobilas, who promised to forward it to the viceroy. In reply to the questions of Delgado, this chief said that he had never heard of any settlement of Spaniards, English, or other foreigners in the country beyond his territory. Upon one occasion, a ship had descended the river which flowed into the Bay of Espiritu Santo, and some people had landed and were exploring the bay, when they were attacked by the Chatas, and more than half their number killed. The survivors had retired to a small island in the mouth of the river, and had remained there until rescued by a ship which came in from the open sea. But all of this, the chief said, had happened many years before. More definite information than this Delgado was unable to secure. Although he had found no trace of the French, however, he felt that his efforts had not been in vain. He had opened up a safe road as far as the Mobilas, he said, and had secured the obedience of eleven tribes of Indians, thus extending Spanish influence over a region completely un-

⁴⁹Delgado to Cabrera, September 19, 1686, *Ibid.*, 68-70. The pueblos "reduced" up to this time were Miculasa, Yaimamu, Pagna, and Cusachat.

⁵⁰These were the Thome, Ysachi, Yqsusta, Canuca, and Guasa tribes.

known.⁵¹ The return trip was made in the latter part of October. As soon as Cabrera learned of Delgado's failure to find the French, he began arrangements for another expedition to continue the exploration from Mobile, but his plans were later suspended. This was due to the active renewal of the search from Mexico, following the arrival of the new viceroy, Conde de la Monclova, who had fallen heir to the troublesome question of the French settlement on the Bay of Espiritu Santo.⁵²

The Second and Third Maritime Expeditions, and the First Trace of La Salle

The Conde de la Monclova arrived in Mexico in September, 1686, bringing the reinforcements sent by the king to be used in expelling the French from the territory they were believed to have usurped. As will be remembered, the new viceroy had been instructed to spare no efforts to discover the French settlement, and to build a fort on the Bay of Espiritu Santo if such action seemed necessary. Monclova soon began to manifest the energy and zeal which characterized his whole term of office. Upon his arrival at Vera Cruz he summoned the pilots, Barroto and Romero, and obtained from them full particulars of their unsuccessful voyages. Shortly afterward word arrived from the Marquis de San Miguel de Aguayo telling of the fruitless expedition made from Nuevo Leon. After discussing the situation with the officials at Vera Cruz, the viceroy decided that there was nothing to do but make another expedition, as had been originally suggested, in order to complete the exploration of the Gulf coast. Since it was unanimously agreed that it would be impossible to explore the low-lying coast in large vessels, orders were given to construct two long boats of small draught, propelled both by sails and oars, commonly called *piraguas*. Within an unusually brief time the two vessels were finished. Each was equipped with forty oars, in addition to sails, carried six cannon, and was manned by a crew

⁵¹Delgado to Cabrera, October 15, 1686, *Ibid.*, 80-83; *derrotero* of Delgado, dated October 30, 1686, *Ibid.*, 24-31.

⁵²Cabrera to the king, January 4, 1687, *Ibid.*, 15-16; Cabrera to the viceroy, January 4, 1687, *Ibid.*, 32-34; *oficiales reales* of Florida to the king, February 20, 1687, 3 pp.; Pedro de Aranda y Avellaneda to the king, June 22, 1687, 15 pp.

of about sixty-five men. The boats were christened *Nuestra Señora del Rosario* and *Nuestra Señora de la Esperanza*, respectively. The former was placed under the command of Captain Martin de Rivas, with Juan Enriquez Barroto as chief pilot; the latter under Captain Antonio de Iriarte, with Antonio Romero as chief pilot.⁵³ Each vessel carried provisions for three and one-half months. Nothing was overlooked in the equipment of this expedition, and it was undoubtedly the best-planned of the series.⁵⁴

The instructions given to Rivas and Iriarte ordered them to proceed from Vera Cruz to Tampico, where they were to secure two natives who should serve both as pilots and as interpreters. They were to examine carefully all rivers and inlets along the coast from Tampico to latitude 30°, within which distance it was confidently expected that the Bay of Espiritu Santo would be found. Provisions should be used sparingly, as there was no source of supply after leaving Tampico, and it was intimated that the viceroy would be greatly displeased if this expedition should also prove to be a failure on account of lack of provisions. Especial vigilance was enjoined, as usual, in the exploration of the Bay of Espiritu Santo itself, and a sharp watch was ordered to be kept for hostile vessels.⁵⁵

With the churches of Vera Cruz offering up prayers for the success of the expedition, the two *piraguas* set sail on Christmas Day, 1686. Tampico was reached December 28, and here the vessels were forced to remain for more than two months on account of stormy weather. In this interval, additional supplies were sent them by the viceroy. The voyage was resumed on March 7. They proceeded very slowly, keeping close to the shore, and noting carefully all features of the coast. On March 30, while explor-

⁵³Captain Rivas, being the senior officer, was given chief command, and the respective ranks of all other officers was carefully determined in order to remove any possibility for doubt. Barroto and Romero were lowest in rank, among the officers, and thus did not lead the expedition, as has been supposed.

⁵⁴The viceroy to the king, December 30, 1686, 7 pp.; Antonio de Astina to the king, January 12, 1687, 1 p. The dimensions of the *piraguas*, a list of the supplies, and other details are given in *Relacion de las dos piraguas*, 2 pp., and *Razon de lo que lleuan las piraguas*, 2 pp.

⁵⁵Instructions to Admiral Navarro to Rivas and Iriarte, December 12, 1686, 4 pp.; additional instructions of December 23, 1686, 2 pp.; Navarro to the viceroy, December 25, 1686, 2 pp. Navarro was commander of the fleet of three vessels that had brought over the Conde de la Monclova.

ing the mouth of a river, which was called Rio de las Flores, probably the modern San Antonio, the wreckage of a vessel was seen, which was judged to have belonged to the French. A few days later, on April 4, a large bay was reached, nine leagues from the Rio de las Flores, which was called San Bernardo Bay. Four leagues from the entrance of the bay, toward the northeast, another wrecked ship was found, beached upon the sand, which bore unmistakable signs of French ownership. The French coat-of-arms was still to be seen, and the fleur-de-lis could be plainly distinguished. From the state of its rigging, it was judged that the vessel had been there for more than a year. An attempt was made to learn from the Indians how it had been lost, but the interpreters were unable to understand the natives of that region, and no information was secured. A few barrels of powder and some weapons were found in the vicinity. While it was surmised that the wrecked vessels had belonged to La Salle's colony, it was not suspected that the French settlement was actually located in the immediate vicinity, and the search was continued with equal care until the Rio de la Palizada was reached. The Mississippi was again ignored as unworthy of examination. The gap left by the first expedition had thus been completed, and no bay answering to the description of Espiritu Santo had been discovered. Indeed, the Spaniards were convinced that no foreign settlement need be looked for on the low and swampy coast that they had just traversed. It was therefore reasoned that the Bay of Espiritu Santo must be further east, and that it had been passed unrecognized by the first expedition. Mobile Bay was entered on May 22, in order to see if a more careful examination would disclose further facts concerning it. Three days were now spent in exploring its waters. No great river was found flowing into it, but only six small streams, which even the piraguas could not enter. In spite of the absence of a large river corresponding to the Mississippi, however, it was decided that this bay must be the one which the French called Espiritu Santo, as it was the only one in that region which offered any inducements for settlement. Pensacola Bay was not visited, as it was so near Apalache that it was thought impossible for a foreign settlement to have been established there without the knowledge of the natives, who would promptly have informed the Spaniards. After a short stop on the coast of

Florida for provisions, the vessels proceeded to Havana, where they arrived on June 17. Vera Cruz was not reached until July 3, more than six months after the departure of the expedition. There was much joy at their safe arrival, for the long delay had caused great anxiety, and just three days before the viceroy had sent out still another expedition to search for the missing *piraguas* and to repeat the exploration of the coast.⁵⁶

The viceroy immediately summoned the leaders of the expedition to the City of Mexico for consultation. Barroto took with him the diary and map of the voyage, and the viceroy was made acquainted with the details of the search. By a strange coincidence, on the same day that the leaders arrived at the capital, the viceroy received a letter from Don Pedro Ronquillo, Spanish ambassador in London, enclosing an official account of the voyage of La Salle. This *relacion* told of La Salle's failure to find the mouth of the Mississippi River, of his landing on the coast of Texas, of the wreck of two of his vessels, and of other incidents up to the time of the departure of Captain Beaujeu for France.⁵⁷ By comparing this relation with the diary of the voyage that had just been made, the Spaniards were able to arrive at rather definite conclusions in regard to the vessels that had been found at Rio de las Flores and San Bernardo Bay. It seemed practically certain that they had belonged to La Salle, and that La Salle and his colonists had met their death from drowning, starvation, or at the hands of the natives.⁵⁸

⁵⁶The viceroy to the king, July 15, 1687, 7 pp.; Marginal annotations of Iriarte, Barroto, and Romero, July 22, 1687, in *Copia de relacion hecha al Rei Xmo tocante a la vahia del Spiritu Santo*, etc., 7 pp.; Munibe to the king, August 12, 1687, 1 p.; *parecer* of Pez and Barroto, June 12, 1689, in *Autos y Diligencias q se an Executado pr. el Capn Alonso de Leon . . . sobre el descubrimto de Vna poblazon de franceses q se dijo havia en el Seno Mexicano*, 67-69; *consulta* of the Council of the Indies, March 22, 1691, 2 p. (*Audiencia de México*, estante 61, cajón 6, legajo 21). Although a detailed diary and map were made of this second maritime exploration, they have not yet come to light.

⁵⁷The relation sent by Ronquillo was taken apparently from the official account submitted by Beaujeau to the king of France. The Spanish ambassador secured it from some unknown person in France, who stated that it had cost him more work to get it than could be imagined. It throws new light upon the landing of La Salle upon the Texas coast.

⁵⁸The viceroy to the king, July 25, 1687; *Copia de relacion hecha al Rei Xmo tocante a la vahia del Spiritu Santo que remitió el Sor. Dn. Pedro Ronquillo . . . al Conde de la Monclova . . . a 7 de febro. deste año de 1687*.

Thus the second maritime expedition, while it had not discovered the French settlement, had secured excellent evidence for believing that nothing more was to be apprehended from it. This optimistic view was expressed by the viceroy in a letter to the king, dated July 25, 1687. He said:

The whole Gulf of Mexico has been examined with the most exact diligence possible . . . without there having been found in it or on its entire coast any port, river or bay in the possession of enemies or of Europeans, or any signs of settlement or fortification anywhere. . . . Wherefore the whole monarchy of Your Majesty is to be congratulated; for, although this kingdom would never be endangered by a settlement of enemies along this coast, since they could be dislodged, it is much better that no such settlement should exist, and that the many plausible falsehoods that have been told both here and in Spain concerning this matter should be so felicitously disproved.⁵⁹

As has been stated, the long delay in the return of the *piraguas* had caused the viceroy to become alarmed as to their safety, and on June 20 he instructed Admiral Navarro to select two frigates from the squadron under his command, to search for the missing vessels. Great haste was urged, as the summer was well advanced, and it was desired to take advantage of the good weather.⁶⁰ Navarro selected Andres de Pez and Francisco de Gamarra both captains in the *armada de barlovento*, to make the voyage. Two sloops of the *armada* were utilized. The same instructions were given as on the preceding expedition. Such haste was made that the vessels were ready, and sailed from Vera Cruz ten days after the viceroy's order was received. Just three days later the *piraguas* entered the harbor. Efforts were made to recall Pez and Gamarra at Tampico, but in vain. Reports from the Indians near Tampico caused them to fear that the *piraguas* had indeed been lost, and in consequence of this news they explored the coast more carefully perhaps than they would otherwise have done. The same wrecked vessels were found at San Bernardo Bay, but no other events of importance occurred. The vessels returned in September, having accomplished no more than the expedition of Rivas and Iriarte. Their corroboration of the previous voyage thus

⁵⁹The viceroy to the king, July 25, 1687, p. 1.

⁶⁰The viceroy to Navarro, June 20, 1687, 2 pp.

added additional weight to the general conviction that La Salle's colony had met with disaster, and that nothing more need be feared from that quarter.⁶¹

The Fourth Maritime Expedition

In spite of the viceroy's confident assurances that no foreign settlement existed on the coast of the Gulf of Mexico, it is clear that some doubt still remained in his own mind in regard to the matter, for upon the unsupported statement of an unknown English pirate, a fourth maritime expedition was authorized. The responsibility for this fourth search by sea must be laid at the door of an individual named Ralph Wilkinson, who deserves to go down in the history of America in close company with Hennepin and La Hontan.

In September, 1687, Governor Munibe of Havana sent to Vera Cruz an Englishman, named Ralph Wilkinson, who claimed that he had been in a French town called Saint-Jean, situated near the coast of the Gulf of Mexico. Wilkinson was examined at Vera Cruz by Admiral Navarro, and promptly remitted to the capital. On November 21 he was examined by the viceroy, in the presence of the auditor of war and other officials, including Pez and Barroto. The declarations made by the prisoner in Havana and Vera Cruz were so conflicting that Wilkinson was forced to admit that he had not told the entire truth; but upon being assured that he had nothing to fear, he promised to tell without reservation all that he knew about the French settlement. Disregarding minor details, the substance of his story was as follows:

He declared that his name was Ralph Wilkinson; that he was forty-six years old; a native of Newcastle, England; and resident for twenty-five years in Jamaica, where he had followed the trade of ship's carpenter, embarking on many voyages to different parts of the Indies. In June, 1685, he had contracted to sail on a French vessel that had been forced to put into Jamaica for repairs. He soon learned that this ship had been sent by the governor of Petit Gouave to warn the inhabitants of a French town called

⁶¹Navarro to the viceroy, June 24, 1687, 1 p.; the viceroy to the king, July 25, 1687, 5 pp.; same to same, March 20, 1688, p. 1. A diary was kept of this voyage, but it has not been found. Bancroft calls Pez, "Andres de Perez" (op. cit.).

Saint-Jean, located near the Bay of Espiritu Santo, that the Spaniards were planning to attack their settlement. After a voyage of several weeks, they reached the latitude of thirty degrees, and anchored outside the mouth of a large river. The next day a canoe was seen approaching, containing three Indians and a Frenchman. When hailed in French they came on board, and Wilkinson found, strange to say, that the Frenchman was a friend of his named La Fleur. The captain of the ship, La Fleur, and Wilkinson soon got into the canoe, and proceeded up the river for thirty leagues, until they reached the town. The place was strongly fortified, Wilkinson said. The chief defence consisted of a castle with twenty-two cannon, garrisoned by fifty or sixty soldiers. A short distance away, there was a redoubt of eleven guns. The wharf was protected by nine guns. The population of the town, he thought, was about four hundred, but there were many *haciendas* on the river, and the total population of the region would probably reach one thousand—all French. When asked by whom the town had been founded, Wilkinson said that he thought that a Monsieur de Salas was the founder, but that he was not certain. He remained in the settlement, he said, for more than six months, during which time he became enamoured of a widow who owned a plantation on the river, and married her. Being tired of wandering around, he decided that he had found the place where he could pass the remainder of his life in tranquility. He therefore resolved to go to London to realize on some property he had there, and then return to Saint-Jean to end his days. It was while on his way to London, he said, that he had been captured by the Spaniards and taken to Havana. Wilkinson gave endless details concerning the settlement of the French, and showed remarkable ingenuity in answering the many questions that were propounded to him by the Spanish officials.⁶²

While the viceroy doubted the truth of the loquacious English-

⁶²Declaration of Wilkinson, November 21 and 22, 1687, in *expediente* entitled, El Virrey Conde de la Monclova da qta a V. M. de hauer embiado al Capn. Dn Andres de Pez en un Patache de la Armada a repetir el reconocimiento del Seno Mexno por una Declarazion q hizo un Ingles diciendo hauer estado en la poblazion que franzeses tenian en la Costa de tierra adentro 40 leguas, pp. 5-23. Wilkinson's declaration in Havana is found in *Ibid.*, 24-29; and that made in Vera Cruz, *Ibid.*, 29-34. The first examination in the city of Mexico lasted for seven hours, and had to be suspended until the following day.

man's story, he was unwilling to take any chances in a matter which had caused the king such great concern. He decided, therefore, to send out another expedition, guided by Wilkinson, to search for the town of Saint-Jean. Wilkinson recklessly assured the viceroy that he would find the river and the town again, or lose his head in the attempt. Juan Enriquez Barroto and Captain Andres de Pez were now called upon again, and ordered to embark in one of the vessels of the windward squadron. They were instructed to explore only the region that lay within latitude thirty degrees, where Wilkinson said the entrance to the river would be found.

Pez and Barroto left Vera Cruz in the early part of March, 1688. With them went many of the men who had taken part in the previous expeditions. Wilkinson was very much in evidence, and regaled his companions with many stories concerning the French town and its vicinity. The ship proceeded to Mobile Bay, where it was safely anchored, and a smaller vessel (*chalupa*) was put into commission for the exploration of the coast. Slowly and carefully the rivers and indentations of the coast were again examined, and at no point did the Spaniards find a navigable river. Doubt as to the truth of Wilkinson's story grew day by day. Finally Cape Lodo was reached, and Wilkinson, who by this time had been placed in irons, was scornfully asked where his town was. He replied that he did not know; that he had never been in it himself, but had merely heard of it through some Frenchmen at Laguna de Terminos in Yucatan. One can imagine the exasperation of the Spaniards when they realized that they had been duped by the mendacious Englishman. Wilkinson was forced to sign a sworn statement, in which he admitted that all of his knowledge concerning the town was based only upon hearsay.⁶³

For the fourth time the mouth of the greatest river on the continent was ignored by the Spaniards. In view of Wilkinson's confession, there was nothing to do but return home. The vessel arrived at Vera Cruz on April 24. By this time Wilkinson had

⁶³Declaration of Wilkinson at Cabo de Lodo, April 5, 1688, in *expediente* entitled, *El Virrey Cde de la Monclova da qta. a V M de lo que resultado del viage q hizo Dn Andres de Pez calificando ser el Ings. vn embustero*, etc., pp. 4-6; Pez to the viceroy, April 24, 1688, *Ibid.*, 3-4; the viceroy to the king, May 27, 1688, *Ibid.*, 1-2.

recovered his self-possession again, and stoutly maintained that he had told the truth about the French town. He was no pilot, he said, and had never claimed that he could find the town himself. All that he had agreed to do was to show the way to the town if placed in the mouth of the river leading to it. When reminded of the declaration he had made at Cape Lodo, he said that he did not remember what he had said there; that all that he knew was that he had spent several months in the town, and that his wife still lived there. Needless to say, he was believed no longer. Captain Pez, angry and exasperated, wrote the viceroy that Wilkinson was nothing but a great *embustero*, who was incapable of telling the truth. Pez assured the viceroy with great emphasis that there was no foreign settlement on the Gulf coast, and that such an idea was absurd, as it was impossible for ships of moderate size to navigate its waters with safety.⁶⁴

It was very evident that Captain Pez had correctly estimated the true character of Wilkinson. The fiscal, in discussing the matter, said that there was no doubt that Wilkinson was an extraordinary liar; that he had concocted the whole tale in order to free himself from punishment for his piracies; and with the hope of obtaining a reward for his information. By emphasizing the strength of the French settlement, he had probably hoped to deter the Spaniards from investigating it, and in the course of events had hoped to be able to escape before his story was disproved. There remained nothing to do in the matter, said the fiscal, save to punish Wilkinson as he deserved. Orders were therefore given to investigate his past life, and impose upon him the severest penalty that his crimes would justify.⁶⁵

The town of Saint-Jean had been proven to be a myth, and the Spanish officials were inclined to believe that the whole story of French encroachments had been greatly exaggerated. The naval forces that had remained in New Spain since the arrival of the Conde de la Monclova were now sent back to Spain.⁶⁶ But hardly had the humiliating Wilkinson incident been concluded than in-

⁶⁴Pez to the viceroy, April 24, 1688, *Ibid.*, 3-4. Pez enclosed a diary and map of his navigation, but these have not been found. The declaration of Wilkinson upon his return to Vera Cruz is contained in *Ibid.*, 6-8.

⁶⁵*Respuesta fiscal*, May 5, 1688, *Ibid.*, 9-12.

⁶⁶*Consulta* of the Council of the Indies, March 22, 1691, p. 4 (Audencia de México, estante 61, cajón 6, legajo 21).

formation reached the northern frontier of New Spain which indicated in unequivocal fashion that in spite of the many fruitless expeditions made, the French were actually settled within the dominions of the king of Spain.

The Capture of "Jean Henri"

In the spring of 1688 the provinces of Nueva Estremadura, or Coahuila, and Nuevo Leon were sorely troubled by the ravages of the Toboso Indians and their allies, and Alonso de Leon, now governor and captain of the newly-founded presidio of San Francisco de Coahuila, was busily engaged in trying to subdue these savages and punish them for their depredations. In May, 1688, Captain Leon sent a Tlaxcaltecan Indian, named Agustín de la Cruz, into the region north of Coahuila to enlist the aid of the friendly tribes against the troublesome Tobosos. The Indian crossed the Rio Grande in the course of his wanderings, and arrived at a large *ranchería* of Indians, who said they were ruled by a white man. Agustín was taken into the presence of the white chief, and knelt before him with great reverence. He found him to be a man of about fifty years of age, naked, and with his face painted after the fashion of the Indians. He was seated on a rude throne covered with buffalo skins, with an attendant on either side. The man said that he was a Frenchman, and that he had been sent by God to found pueblos among the Indians, as well as to organize them for campaigns against their enemies. Upon being told of Alonso de Leon, he expressed a desire to see the governor, and gave the Indian some pages from a French book to carry to Leon as a message. He also furnished him with an escort of six Indians to accompany him as far as the mission of Caldera. The gun of Agustín was kept as security for his return.⁶⁷

Such was the story told by the Tlaxcaltecan upon his return to Coahuila. Captain Leon immediately concluded that the Frenchman was a spy, who came in advance of a larger force to win the friendship of the Indians, and prepare the way for a formal in-

⁶⁷*Auto* of Alonso de Leon, May 18, 1688, in *Autos y Diligencias q se an Executado pr. el Capn Alonso de Leon gouor de la Proua de Coaguila en la Na Spa sobre el descubrimto de Vna poblazon de franzeses q se dijo hauia en el Seno Mexicano*, 5-7.

vasion. He therefore decided to endeavor to capture the man, and learn his designs. On May 18 Leon set out with a force of eighteen picked men from the presidio of Coahuila. Among this number were Captain Martin de Mendiondo, of Nuevo Leon, and the chaplain, Father Buenaventura Bonal. After traveling for a week toward the northeast, they crossed the Rio Grande, some forty leagues from the presidio. Here five soldiers were left in charge of the horses and the camp, and Leon pressed on with the rest of his little force. About twenty leagues further they found the *ranchería* described by the Indian, Agustín. The Spaniards soon found the house of the chief, and dismounted in front of the entrance, which was guarded by a force of forty-two Indians armed with bows and arrows. Captains Leon and Mendiondo and Father Bonal entered the house, and found the Frenchman seated between two attendants, just as Agustín had described him. As the priest approached, the man knelt in his seat and kissed the sacred robe. He then shook hands with Leon and Mendiondo with great courtesy, crying out in broken Spanish again and again, "Yo Francés, Yo Francés" (I French, I French). After much persuasion and diplomacy, Leon succeeded in spiriting away the Frenchman, telling the Indians that he would be taken good care of, and soon brought back to the *ranchería*. The return trip was made without difficulty, and the presidio reached on June 6.⁶⁸

Although Captain Leon had already attempted to question the prisoner, he had been able to understand very little of what he said, and upon arrival at the presidio a formal examination was held in order to see if something definite could be learned concerning the French settlement, from which, it was supposed, the man had wandered. An Indian, named Ignacio, of the mission of Caldera, who knew the tongue of the Indians among whom the Frenchman had been found, acted as interpreter. The prisoner said that he had been christened Francisco, but that his countrymen usually called him "Captain Monsieur Yan Jarri (Jean Henri); that he was a native of St. Jean de Orleans, in France; and that he had come by order of a Monsieur Philip, governor of a town which had been built on a large river, to win over all of the Indian tribes to the allegiance of the king of France.

⁶⁸The diary and *derrotero* of this journey is in *Ibid.*, 16-20. The list of soldiers is given in *Ibid.*, 16-17.

He said that he had been among the Indians with whom he had been found for more than three years, and had married into the tribe. He was asked how long it had been since his countrymen had settled on the large river, with how many families, and under what pretext, since they knew that they were within territory of the king of Spain. In reply, he indicated by signs that the settlement had been made about fifteen years before; but he gave no answer to the rest of the question. He described the town, however, and was understood to say that it contained two fortified castles, one belonging to the French and the other to the Flemish. The French castle had twenty cannon and six companies of soldiers for its defence. There was also a Capuchin convent, and a well-constructed church, which had a tower with ten bells. He said that he had been visited twice by his countrymen from the town; about a year before by Captain Monsieur Jarri and sixteen men, and again, only two months before, by seven others, who wished to know the progress he was making with the Indians. Many other questions were asked him, but the facilities for examining him were so poor that no further information could be secured.⁶⁹

In spite of the manifest absurdity and many contradictions of the Frenchman's replies, Captain Leon had no doubt that he had finally obtained positive proof of the existence of the French settlement on the river and Bay of Espiritu Santo. He therefore decided to remit the prisoner to the City of Mexico, in order that the viceroy might examine him, and, with the aid of better interpreters, learn definitely the location of the settlement from which the Frenchman came.⁷⁰ As direct communication between

⁶⁹Declarazion del frances Freco alias Yan Jarri, June 7, 1688, *Ibid.*, 11-15.

⁷⁰The above facts are narrated in a letter of Leon to the viceroy dated June 21, 1688, 4 pp., enclosing *autos* and *derrotero* previously cited (*Ibid.*, 1-20). The story of the capture of Jean Henri, as drawn from these original documents, differs materially from the account given in the *Carta* of Manzanet, which has hitherto been the sole authority for this episode. Manzanet, who was a missionary in the mission of Caldera at the time of the capture, makes it appear that the discovery of the Frenchman was due to his own efforts. One of his neophytes, named Juan or Juanillo, he said, had told him of the Frenchman, and, at Manzanet's order, succeeded in inducing the Frenchman to go to a *rancheria* nearer Coahuila, where Captain Leon had captured him without any danger whatever. According to Manzanet, the prisoner said that he was a native of "Cheblie," in New France. (Carta de Don Damian

Coahuila and Mexico had not yet been well established, Leon took the prisoner to Monterey in order to send him from there to the capital. From Monterey Leon wrote the viceroy in regard to the imminent danger from the French, reminding him that the presidio of Coahuila was garrisoned by only twenty-five men, and that it would be impossible to hold back the threatened invasion unless reinforcements were sent. He thought that the French town should be attacked both by land and sea, and that any less formidable effort would probably result in failure. He stated that he would send out spies immediately upon his return to his presidio, in an effort to learn something definite in regard to the enemy's stronghold.⁷¹

The prisoner reached the City of Mexico on July 12, in the custody of Captain Martin de Mendiondo, and was immediately taken before the viceroy for examination. This time he declared that his name was Jean Henri; that he was a native of Xeble, in France;⁷² and that when a youth he had been captured on the sea by the English. When asked whither his captors had taken him, he made no reply, but merely laughed. He said that he had come from France five years before in company with Monsieur Philip and Monsieur Xarri (Henri). When asked how far it was from the *ranchería* in which he was found to the French settlement on the Gulf of Mexico, he replied at first that it was three leagues, and then said that it was three hundred. When questioned more closely upon this point, he remained silent, twisting a handkerchief which he wore around his neck, and shrugging his shoulders. In connection with another question, however, he stated that it was a journey of thirty-two days from the settlement

Manzanet a Don Carlos de Siguenza, in *THE QUARTERLY*, II, 255-256.) Leon makes no mention of Manzanet in the contemporary *autos*, and the details of the capture are quite different from the priest's account. Although Leon doubtless exaggerated the danger to which he was exposed in venturing among the Indians ruled by the white chief, it is hard to believe that his *autos* and letter are entirely fabricated, and they should probably be accepted in preference to the later and more general account given by Manzanet, and followed by modern writers.

⁷¹Leon to the viceroy, June 21, 1688, *Autos y Diligencias q se an Executado*, etc., 1-4. At Monterey, the new governor, Pedro Fernandez de la Ventosa, tried to examine the Frenchman, but was unable to gain any more information from him (Fernandez de la Ventosa to the viceroy, June 19, 1688, *Ibid.*, 20).

⁷²I have found no indication that "Xeble" or "Xebla" was in New France, as stated by Manzanet.

to the *ranchería*. Yet, only a moment later, when asked how many days it had taken him to walk from the *ranchería* to the settlement, as he affirmed he had done, he did not answer, but merely struck his breast with his open palm, and remained in deep contemplation. He was then asked how he had reached the tribe of Indians with whom he had been living. He replied that he had come with three ships to a certain bay, where all had embarked in seven small boats, and had gone up a river to the place where the fort was built. From the fort he had gone to rule over the Indians. A map was shown the prisoner, and he was asked how many men there were in the fort on the river that was pointed out to him.⁷³ He replied that there were six companies of twenty-four men each in the fort, governed by a Monsieur Philip; that the fort was made of adobe, and had twenty pieces of artillery; that when he had seen the settlement last there were also seventeen wooden houses near the fort, on the north side of the river. On the south side of the river, he said, were the fields of the settlers. From the fort to the Bay of Espiritu Santo, he thought that it was a journey of three days by land and one by the river. When questioned once more in regard to the distance from the fort to the *ranchería*, he said that he did not know how far it was, although he had made the journey on foot; that it might be one hundred and fifty leagues, or that it might be three hundred. He did not know the name of the river or of the bay on which the fort was located, but said that the fort itself was called "La Vérité (La Verdad)", and that the *ranchería* where he lived had been called "Enjen" by his countrymen who visited him there. There was no other fortified settlement on the coast, he said, except a small, unfortified town of the Flemish.

At this point the examination was suspended, and was not resumed until July 16. At the second hearing the prisoner was confronted with the declaration he had made in Coahuila, and was asked to explain the various discrepancies that appeared between it and the statement that he had made in the capital. He said that they had not understood him in Coahuila, and that he had told the truth in his declaration before the viceroy. He now

⁷³This map was apparently a sketch (*borrador*) of the Gulf coast, and the river pointed out was probably that of Espiritu Santo, as shown on the old maps.

added further details in regard to the French settlement. The three ships which he had previously mentioned, he said, had sailed from the port of the Virgin Mary, three leagues from his native town of Xeble, bearing patents from the king of France for the founding of a colony. They had not gone directly to the place where the fort was built, however, but had first explored the coast of the Gulf of Mexico, seeking a suitable place at which to settle. They had finally found the bay and river referred to, and had landed in seven boats, the three large ships having been wrecked in the bay. He was again asked if he could tell how far it was from the fort to the *ranchería*. He now replied that he remembered that it had taken him twelve days to make the journey. He said that he was sure that he could find the way to the fort again, as he had left many signs along the route he had taken. Many other questions were asked the Frenchman, and various tests made of his sanity. He was made to repeat the creed, the Ave Maria, and other parts of the Catholic doctrine, which he did very well. Nothing further could be learned, however, in regard to the location of the fort and settlement, and the longer he was examined, the more confusing did his statements become. The officials were finally forced to desist, being firmly convinced that the man was demented.⁷⁴

In spite of the conflicting nature of his statements, however, there was no doubt that he was a Frenchman, and that he had been found far within the limits of Spanish territory. It seemed impossible, too, that he should have imagined all of the details he had given concerning the French fort. The Conde de la Monclova, therefore, remembering the solicitude of the king in regard to the reported French colony, decided that it would be necessary to make another search for it. Orders were given, consequently, for another maritime expedition, and for an *entrada* by land with

⁷⁴Declarazon. del franzes ante el virrey, *Ibid.*, 20-34. The viceroy ordered the Frenchman to be given the best of treatment, in the hope that his mind would become clearer, but he continued in his half-witted state. The viceroy thought at first that the man might be one of a number of Frenchmen who had been condemned to various mines in New Spain a few years before, and that he had escaped to the northern frontier. The prisoner showed no knowledge of such events, however, and a comparison of the descriptions of the Frenchmen thus condemned showed that Jean Henri corresponded to none of them. The only explanation seemed to be that he had really come from a French settlement as he claimed. (Monclova to the king, February 10, 1688, p. 4.)

one hundred men, under the command of Alonso de Leon. The maritime expedition was to be made without delay, but the one by land could not be gotten ready until the following year.⁷⁵

The Fifth Maritime Expedition

Three days after the examination of Jean Henri was concluded, the viceroy wrote to Captain Martin de Rivas, who was at Vera Cruz, in regard to another maritime expedition to search for the town described by the Frenchman. Rivas was preparing for a voyage to Laguna de Terminos, Yucatan, in order to drive out the foreigners who were cutting valuable timber there. The viceroy ordered him to suspend this operation and consult with Andrés de Pez in regard to the proposed expedition. According to the Frenchman's confused statement, the viceroy said, the settlement appeared to be about one hundred leagues from the *ranchería* north of Coahuila, and about five leagues from the sea. It did not seem necessary, therefore, to explore the whole Gulf coast again, but merely the region from Tampico to the bay where the wrecked vessel had been found. But extreme care should be taken this time, the viceroy observed, to explore every river and inlet, no matter how small, and landing parties should be sent ashore for this purpose if otherwise impossible. Great haste was urged, and Rivas was authorized to send his reply by special courier.⁷⁶

Rivas lost no time in getting into touch with Pez. On July 24 the two captains sent in a joint report on the expedition. While they were absolutely certain in their own minds, they said, that there was no suitable place for settlement on the part of the Gulf coast indicated by the viceroy, yet, in order to clear up any doubts that might have arisen as a result of the Frenchman's story, they were willing to make another voyage. They suggested that the Rio Grande should be explored carefully, as this had not been done the last time; and that the voyage should then be continued to San Bernardo Bay and the Rio de Cibolas. If nothing were found in this distance, they said, it would be useless to look further, as the remainder of the coast was swampy and unfit for

⁷⁵Junta general, July 23, 1688, *Ibid.*, 37-40; viceroy's decree, August 9, 1688, *Ibid.*, 43.

⁷⁶The viceroy to Rivas, July 19, 1688, 2 pp.

settlement. They thought that the two *piraguas* should be used for the exploration, with crews of fifty men each, and supplies for one hundred and nine days.⁷⁷ The viceroy wholly approved of these suggestions, and gave the necessary orders for the expedition. Once more he reminded Rivas of the need for thoroughness, so that not the slightest doubt should remain. The vessels were ordered to sail as soon as possible without awaiting further instructions from the capital.⁷⁸

Rivas and Pez left Vera Cruz in the two *piraguas* on August 8, and proceeded to Tampico, where they remained nine days. Six days were spent in exploring the Rio de Maupate or Palmas, just north of Tampico, as the Indians had reported that white men had been seen in that region. From this river they continued to the Rio Grande, and anchored opposite the mouth on September 1. On the following day the river was entered in canoes, but the Indians showed so much hostility that the party returned to the ships. Another exploring party soon set out, however, in two canoes. For five days they ascended the river, until it was decided that its source could not be far away, and that there was no use of going further. They reached the *piraguas* again on September 9. San Bernardo Bay was next visited. The wreck was no longer there, having finally been broken up by the wind and waves. Fourteen days were spent in exploring the bay, but the rivers were found to be dried up, and were not examined. The whole region appeared so uninviting that it seemed absurd to imagine that a settlement would be made there. An attempt was again made to communicate with the Indians, but only one band was seen, which fled after firing a shower of arrows. The search was continued to the Rio de Cibolas, probably the modern Colorado, but it, too, was found to be without water on account of the unusually dry season. The return voyage was begun on September 25, and Vera Cruz was reached at midnight, September 29.⁷⁹

⁷⁷Rivas and Pez to the viceroy, July 24, 1688, 3 pp.

⁷⁸The viceroy to Rivas, July 28, 1688, 2 pp.

⁷⁹Diario del Viage que se va a ejecutar con el favor de Dios a la costa de Barlovento de horden del Exmo. Sor. Conde de la Monclova . . . con las dos Galeotas a efectos del real Servio. de S. M., siendo cavo de ellas el Capn. de mar y guerra Martin de Rivas, 11 pp.; the viceroy to

Upon their arrival at Vera Cruz, Rivas and Pez found there the Conde de Galve, who had been appointed to succeed Monclova, the latter having been promoted to the viceroyalty of Peru. The captains turned over the diary and map of their voyage to the new viceroy, who soon took charge of the affairs of the kingdom. Galve was of the opinion that it would be useless to make any more maritime expeditions, and that it was more logical to continue the search by land from the northern frontier. He therefore did not make any changes in the plans for the expedition from Coahuila under Alonso de Leon, and preparations were continued to this end.⁸⁰

Plans to Find the French by Way of Nueva Vizcaya

While the expedition from Coahuila was being made ready, reports reached the western province of Nueva Vizcaya, which caused the governor, Juan Isidro de Pardiñas, to become actively interested in the search for the French.

Among the Indians who were accustomed to visit the mission of La Junta, at the junction of the Rio Grande and Conchos Rivers, were different bands of the Cibolo and Jumano tribes, whose wanderings extended over a large portion of the present state of Texas. In the year 1687 a number of these Indians told one of the missionaries at La Junta of the presence of "other Spaniards" in the country of the Texas Indians, and asked to be given a letter to these people. The priest told them to bring first a letter from the strangers. This the Indians promised to do. Although no letter was forthcoming, in September of the following year a number of Cibolo arrived at the mission, bringing further details about the unknown people. They told of white men, dressed in armor, who carried on trade with the Texas, and who returned at intervals to their wooden boats on the sea. One of these boats was said to have been wrecked. The Indians said that these men had told them that the Spaniards of Parral were no good, and that they themselves would soon occupy the whole country. The Cibolo also said that one of the white men had been forced to

the king, June 14, 1689, 3 pp.; Conde de la Monclova to the king, February 10, 1689, pp. 5-6.

⁸⁰Conde de Galve to the king, June 14, 1689, pp. 1-2.

flee from his countrymen, and that he was living with a tribe of Indians not far from the Texas, leading them against their enemies and ruling over them.⁸¹ In these confused reports one may recognize various facts connected with La Salle's colony—the journeys of La Salle to the Texas Indians, the loss of his ships, and the picturesque figure of Jean Henri among the Indians.

As a result of these rumors, Governor Pardiñas, who was well aware of the many efforts that had been made by the viceroy to discover the French settlement, resolved to send out an expedition for this purpose himself. He therefore appointed Juan Fernandez de Ratana, captain of the presidio of Conchos, to lead a force of ninety men and a large number of Indian auxiliaries in order to capture some of the French and explore the Bay of Espiritu Santo. Pardiñas believed that the Rio Grande flowed into this bay, and he therefore instructed Fernandez to follow this river to its mouth. Alliances with the Indians were especially recommended, in order to strengthen Spanish influence in the region threatened by the French.⁸²

The ambition of Governor Pardiñas was not to be gratified. Although there are indications that the expedition was actually sent out, it seems to have accomplished nothing more than the chastisement of certain hostile tribes near Junta de los Rios. The plan to search for the French from Nueva Vizcaya was necessarily abandoned, because of the arrival of a despatch from the viceroy instructing Pardiñas to send fifty men to take part in the expedition that had been authorized from Coahuila.

The Discovery of La Salle's Settlement

The well-known expedition of Alonso de Leon of Texas was made in the early spring of 1689. Captain Leon set out from Coahuila in the latter part of March with a force of one hundred

⁸¹Testimonio of Don Nicolas and Fray Agustín de Colina, November 20, 1688, 9 pp.; in Audencia de Guadalajara, estante 66, cajón 6, legajo 18.

⁸²Juan Isidro de Pardiñas Villar de Francos to the king, November 21, 1688, with accompanying *autos*, 25 pp. (Manuscript in Audiencia de Guadalajara, estante 66, cajón 6, legajo 18.) These documents were seen by the Council of the Indies in January, 1690. A letter of thanks was ordered sent to Pardiñas, with instructions to report the result of the expedition (*Ibid.*).

mer.⁸³ Although the French prisoner, Jean Henri, had been sent back from the City of Mexico to act as guide for the expedition, he proved to be of little service, doing all that he could to discourage the Spaniards, and persuade them that they would never be able to find the fort. Before the expedition reached the Rio Grande an Indian was encountered who said that he knew where the French had built their settlement. He said that it consisted of six or seven houses, and was located at a place about six days' journey from the Rio Grande. Under the guidance of this Indian, the journey was continued toward the northeast. On April 14 the troops arrived at a large river, which was named Nuestra Señora de Guadalupe, in honor of the patron saint of the expedition. On the following day they halted at a creek about a league beyond the Guadalupe, as the guide told them that the town was not far away. A council of war was held, and it was decided that it would be best to leave the main camp at a suitable place, and advance with sixty soldiers to reconnoiter the settlement. Three leagues further, an Indian was captured, and taken before Captain Leon. He reported that his *ranchería* was close at hand, and that in it there were four Frenchmen, who had belonged to the settlement. The main body of the troops now halted, and Captain Leon proceeded with the advance guard to the Indian village. Here he learned that the Frenchmen had departed several days before for the country of the Texas Indians. At sunset another *ranchería* was reached. The Indians confirmed the previous report that had been received in regard to the four Frenchmen, and told the Spaniards that the inhabitants of the town had been killed by the Indians of the coast some three months before. On April 17 still another *ranchería* was encountered, the inhabitants of which were known to the old Frenchman, Jean Henri. The route of the four Frenchmen was learned more definitely, and a letter was written to them in French, asking them to meet the Spaniards in their old settlement. The scouting party then rejoined the camp near the Guadalupe, and three days were spent in searching for a soldier who had gotten lost during a stampede

⁸³The expedition was made up of ten men from each of the presidios of Casas Grandes, Conchos, Cerro Gordo, El Callo, and Cuencame in Nueva Vizcaya, and fifty men from the settlements of Coahuila and Nuevo Leon. Father Manzanet, who was one of the chaplains of the expedition, gives the total force as eighty men (*Carta*).

of the horses. On the 21st the entire expedition resumed its march. Eight leagues further, they arrived at a deep stream, on which the guide said the French town was situated. On the 22nd, after having marched three leagues down the creek, the expedition arrived at last within sight of the long-sought-for settlement. The troops were again halted, and Captain Leon, with a few of his officers and the priests, went forward to inspect the place. It was found to be entirely deserted. The six wooden houses of which it was composed were already beginning to show signs of deterioration. On all sides there was evidence of a typical Indian attack. Parts of broken guns, shattered mission ornaments, and the torn pages of scores of French books were scattered about in confusion. Some distance from the houses three skeletons were found. They were buried by the Spaniards, and a mass sung over the remains. No other bodies could be found, and it was supposed that the Indians had thrown them into the creek, and that they had been eaten by the alligators.⁸⁴

The little settlement which had been sought for so many times was thus found at a distance of one hundred and thirty-six leagues from Coahuila. It was located on the present Garcitas River, about five miles from the bay which had been repeatedly explored by the maritime expeditions sent out from Mexico.⁸⁵ On April 22 Captain Leon took thirty mounted men and explored the neighboring bay, which he concluded must be no other than that of Espiritu Santo. They were guided by Jean Henri, who seemed now to show some signs of intelligence. The old Frenchman pointed out the mouth of the bay, where he said he had entered with Monsieur Philip. On the 25th Leon and his party returned to the main camp, and found that a reply had been received from the Frenchmen among the Texas. They said they were tired of living among the savages, and would soon join the Spaniards. The letter was signed by Jean de l'Archêvêque of Bayonne. On

⁸⁴Auto of Leon, April 22, 1689, in *Autos y Diligencias q se an Executado*, 49-51; *derrotero*, entry for April 22, *Ibid.* (Translated by Miss E. H. West, *THE QUARTERLY*, VIII, 199-224). The *auto* cited above has never been used before. It gives additional details concerning the French settlement not found in the diary.

⁸⁵The site of La Salle's fort has been positively identified by Professor Bolton, after a personal inspection of the locality. Cf. "The Location of La Salle's Colony on the Gulf of Mexico," in the *Mississippi Valley Historical Review*, II, 165-182.

May 1 Archévêque and a companion, named Jacques Grollet, were found by Captain Leon in a *ranchería* of one of the chiefs of the Texas tribe. They were formally examined, and full details of La Salle's colony and its failure were now learned. They said that more than one hundred of the settlers had died from an epidemic of smallpox, and that the rest were massacred by the Indians. They themselves had escaped, as they had gone to the country of the Texas with La Salle shortly before the attack.⁸⁶

The return to Coahuila was made without difficulty. Captain Leon reached the presidio slightly in advance of the main force, having hurried on from the Nueces River to draw up his reports of the expedition. On May 16 he remitted to the viceroy the diary, map, and full *autos* of the journey which he had so successfully concluded. Archévêque and Grollet were also sent to the capital, Jean Henri remaining in Coahuila.⁸⁷

The two Frenchmen were examined by the viceroy on June 10, in the presence of Captains Pez and Barroto, who had searched in vain for the settlement which they had declared to be a myth. In these second declarations still further facts were brought out concerning La Salle's colony. Two days later Pez and Barroto identified the bay which Captain Leon had called the Bay of Espiritu Santo, and the French, that of Saint Louis, as the one which they had explored and named San Bernardo Bay.⁸⁸

The mystery of the French settlement and the Bay of Espiritu Santo had finally been solved. Happily for Spain no fortified stronghold had been found, but only the mute ruins of the settlement planted by the luckless adventurer who had dared intrude

⁸⁶Declarations of Archévêque and Grollet, in *Autos y Diligencias* que se an Executado, 51-58. Much additional light is thrown upon La Salle's project by these declarations, but the limits of this paper forbid any detailed treatment of the subject. Strange to say, Archévêque and Grollet did not know Jean Henri, and thought that he had wandered from the fort built by La Salle on the Illinois. There are indications that Leon himself adopted this theory, which has much evidence to support it. The writer hopes to say more in this connection at a future time.

⁸⁷Leon to the viceroy, May 16, 1689, *Ibid.*, 44-47.

⁸⁸*Parecer* of Pez and Barroto, June 12, 1689, *Ibid.*, 67-69. The declarations of Archévêque and Grollet before the viceroy are contained in *Ibid.*, 59-67. The two Frenchmen were taken to Spain in 1689 by Captain Pez, and were confined in prison in Cadiz until 1692, when they were permitted to return to New Spain (Manuscript in Audiencia de Mexico, estante 61, cajón 6, legajo 21). Their later life in New Mexico is fairly well known.

within the domains of the Most Catholic Majesty. But the threatened danger was not forgotten, and as a result two important movements were to be made. The first one, which occurred without delay, was the founding of missions among the Texas Indians, the most promising of the natives in the region where the French menace had manifested itself. The second one, conceived at the same time, but not definitely undertaken until another threat was experienced from France, was the occupation of Pensacola Bay, and the founding of the presidio of Santa Maria de Galve.

HISTORY OF THE CATTLE INDUSTRY IN THE SOUTH-WEST¹

CLARA M. LOVE

I. THE SPANISH AND MEXICAN PERIOD

The cattle industry of the United States has always been a frontier activity. In early days it thrived wherever pastures were luxuriant. However, the settler has followed the grazer closely and has utilized the better land for agriculture, and only such lands as have proved too rugged, too alkaline, or too arid either for dry farming or agriculture, remain the seat of the grazing industry. West of the hundredth meridian are vast stretches of land of which the chief fault is aridity. To be sure, it is crossed by rivers fed by mountain snows, but they are small and far apart and some are lost in the sand. In many places water in small quantities may be secured by wells.

This region is not exactly a desert, for nature has supplied it with various kinds of native grasses and several other varieties of plants, more or less nutritious. The grasses which usually have high nutritive coefficients are most important and are peculiarly adapted to the needs of the stock grower. They spring up in the fall, and mature before frost. Thus a supply of winter forage stands in the pasture, while grasses in the region of plentiful rainfall remain green till frosted, when they become woody fiber unfit for food animals.²

The climate varies in the western part of the United States, but on the whole is quite well adapted to the needs of the grazer. The southern frontier is semi-tropical and the coast mild, but the interior uplands have short summers and long, severe winters. The cold is mitigated in many places by high sheltering cliffs

¹This paper was prepared in the seminar of Professor Bolton, at the University of California. It is not my intention in this article to present an exhaustive study of the history of the cattle industry in the southwestern part of the United States, but simply to summarize the chief features in the development of that industry.

²*House Misc. Docs.*, 48 Cong., 2 sess., II, no. 36, p. 294; *United States Department of Agriculture, Farmers' Bulletin no. 27*, pp. 22-27.

and forests, but the rancher finds it to his interest to provide shelter during the winter in the high elevations.

Cattle are not native to the United States. They were brought into what is now the southwestern portion of the United States by the Spaniards³ as early as the Coronado expedition in 1540. The first Spanish settlement in the Southwest was in New Mexico. Sheep were introduced and cattle were raised by the inhabitants of the colony before the revolt of the Indians in 1680.⁴ The cattle ran at will and wandered over large areas. Owing to the higher state of civilization of the Indians, the missions never attained the importance as industrial training schools here that they reached in other colonies. The industries were carried on by the settlers and the Indians who engaged chiefly in agriculture, stock-raising, and barter.⁵

In the later seventeenth century the energetic Jesuit missionary, Father Kino, introduced stock-raising into Arizona. In connection with missionary work he established ranches in the valleys of the Magdalena, the Altar, the San Pedro and the Santa Cruz Rivers. The labor was always performed by the Indians. In 1695 they revolted and drove off the cattle, but the work was re-established and thrived until Kino's death, in 1711, after which little progress was made before 1731. In 1767 the Jesuits were expelled, and the work was taken up the following year by the Franciscans. From 1790 to 1820 was a period of prosperity in Arizona. The Apaches were peaceful, the missions improved their industries, and ranches and haciendas were built in the region extending southeast and southwest from Tucson.⁶ Under the Mexican rule, the friars remained loyal to Spain and were expelled in 1827.⁷ Indians now raided the stock thus deserted. When the forty-niners passed through Arizona they found the Pima Indians raising cattle and using oxen for farm work.

Cattle were early taken into Texas. Bancroft notes that "In the spring of 1714, Louis de St. Denis went to the country of the Tejas,

³*House Ex. Docs.*, 29 Cong., 2 sess., XV, no. 107, p. 294.

⁴Hackett, Charles Wilson, "The Retreat of the Spaniards from New Mexico in 1680, and the Beginnings of El Paso," *THE QUARTERLY*, XVI, 159.

⁵*Ibid.*, 275.

⁶*Ibid.*, 405.

⁷Hamilton, Patrick, *Resources of Arizona*, 375.

where he found cattle in great abundance."⁸ During the last half of the eighteenth century ranches were flourishing in eastern Texas. Antonio Gil Ybarbo is recorded as having a ranch "already a pueblo," on which was a great number of cattle.⁹ When the settlers of the eastern frontier were forced to move to San Antonio in 1773, one of their hardships was that they lost their herds, which were widely scattered.¹⁰ Cattle ran wild on unsettled land, being known by their ear-marks. They were plentiful around San Antonio, and incredible numbers were reported between the Colorado and the Brazos and along the banks of the San Gabriel rivers.¹¹

But there was little to encourage interest in stock-raising. The climate and pastures were favorable to rapid increase of stock. The country was agricultural and produced an abundance of meat, hides, lard, tallow, wool, flour, grain, mules and salt, but the restrictions on trade made business unprofitable. In 1779, De Mézières quoted the price of a fat cow as four pesos, a three-year-old sheep, six pesos, and mares in droves a peso or less per head.

Trade with New Orleans, the chief market, was illegal, but the restrictions were relaxed when Louisiana was ceded to Spain. Droves of cattle, sheep, horses and mules were driven to this market usually in the autumn, for at that time rivers were fordable and pastures were good. Help on the drives was obtained at low wages. Droves were usually limited in numbers, as there was danger from stampedes.¹²

At the incoming of Austin's colony, almost all of the settlers brought with them live stock—the so-called American "natives." Some French cattle also came in from Louisiana.¹³ In 1830 there were said to have been 100,000 cattle in Texas, of which the Spanish breed numbered about four-fifths.¹⁴

⁸Bancroft. Hubert Howe, *North Mexican States*, I, 375.

⁹Bolton, Herbert E., "The Spanish Abandonment and Reoccupation of East Texas, 1773-1779," in *THE QUARTERLY*, IX, 84.

¹⁰*Ibid.*, 86.

¹¹Bolton, Herbert E., *Athanase De Mézières and the Louisiana-Texas Frontier*, I, 106.

¹²*Ibid.*, II, 242, 293.

¹³*Census Report for 1880*, III, 965.

¹⁴*Ibid.*

After the Texan Revolution, "cowboys" gathered herds of wild cattle and drove them to the interior and to New Orleans in 1842. It is reported that a drove was taken into Missouri at the same date.¹⁵ Unbranded cattle found at large were declared public property of the Texan Republic at its founding, but the cattle were much neglected, as their value was small. Mexicans frequently raided them and drove them across the Rio Grande and Texans "mavericked" them.¹⁶

The term "maverick" in the cattle industry is derived from the name of a resident of Texas, who so neglected his herd that it became the practice of his neighbors to put their own marks upon unbranded, or "Maverick," stock.¹⁷

In California cattle were first raised at the missions. The Franciscan fathers brought stock with them from Lower California to San Diego in 1769, where they founded the first establishment.¹⁸ This was followed by twenty other missions, all of which became proprietors of large herds of cattle.¹⁹ The Spanish government established four presidios, which also engaged in cattle raising for their own consumption.²⁰ The missions were very prosperous. Hides and tallow were sold to Yankee traders along the coast, and meat not needed for local consumption was thrown away.²¹ Good hides passed current in internal commerce, being worth \$1.50 in cash or \$2.00 in goods.

Private Spanish or Mexican citizens also took up stock-raising. By 1830 forty ranches had been granted to private parties, but not more than half of them were occupied. A ranch contained from one to thirty square miles, on which the principal structure was the corral. Horses, cattle and sheep covered the hills and valleys. Several *rancheros* owned from ten to fifteen thousand

¹⁵*Ibid.*

¹⁶*Ibid.*

¹⁷Fulmore, Z. T., *The History and Geography of Texas, as Told in County Names*, p. 84. For another explanation see McCoy, G., *Historical Sketches of the Cattle Trade of the West and Southwest*, 9.

¹⁸*Census Report for 1880*, III, p. 1028. Bancroft, H. H., *History of California*, I, 137.

¹⁹*Census Report for 1880*, III, 1029. Hittell, *The History of California*, I, 317.

²⁰Bancroft, H. H., *History of California*, I, 170.

²¹Colton, Walter, *Three Years in California*, 441-8.

cattle each.²² The labor was performed on these ranches by Indians, who lived in rude huts. They were in reality slaves, but were termed peons.

In 1837, the Mexican Government pressed the secularization measure actively. When the friars became certain that the measure would be enforced they slaughtered many cattle for their hides and tallow. The Mexican Government took the remainder but failed to manage the business.²³

Neat cattle of Spanish pedigree were usually termed Spanish cattle. They were small and half wild in their nature. They yielded little milk, did not fatten well, and when fat did not yield the most juicy beef. Through the Southwest, in California and Texas particularly, there were until recently wild cattle living in the mountains and unsettled districts. They were supposed to be the offspring of cows which had escaped from the ranches in the valleys. They had thicker, longer and shaggier hair than domestic cattle.²⁴

II. DEVELOPMENT OF THE INDUSTRY

The announcement of the discovery of gold in California disorganized all lines of business activity in that section of country. Seamen, mechanics, and herders dropped their work and rushed to the gold fields. Moreover, the country was filled with adventurers who took possession of the ground of the defenseless landed proprietor.¹ Americans and foreigners braved the dangers of the desert, the Rockies and Panama to reach the gold fields. Early in 1849 San Francisco was only a pastoral hamlet, but it was not destined so to remain. During the first half of the year it is estimated that 15,000 people had been added to California's population. Of these 10,000 came by sea, landing at San Francisco. During the next half year arrivals averaged 4000 per month. Altogether about 40,000 landed at San Francisco during the year. Probably two-thirds of these proceeded to the mines or to interior points; but miners, fortunate and unfortunate, returned from the

²²Carson, James H., *Life in California*, 2-30.

²³*Census Report for 1880*, III, 1029.

²⁴Hittell, John S., *Resources of California*, 340.

¹Bancroft, H. H., *California Inter Pocula*, 87.

mines. By the close of 1849 the population of San Francisco was 20,000 or 25,000.² In the course of the year 1850 upward of 36,000 arrived by sea,³ while in 1853 the arrivals by sea exceeded the departures by 43,000 persons.

Such a phenomenal increase of population very soon brought about a scarcity of food. The ranches were unequal to the demand, not because of poverty of natural resources but because of the inadequate methods of production. In 1853 there were imported into San Francisco 20,000,000 pounds of butter, 700 barrels and 9400 boxes of bacon, 51,000 barrels of pork, and 16,000 barrels of beef.⁴ In brief, a market had been established. Not only had demand for the products of the ranch been created, but also plenty of gold was at hand as a medium of exchange. Likewise corresponding prices were created.

Eastern cattle were demanded and were soon brought in. At first they were inferior in size and appearance to the best California cattle, but after 1852 good cattle came in rapidly from the states.⁵ In 1855 and 1856 Texan cattle began to enter southern California. Cattle afforded a fine field for speculation, and some men found it more profitable than gold digging. Colonel Oliver Wheeler had arrived from Connecticut in 1851. He saw that the jaded, tired-out live stock brought in considerable numbers by eastern emigrants were not valueless, although their owners seemed to think so. He therefore met emigrants on the border of the desert and bought their lean stock for cash or for recruited animals. A fresh animal was exchanged for a dozen jaded ones, which rapidly improved when placed on grass along the mountains and rivers.⁶ Wheeler became proprietor of several ranches and engaged in driving cattle from the region of Los Angeles and San Francisco. He quickly grasped the need of a wholesale meat market at San Francisco. Accordingly he opened a market which soon used forty beeves a day, which he supplied

²Soulé, Gihon and Nesbet, *Annals of San Francisco*, 243.

³*Ibid.*, 300.

⁴Soulé, Gihon, and Nesbet, *Annals of San Francisco*, 243.

⁵*Census Report for 1880*, III, 1030.

⁶McCoy, *Historical Sketches of the Cattle Trade of the West and Southwest*, 257-258.

from his own ranches. When his own herds became depleted he purchased from others.⁷

In the meantime other persons were engaged extensively in the same occupation, and the number of cattle increased rapidly. T. Butler King estimated 500,000 cattle in California in 1850, and the population of the state at 120,000 people.⁸ He observed that the destruction of cattle for their hides and tallow had entirely ceased, in consequence of the demand for beef. Beef cattle sold at San Francisco for twenty to thirty dollars per head, as compared with one and a half to two dollars for their hides before the discovery of gold. He also estimated that there were grazing lands extensive enough to feed five times as many cattle as then were grazing on the ranches.

A few figures will show the growth of the cattle-raising industry. The United States census records 262,629 cattle for California in 1850 and 1,174,434 in 1860.⁹ The *California Register* records 448,796 in 1852; 684,248 in 1856; 722,374 in 1857, and 814,642 in 1859. Perhaps some of these figures are inaccurate, but they show that the industry had become very important by 1860. The laws of the state were favorable to stock-raisers. The following quotation is an extract from a speech before the California Agricultural Society in 1861:

Stock-raising has ever been (until very lately) one of the most lucrative branches of business within the state. Our laws have ever been very favorable to that branch of business, requiring cultivators of the soil to enclose their lands with good, substantial fences or otherwise submit to the depredations of stock, without any legal redress. This system of legislation had the effect to make all the lands in the state, not thus enclosed, free commons. Therefore, men with limited amount of capital could engage in stock-raising, making use of none other than our state's free forage for the subsistence of their herds.

A man who came to the state with some cattle bought a large stock ranch. Other cattle ranged over it and he was helpless. He found that the cost was too great to fence it, and told his story thus: "So, I just found a purchaser for my land, sold it to him, and then purchased more cattle with the money I had

⁷McCoy, *Historical Sketches of the Cattle Trade of the South and Southwest*, 260.

⁸Taylor, Bayard, *Eldorado II*, Appendix, 219.

⁹*House Ex. Docs.*, 38 Cong., 1 sess., XVI, No. 91, p. 250.

thus obtained, and left my cattle to roam wherever they pleased; and my whole herd continued, despite my purchaser's efforts, to roam as much on this very land as they did whilst I owned it."¹⁰

The farmers felt that the fencing laws worked great hardship on them. They claimed that the fences had cost them more than all the stock were worth.¹¹ This was at the time when the cattle industry was at its height, and decline soon followed. Cattle had been brought from Texas, Utah, and in 1860 from Oregon, mainly for slaughter. An estimate places the number of cattle in California in 1862 at 3,000,000.¹² At this date, however, we find that the cattle-raisers were lamenting that the number of permanent settlers was increasing to the detriment of their industry. So much land had been fenced for grain that the cattle were forced to live on such poor pastures that the loss by starvation was considerable. Formerly the cattle had changed pasture with the seasons. For example, during the rainy season they grazed on hills and upland; when the rains were over they came into the valleys. In this way the grasses were not killed out.¹³ The cowmen did not usually see that they were to blame for overstocking the land and thereby ruining their own industry. To be sure, it was limited by the increase of permanent settlers, but if no settlers had come it is probable that the grasses would have been killed. These grasses are annual and must come each year from the seeds scattered the preceding year. If no seeds are permitted to ripen, the land becomes barren, which actually occurred in certain districts during the early sixties.¹⁴

While the permanent settler caused the open range industry to decrease, he opened some new fields for the cattle industry. Fenced ranches of small dimensions,—containing a few hundred or a thousand acres,—were utilized for dairy purposes. As early as 1857 we find that a 480-acre ranch produced 3000 pounds

¹⁰"Report of the Fair of 1861," in *Transactions of California Agricultural Society*, 1861, p. 153.

¹¹Flint, Wilson, *The Fence Question* in *Transactions of California Agricultural Society*, 1863, p. 150.

¹²*Census Report for 1880*, III, 1030.

¹³Kellogg, A., "Trees and Shrubbery of the State," in *Transactions of the California Agricultural Society*, 1864, pp. 146-148.

¹⁴Perkins, Jas. E., "Sheep Husbandry in California," in *Transactions of the California Agricultural Society*, 1863, p. 139.

of butter, which sold for seventy-five cents per pound.¹⁵ Others soon took up this profitable industry. The dairy industry called for improved herds of cattle, and experiments were made to find what breed or breeds were most profitable. Opinions varied, but by 1872 it seemed that Durhams were in the lead. Others championed the superiority of the Ayreshire, and still others thought the Devons best adapted to hilly country.¹⁶ At this date Marin and Sonoma counties led in the dairy business. They had been settled mainly by Swiss, who were especially fitted to develop the industry. Some who had come in 1862 without money became prosperous very soon, being taxed on \$200,000 worth of property at the end of ten years' residence.¹⁷ It is evident that they did not belong to the class of short-sighted farmers who burned their straw as soon as it was threshed, and, after having lost a large number of cattle by starvation during the winter, complained that the season had been very hard on stock.¹⁸

A sudden and serious check came to the cattle industry generally in the state in the form of two successive years of drought in 1863 and 1864. Half the cattle starved the first year. Others were too weak to stand severe weather the next year and many died of exposure. Cows and calves died first, and it seemed as if the country would be swept clean of cattle. Again, cattle were killed for their hides and what tallow they had. About 5000 were killed at one establishment near Monterey, bringing a return of from two to four dollars per head.¹⁹

The result of the disaster wrought a revolution in the cattle industry. The Spanish stock largely disappeared. Proprietors of the great Mexican grants had tried to put off the survey so that they could sell more land than they had, or else they had refused to sell. They had great herds of cattle, but lost heavily during the long drought, some losing their entire herds. As a result they were now anxious to sell all or part of their land. Farmers

¹⁵"Report of the Visiting Committee," in *Transactions of the California Agricultural Society*, 1858, p. 212.

¹⁶Hoag, J. N., Report of the Corresponding Secretary, in *Transactions of the California Agricultural Society*, 1872, p. 190.

¹⁷*Ibid.*, 185.

¹⁸Flint, Wilson, "The Fence Question," in *Transactions of the California Agricultural Society*, 1863, p. 148.

¹⁹*Census Report for 1880*, III, 1030.

now purchased small numbers of blooded animals imported from the east and bred from these.²⁰

The farmers and small stock growers complained of the injustice of the existing fence laws, and as their numbers increased they secured the repeal of the law, county by county.²¹ Ranging over free land was replaced by ownership or lease. By 1880 there was little good government land to be had. Much land had been secured on soldiers' warrants. Swamp and overflow lands had been purchased for one dollar per acre, university grants had been sold for six dollars per acre, and school warrants for one dollar and twenty-five cents per acre. Some Mexican estates had been purchased by cattlemen who had paid \$25 per acre and for pastures for feeding purposes on drives; and again for marketing purposes they had paid as high as \$100 per acre. In Los Angeles county almost all the land for stock-raising remained covered by Mexican grants. In the eastern part of the county Basques leased the land at the annual rate of thirty cents per acre. Where the ranges of public land were held, the tenure was by "corralling" the water, that is, by taking up all the sources of water upon the range. Intrusion was thus prevented, as the adjacent country is tributary to the water privileges. An estate of 200,000 acres in Kern county contained all the available water of a region of 500,000 acres.²²

The ranches through the central part of the state were generally fenced. This type of ranch is illustrated by the Bloomfield Ranch in Santa Clara county. In 1880 the fence was made of redwood posts and pine boards. It was divided into pastures ranging in area from one hundred to twenty thousand acres. It comprised hill, valley, and bottom pasture. Claim was made that by confining the herd the cattle had become better tamed and were more easily handled by a few herders. It was further claimed that they bred more readily, and kept in better flesh than when on the open range. Beef cattle on the fenced range were fed in feed yards, and to a limited degree stall feeding was practiced. Stock cattle were held on the hill pastures during

²⁰Dunn, H. D., "California—Her Agricultural Resources," in *Transactions of the California Agricultural Society*, 1866-7, pp. 519-20.

²¹*Statutes of California*, 1872-1878.

²²*Census Report for 1880*, III, 1030.

the winter and spring. After the rains were over they were moved to the greener, fresher valleys and to the bottom lands in summer. In winter, hay was fed to such cows and calves as needed it.²³

Even though the unfenced range had gone largely out of practice, some were left in the more sparsely settled districts. The Tejón Ranch was a good example of the old style ranch. In 1880 it belonged to G. E. J. Beale, and included the original grants of Tejón, Castac, Liebre and Almos, comprising 200,000 acres in private ownership. It controlled the water supply of 300,000 acres of public land. Since 1854 this ranch has been stocked both by sheep and cattle, and in 1870 it contained 96,000 sheep. In 1879 a long lease having expired, General Beale, coming into direct control, purchased more cattle and gradually disposed of many sheep. A change was always made from summer to winter pasture. The summer was spent in the mountains or higher elevations. Cattle instinctively avoid these places in winter, preferring a sheltered valley or lower level. The summer pastures were entered about June and the winter pastures about the middle of October.²⁴

The leading cattle counties of northern California were Marin, Siskiyou, Sonoma, Humboldt, Modoc, and Lassen. In central California, San Luis Obispo led with over 42,000 cattle in 1880; Fresno, Kern, Sacramento, Monterey and Santa Clara followed in order of the number of cattle. In southern California, Santa Barbara and Los Angeles counties were in the lead. No large herds were found in San Bernardino county, and in San Diego county the droughts and the alkaline character of the soil work against the cattle industry.²⁵

The Bureau of Animal Industry prepared its first annual report in 1885. In discussing the general conditions of the cattle industry the writer said that California must be excluded from the range country proper, although stock-raising on range had been profitable in some sections. Fruit growing, wine making, and sheep raising had crowded out the cattle industry, and Cali-

²³*Ibid.*, 1032.

²⁴*Census Report for 1880*, III, 1030.

²⁵*Ibid.*, 1033.

fornia looked to Nevada rather than to its own ranches for a supply equal to local demand.²⁶

The rush into California for gold gave an impetus to the cattle industry of Utah. Enterprising Mormon traders lined the emigrant road from the Sweetwater to the Humboldt. In exchange for Indian ponies, they secured thousands of cows and steers of excellent breed, although they were exhausted, footsore and broken down. A few months on the nutritious pasture of Utah made them valuable. The numbers grew rapidly and the breeds were crossed with Short-horn, Devon, Hereford, Jersey or Ayreshire. The census of 1850 returned 12,616 cattle from Utah. Three years later a drove of 23,000 work steers described as fine, heavily fattened animals were driven to Sacramento market, where they were reported to have sold for two hundred or two hundred fifty dollars per yoke. Drives from Texas are recorded for 1861, and a year or two later from southern California. California was a market for part of the Utah products, but when it became so badly overstocked as not to need the Utah supply, cattle were driven into Nevada, Wyoming, Colorado, and later to Montana. From 1860 to 1873 the mining camps of Nevada furnished a market for Utah beef, and again during the construction of the Pacific railway the market was found nearer home.²⁷ About 50,000 head were driven into Wyoming and from there to Chicago in 1879, and 60,000 in 1880.

Cattlemen were not slow to utilize the grazing lands of Nevada. As early as the summer of 1855 Harry Gardier, a Frenchman, drove cattle across the mountains from California to Nevada. He continued this work, fattening his cattle in the Carson Valley, until in 1858 he was killed by men who wanted his cattle. In 1856 G. W. Huffaker bought cattle at Salt Lake City and drove them into the Truckee Meadows. During the early Comstock excitement he fattened the cattle and sold them as beef to the miners. Cattle of Texan variety were first herded on the Humboldt during the winter of 1859-60. Long Valley, in White Pine county, was occupied for herding purposes in 1869 by Alvaro Evans and Robert Moss. Nevada followed the example of Cali-

²⁶*House Misc. Docs.*, 48 Cong., 2 Sess., II, No. 25, p. 234.

²⁷*Census Report for 1880*, III, 1071. Baneroft, *History of Utah*, 729-730.

fornia by throwing the responsibility of fencing upon the farmer. By the decision of the supreme courts in 1880 cattle-raisers were even spared the expense of the herdsmen. This decision said that owners of stock were not liable for damage done to crops by cattle unless the land was so fenced as to exclude ordinary animals. Again, cattle had to be taxed at the residence of the owner instead of on the grazing grounds. A law of 1873 required each owner to have a brand, and a counter brand in case of sale. In 1881 an inspector of hides was provided. He might enter the premises of anyone and examine the brand on the hides. In 1884 the stock-raisers in Nevada estimated that they had about 700,000 cattle.²⁸

Thus it seems that the phenomenal impetus given to the cattle industry on the Pacific slope was caused and occasioned by the discovery of gold in California. The market of San Francisco and the various settlements proved a source of encouragement. Then the development of the mining interest in Nevada caused further demand for meat, for the army of laborers had to be fed. When the Union Pacific was completed a means of transportation was available by which meat, hides, or live cattle could be shipped to eastern markets. The "long drive" from these regions to eastern markets hardly deserved mention. It was not used and could not have been, as cattle would have been too lean and footsore to find purchasers.

That Texas had an abundance of cattle from Spanish days is an established fact. But the industry was not profitable, owing to the lack of market. Before the end of the Civil War herds were driven to California, Nevada, Utah, a few to Arizona and perhaps to Colorado and New Mexico, but these were for stocking purposes, and proved a very inadequate demand for the supply, thus little interest seemed to be taken by the ranchers. But demand in the east for beef from the west was inevitable. It did not have the sudden growth that the western markets felt, but a slow, steady development, due to the increase in population, the westward movement of the people, and development of mechanical industries in the eastern section of the country. It was hastened to a considerable degree by the Civil War, but if there

²⁸Bancroft, H. H., *Nevada, Colorado and Wyoming*, 247-8 (summarizes G. W. Huffaker's *Cattle Trade*. MSS.).

had been no Civil War the demand for Texan or western meat would have developed in New York and Boston at a somewhat later date.

The cattle industry is, of necessity, a frontier industry. When the population increases the herder must move to a new frontier or change his occupation; at the same time there is a stronger demand for his products. The ratio between the number of people and the number of cattle should be nearly constant. Dr. Silas Loomis estimated that every one hundred people require eighty meat cattle.²⁹ In the eastern states there were eighty-seven cattle to every hundred persons in 1840. In that estimate Texan cattle were not included, so the figures do not show the decrease of cattle in the eastern states. At that date the Texan cattle industry was at rather a low state of development, as some years were needed to restore order and prosperity after the Revolution. By 1860 Texas returned four hundred thirty-eight cattle to every one hundred people. That year the ratio for the nation was eighty-one to one hundred, showing an evident decline in the number of cattle in the east.³⁰ The compiler of these statistics said that in considering excess or deficiencies, the region west of the Rocky Mountains, because of isolation, should not be counted. He thought Texan cattle unavailable because they were mostly wild or not sufficiently domesticated to be driven to market in large numbers.³¹ In 1860 New England had a deficiency of 785,161 cattle, the Middle States had a deficiency of 1,564,526, while Ohio had a surplus of 46,227.³² At the close of 1860 the Southern States were well supplied with cattle.

The abnormal conditions of business brought about by the Civil War made a decided showing in the supply and demand for cattle. In the report of the Department of Agriculture for 1865 we find that "there has been a loss since 1860 by waste of war in everything except sheep. There has been great loss in the Southern States but a steady increase in stock in the Pacific States.

²⁹*House Ex. Docs.*, 38 Cong., 1 Sess., XVI, No. 91, p. 255.

³⁰*House Ex. Docs.*, 38 Cong., 1 Sess., XVI, No. 91, p. 256.

³¹*Ibid.*, 257.

³²*Ibid.*

The decrease in horses 10 per cent, mules 20 per cent, cattle 7 per cent, and swine 22 per cent.³³

Raids by the enemy, plus the burden of feeding the Confederate army, had caused a great reduction in the southern stock.³⁴ Texas was the least affected Confederate state. It was not the base of military movements, did not suffer from raids, but suffered from blockaded ports and lack of markets. The only important cities outside the state that had consumed any considerable quantity of Texan beef were Mobile and New Orleans, and these markets were controlled, in fact, practically monopolized, by the Morgan line of steamers plying between them and the Texan coasts. They had demanded such exorbitant freight rates as to debar practically all from shipping except members of the company. During the war this trade was stopped. A few droves of cattle were marketed to the Confederate armies by swimming the Mississippi River below Vicksburg, but Union gunboats made this too hazardous to be practiced. Texas could not, and would not sell to the North, so it was that a man's poverty was estimated by the number of cattle he possessed.³⁵ Ranchmen neglected their cattle and sold them at one or two dollars per head when a purchaser could be found.

If a man's poverty was measured by the number of cattle he possessed, there were some very poor men in Texas during the war. There was Colonel Richard King, who owned a ranch, known as the Santa Gertrudis Ranch, which embraced 84,132 acres. On it grazed 65,000 cattle, 10,000 horses and 8000 goats. Three hundred Mexicans and 1000 saddle horses were required for its management. The O'Connor Ranch on the San Antonio River contained 40,000 cattle; on it 12,000 calves were branded annually, and \$80,000 was realized from the sale of cattle.³⁶

At the close of the war prices were inflated. A beef sold for about eight cents per pound for six hundred pounds, as two-fifths of a thousand pound beef was allowed for hides and tallow. There is no record of the number of beeves slaughtered in the

³³*House Ex. Docs.*, 39 Cong., 1 Sess., No. 136, p. 69.

³⁴*Ibid.*, 246.

³⁵McCoy, *Historic Sketches of the Cattle Industry in West and Southwest*, 19-20.

³⁶*House Ex. Docs.*, 41 Cong., 3 Sess., XIII, p. 347.

United States, but in New York City alone at the close of the war 4,940,000 were killed annually.³⁷ Texan cattle were needed. Texan speculators determined to try their luck in the field, for cattle were worth several times their Texan market value in the North. During the winter of 1865 and 1866 large herds of beeves were collected to be driven North in the summer. One speculator went to a herd of 3500 cattle and purchased 600 choice beeves for six dollars each. For the next 600 head he gave three dollars each. The average of his 1200 head of cattle cost \$4.50, or about fifty cents per hundred pounds of gross weight. Mr. McCoy, a pioneer in the cattle industry, accepts these figures as approximately accurate.³⁸

Many unforeseen impediments lurked in wait for this enterprise. Organized bands of robbers in southern Kansas and Missouri assailed the drovers, and scattered and robbed the herds. If the drover had ready money he could buy a safe transit from the chief of the gang; but most drovers were unwilling to do so. Thus, of this large number of cattle, but few found their way to a profitable market.³⁹

Failures are sometimes stepping stones to success. Shrewd drovers believed railway transportation at reasonable rates from Kansas City to Chicago or some other large city to be the solution of the problem. Accordingly, Mr. J. G. McCoy set about securing an understanding with a railroad line extending at that time into Kansas. After some difficulty this problem was solved. But other difficulties arose. Cattle driven directly from the pastures of Texas into a northern state spread a disease among the northern cattle. Nearly all northeastern bound Texan cattle had to pass through Illinois, and some Illinois cattle had the Texas or Spanish fever. The Illinois Legislature passed an act excluding all Texan cattle from entering the state, if they had not been wintered on the plains north of Texas. It may be that the solons were also influenced by the effects of Texan competition on the Illinois cattle industry, but this is only a speculative remark.⁴⁰

³⁷*House Ex. Docs.*, 39 Cong., 1 Sess., Vol. 15, No. 107, pp. 300-301, Serial No. 1297.

³⁸McCoy, *Historic Sketches of the Cattle Industry of the West and Southwest*, 20-23.

³⁹*Ibid.*, 23.

⁴⁰*House Ex. Docs.*, 41 Cong., 3 Sess., XIII, p. 40. McCoy, Ch. IX.

Kansas became the wintering state, because of the sparse population, excellent pastures, and railway connection with the east. The law was conscientiously obeyed by many drovers, but less scrupulous ones did not find it difficult to get a warrant sworn to before a dishonest notary and send on cattle that had not been wintered.⁴¹

In 1860 the New York market was supplied mainly by New York and neighboring states, but in 1870 Illinois supplied 205,255 cattle to New York. Not all these had been raised in Illinois, but all western cattle (except Texan) brought through Chicago were credited to Illinois. In the same year Texas supplied 39,652 cattle to New York.⁴²

It will be interesting here to follow the price of cattle from the Texan ranch to the retailer's counter in New York. The drover bought cattle on the ranch. If only beef cattle were purchased, the price was twelve to fourteen dollars per head, but if he bought a miscellaneous drove, beeves cost eleven dollars, milch cows six dollars, three-year-olds seven dollars, two-year-olds four dollars, yearlings two and a half dollars. At Abilene, Kansas, the beeves sold for twenty dollars, milch cows for twelve dollars, three-year-olds for ten dollars, two-year-olds for eight dollars, and yearlings for five dollars. If the cattle had spent the summer on Kansas grass before the sale they were worth twenty to twenty-five per cent more. Beeves cost the importer thirty-one dollars in St. Louis and fifty-five dollars in New York. The retailer paid about eight cents per pound for the animal. Thus, a beef weighing 900 pounds cost seventy-two dollars.⁴³ But Texan beef was still looked upon with disfavor in New York, as is shown by a quotation from a report on markets published in the government report on agriculture for 1870: "The Alternative . . . is to pay a dollar beyond proper value of marketing at a fashionable stall, where meats are good, or to buy at a third rate stand, where the millions go, where vegetables are wilted, where the chickens are blue and the beef Texan."⁴⁴ On the other hand,

⁴¹McCoy, Ch. IX.

⁴²*House Ex. Docs.*, 41 Cong., 3 Sess. (Report of Department of Agriculture), 49.

⁴³*Ibid.*, 350.

⁴⁴*Ibid.*, 245.

packers claimed that Texan cattle lost less in packing than Illinois cattle, and that their hides were worth fifteen to twenty per cent more, because of more tallow.⁴⁵

When it was seen that Texan and other far western meat was salable, enterprising men actively took up the ranching industry. Before many years suitable and unsuitable lands were stocked beyond their capacity. Ill watered districts were stocked, and many animals were lost by thirst.⁴⁶ Regions that had been partially stocked now came into prominence. Among these was Colorado.

In 1847 St. Vrain and Bent had driven cattle from Texas to New Mexico, then into Colorado, and wintered them near Bent's Fort; but it seems that the nutritive quality of the grasses of the Platte Valley was not understood until 1858, when a pioneer, A. J. Williams, not having food for his eighteen oxen during the winter, turned them out on an island near old Fort Lupton to take the chances of living or dying by starvation. In the spring of 1859 he visited the islands, and, to his surprise, found the cattle alive and well. Accordingly, ranches were established on streams leading out from the Sierra Mojada and on the upper Las Animas.⁴⁷ In 1859 John C. Dawson made, so far as is known, the first cattle drive north from Texas into Colorado.⁴⁸ Cattle-raising was begun around Cañon City in 1862-63. In 1872 the first large herd was taken from Texas into the Wet Mountain region, and in 1876, 1500 Mexican cattle were placed in the Platte River Valley.⁴⁹ The growth of the industry in Texas may be shown by the number of cattle noted by the census of 1880, which returned 124,576, of which twenty per cent were calves. From this state 4921 cattle were sold in Chicago and 9519 in Kansas City the same year.⁵⁰

The Panhandle of Texas was first partially stocked in 1876. In November, 1877, Mr. Charles Goodnight having entered the Panhandle from southern Colorado, located a herd of 2200 head

⁴⁵*House Ex. Docs.*, 41 Cong., 3 Sess., XIII, 352.

⁴⁶*Ibid.*, 349.

⁴⁷Bancroft, H. H., *Nevada, Colorado and Wyoming*, XXV, 543.

⁴⁸*Census Report for 1880*, III, 940.

⁴⁹Bancroft, H. H., *Nevada, Colorado and Wyoming*, XXV, 544.

⁵⁰*Census Report for 1880*, III, 1005.

at the head of the Red River. The stocking continued rapidly, and by 1880 reports showed 225,857 head of cattle located there, in spite of the losses due to spring storms and black wolves.⁵¹ To the south, between the Panhandle and the hundredth meridian, the Shad brothers located a ranch in Wichita county. They were alone and exposed to Indian depredations. Later Daniel Waggoner brought in stock from Decatur and located a ranch twenty miles further down the Wichita River. The drawback to this region had been raids by the Kiowa and Comanche Indians. In 1874-1875 they were subdued and moved to reservations, after which date cattlemen from other parts of Texas began moving cattle into this region.⁵²

The annual cost of holding a herd, not feeding it corn in winter, was seventy-five cents per head in 1880 in the southern region and a dollar in the Panhandle, but Panhandle beeves brought twenty-three dollars in the Kansas market, while those further south brought only twenty dollars.

The cattle industry could not prosper in New Mexico and Arizona as long as the Indian tribes were unsubdued. Owners were ever in danger of losing their herds. The outrages were usually perpetrated by the Utahs, Apaches, Navajos, and Comanches.⁵³ The Pueblos and Moqui were industrious and needed friendly treatment, but the Apaches were very savage and were murderous as well as incorrigible robbers. They had no way of gaining a living except by stealing, and they influenced the Comanches to join them in raids which extended from New Mexico and along the Gila in Arizona to Chihuahua.⁵⁴ In spite of the dangers, there was a great increase in stock during the decade 1850 to 1860. The horses and mules grew in numbers from 13,733 to 21,357; cattle from 32,977 to 88,729; sheep from 377,271 to 830,116.⁵⁵

W. S. Oury seems to have been the first Anglo-American to attempt cattle-raising in southern Arizona. In 1858 he bought one hundred Illinois heifers and four bulls at Tucson from a

⁵¹*Ibid.*, 1005.

⁵²*Ibid.*, 973.

⁵³*House Ex. Docs.*, 31 Cong., 1 Sess., No. 5, p. 109.

⁵⁴Bancroft, H. H., *Arizona and New Mexico*, XVII, 462, footnote.

⁵⁵*Ibid.*, 645.

driver who was taking a drove through to California to improve the stock there. He placed this herd in the Santa Cruz Valley, where he held it for sixteen years. In spite of all his precautions the herd only numbered 400 at the end of this time. The Indians had enjoyed their portion of the beef.⁵⁶ In 1867 three herds, aggregating 800 cattle, were driven from New Mexico and located upon ranges along the Little Colorado, while another herd of 400 were driven from Utah to the same region. The land here was only slightly productive, and 50,000 acres were necessary to graze 1000 cattle. In 1869, H. C. Hooker of the firm of Hinds and Hooker, who were furnishing beef to the military department of Arizona, moved 4000 Texan beeves and stock cattle into the southern part of the territory near the Boboquivari Peak. Here the animals were fattened and distributed to the southern garrisons. In two years he lost 400 beeves, stampeded by the Indians. At the same time Mr. March began the ranching industry with 400 Sonora cattle in the Santa Cruz Valley, below Tucson. He suffered both from Indian and Mexican cattle thieves. The next year several Mexican cattle owners grazed herds of from twenty to seventy-five head in the same valley. In 1872 Mr. Hooker brought 10,000 Texan cattle into the Sulphur Springs Valley. From this herd beef was provided for the garrisons which were engaged in pacifying the Indians. The next year 1500 cows were brought, along with other cattle, and the range became a breeding range. Ranchmen were looking for a water supply adequate to the need of their herds, and by 1873 several important water claims were taken up.⁵⁷

By 1874 the Indians were practically subdued. The rancher could now develop his industry with a greater feeling of security. Herds were driven into northwestern Arizona, some being brought from Nevada and some from Oregon by the way of Muddy River, Rio Virgin, and Stone's ferry on the Colorado. After 1875 Texan and New Mexican herds were driven into this region. In 1880 cattle were driven from the Mojave and Kern county, California.

Ranges along the lower Gila were not very profitable. The country is too dry and hot. Cattle suffer from the heat and when

⁵⁶*Census Report for 1880*, III, 1047.

⁵⁷*Ibid.*, 1047-1049.

drought is long, they become so poor that they are unable to stand inclement winds. Alkali is abundant in the salt grass and in the water. Only hardy Mexican cattle do well in this region. In the Salt River Valley cattle are raised upon alfalfa which had been grown by irrigation. Both sheep and cattle have been held in the San Pedro Valley, which was settled by Mexicans in 1873 and 1874, and in 1876 a colony of Mormons settled below the Tombstone crossing with several lots of dairy cattle. There are several large ranges in the Pima country. In 1880 an American firm had 5000 cattle grazing. Another range fed 1500 cattle and several smaller ranches held from five to eight hundred at the same date.⁵⁸

As a part of the expansion of the cattle industry of Texas, Wyoming and Montana were stocked in the later seventies and earlier eighties. These severe climate in winter proved a great hindrance to the beginning of cattle. Thus these states were used more for the fattening of Texan animals than as breeding states, but there was quite a great increase by breeding. Pioneers in the industry made many mistakes in this region. Cattle were in many instances driven into new regions in the autumn. The country was strange, the poor animals did not know where to find water and were not acclimated. The blizzards always took a liberal toll among the unsheltered animals, and one cannot but feel that the love of gold had too firm a hold on cattlemen, who, eagerly grasping for wealth, made no provisions for the protection of their herds from hunger, cold, and thirst. The best results financially as well as humanely came when herds were brought in in spring or early autumn. Hay needed to be cut from unstocked ranges for the worst winter weather, and some kind of shelter in corrals or in the protected side of a cañon should have been provided.⁵⁹ Grazing grounds at great altitudes became graveyards of cows. The female animals succumbed first. It was said that in ten years the bones of a million Texan cattle were strewn on roads, on ranges and in shallow streams, a monument of man's cruelty to beasts.⁶⁰

⁵⁸*Census Report for 1880*, III, 1049.

⁵⁹Wilkinson, Frank, "Cattle Raising on the Plains," *Harper's Magazine*, Vol. 72, p. 789.

⁶⁰*Ibid.*, 793.

Following the construction of the Northern Pacific Railway, adventurers rushed into the northern states. Young men from the East, some of good families, who could command a few thousand dollars; Englishmen and Scotchmen with small and large capital, and also with no capital, came into the field. Profits frequently ran to fifty per cent per annum and adventurers paid two and three per cent per month interest to eastern capitalists. The year 1881-1882 was known as the cattle boom year.⁶¹ Such conditions could not continue indefinitely, and the profits fell as other forces, to be discussed later, limited the industry.

The interest of the United States government in cattle-raising and other animal industries was manifested by the establishment of a Bureau of Animal Industry, which began issuing reports in 1884. These reports dealt with many phases of this work, but gradually narrowed down to the scientific phase.

III. TRANSPORTATION.

The consumer lived far from the ranches where the beeves were produced. The success of the cattle industry depended upon the solution of the problem of adequate transportation. The long drive was the first method used. Although it was not generally believed in 1860 that Texan cattle could be driven successfully in herds, it was proved before 1870.

The proprietor of the ranch sometimes drove his cattle to market, but usually the drover was a speculator who purchased large herds and drove them to market. Ten or twelve cowboys were required to drive a herd of two thousand cattle. Large herds cost less per head to drive, but unless the trail was flanked by excellent, broad pastures, the advance herd exhausted the food supply and those in the rear went hungry.

After the ranchman had "rounded up" and "cut out" the animals to be sold, as a safeguard against arrest for theft he gave the drover a bill of sale which identified the ranch brand and the ear-marks of the animals. As a herd composed of cattle from several ranches was restless, the drive was begun promptly after all the cattle were brought in. The daily rate of travel was twenty-five or thirty miles for the first three or four days. The

⁶¹Aldridge, Reginald, "Life on a Ranch," *Nation*, Vol. 39, p. 293.

restlessness of the herd being diminished, the rate of travel dropped to about fifteen miles per day. A higher mileage caused too much loss of flesh.¹

Even though the long drive was romantic and picturesque, it was beset by many dangers. Stormy weather occasioned stampedes; large swollen streams sometimes incited "milling"; herds of buffaloes frightened and scattered the cattle; Indians were fond of beef and frequently fought skirmishes with the cowboys; and, last, but not least, were the outlaws who infested the states of Missouri, Kansas, and Arkansas.²

In Spanish and Mexican days cattle were driven from the vicinity of San Antonio to New Orleans. From New Orleans cattle were driven to Mobile, Alabama.³ Drives of this kind continued until 1860. During this period a few cattle were shipped by the Morgan line of steamers from the Texan coast to these two southern ports, but this method of transportation was in the hands of a monopoly. During the Civil War a few herds were driven to the Mississippi to feed Confederate soldiers. At the close of the war several attempts were made to reach Chicago by driving cattle to Sedalia or St. Joseph, Missouri, from which place they could be carried by rail to Chicago. A few herds were driven to central Iowa and sold there as feeders.⁴

By 1870 three important routes to eastern markets had become established. Coastwise steamers gathered up cattle in Texas, proceeded to New Orleans, from which place the animals were carried to Cairo by river boats. Thence they were carried to Chicago by rail. A second route from Texas was over a trail to shipping points on the Red River. River boats transported them to Cairo, whence they reached Chicago by rail. The third route was by trail into Kansas. The newly built railroads carried the cattle from stations along their lines into Chicago.⁵

It would probably be impossible to find a complete account of

¹*Census Report for 1880*, III, 990.

²McCoy, *Historic Sketches of the Cattle Trade in the West and Southwest*, Chs. 5 and 6.

³*University of Illinois Agricultural Experiment Station Circular*, No. 169, pp. 4-5.

⁴McCoy, *Historic Sketches of the Cattle Trade in the West and Southwest*, 29.

⁵*Yearbook of the U. S. Department of Agriculture*, 1908, 231.

all the trails used by drovers, and it would be somewhat unprofitable, but there are several trails over which such multitudes of bovines trod their weary way, either to the slaughter pen or the northern pastures for fattening, that mention must be made of them.

A famous trail over which cattle were driven from 1864 to 1885 began at the Gulf coast of Texas, passing northward west of San Antonio; thence to the Red River at Doan's Store, in Wilbarger county, Texas. Here it divided into two trails, one leading northward into what is now Beaver county, Oklahoma, thence west to the Colorado ranges. The other trail led northeasterly through the Fort Sill Reservation, now in Oklahoma. It crossed the Washita River at Anadarko, Oklahoma, trending northeasterly, crossing Canadian River, it led on through Fort Reno and Kingfisher, thence northward along the route of the railroad which now passes through Caldwell and Washita, to Abilene, Kansas.⁶

The Chisholm trail was named for John Chisholm. He was an eccentric old bachelor who resided in Paris, Texas, and engaged extensively in the cattle business. He accumulated much wealth and left his name on the trail over which he first led large herds of cattle. For a long time there had been a trail through Texas. It reached from the Red River in Cooke county to the southern part of the state. Chisholm forded the Red River near the mouth of Mud Creek and followed the creek to its source. Then he proceeded northward to Wild Horse Creek, west of Signal Mountains and crossed the Washita at Elm Spring. He went due north to the Canadian River, left it and struck Kingfisher Valley. He touched the head of Black Bear and Bluff Creek, then struck the south fork of the Arkansas, which was crossed at Sewell's Ranch. Near Caldwell the course was a little east of north. The Arkansas was crossed near Washita, where the famous "First and Last Chance" saloon with its signboard facing both ways, attracted the cowboys. Then he turned northeastward, striking Newton. He crossed the divide between Arkansas and Smoky Hill to the prairies south of Abilene. This trail, including its southern extension, was about six hundred miles long. It was from two hundred to four hundred yards

⁶*Yearbook of the U. S. Department of Agriculture for 1908*, 229.

wide. By corrosion it became lower than the adjacent fields. Weary animals had often died on the way, and their bleaching bones furnished a grewsome decoration to the path. Here and there a broken down wagon appeared along the way, and occasionally a mound rose up to remind the traveler that cowboys were mortal. A writer said that the wealth of an empire had passed over the trail, leaving its marks for decades to come.⁷

The Kansas trail was originated by Joseph G. McCoy. When he established the station at Abilene, Kansas, he dispatched lonely riders across the prairies to persuade the drovers of every herd which could be found to drive them to Abilene. However, they were not easily persuaded. A group of Californians driving about three thousand head were first to break the northern end of the trail. They went northeast, crossing the Arkansas near the present city of Wichita. In 1868, 75,000 cattle, and in 1869, 160,000 cattle traversed this trail.⁸

The Fort Scott and Gulf Railroad opened a shipping point at Baxter Springs, in southeastern Kansas. The trail leading to it was known as the "Old Shawnee Trail." It left the Red River near Snivel's Bend, about forty miles east of the starting point of the Chisholm trail, with which it ran nearly parallel for about one hundred miles. It was joined by a cross trail connecting with the Chisholm trail at Elm Spring. It trended eastward on the north side of the Shawnee Hills, crossed the Canadian near the Sac agency, then the North Canadian near the Fox agency. From this it passed through the Creek Reservation, fording the Arkansas west of Forts Davis and Gibson. It also was worn bare as a city street, and bore the same grewsome decorations worn by other trails. From the Shawnee country it reached Baxter Springs by an eastward path.⁹

The West Shawnee trail lay between the Chisholm and the Shawnee trails. It branched off the Shawnee trail near the Canadian River, trending nearly due north till it reached the Arkansas, which it followed into Kansas. It went up the White Water Valley, then north across the Cottonwood, along the Neosho and Clark's

⁷Harger, Charles M., "Cattle Trails of the Prairies," in *Scribners*, XI, 734.

⁸*Ibid.*, 733-4.

⁹*Ibid.*, 735.

Creek Valleys, ending at Junction City, twenty-five miles east of Abilene.¹⁰

In later years the Chisholm trail gave off a western shoot which left it near Elm Spring. Continuing past Fort Reno into western Kansas, it struck Dodge City.

The Goodnight trail, often called the Goodnight-Chisholm trail, was the route first used as a drive into New Mexico for cattle of west central Texas. Cattle were gathered about Fort Concho (now San Angelo), from which place the drive led west for about ninety miles, across the Staked Plains to Horsehead crossing on the Pecos River, about one hundred miles below Pope's Well. It thus crossed a sandy waste. The lack of water constituted the most serious obstacle on the way, which was a thirty or forty-hour journey. Beeves made the trip in less time, but a mixed herd required a longer period. If a herd started about 2 p. m., by the next afternoon the animals would be frantic for water. The work of the cowboys was not to goad them on but to hold them back. The stronger animals forced themselves ahead, the exhausted ones feebly straggling far behind. A few miles north of the Pecos River is an alkali pond into which the thirsty creatures would plunge, unless prevented, and drink, causing death. From Horsehead Crossing the drive followed the Pecos, entering New Mexico near Pope's Well. There it divided; one branch struck west along the Delaware River for El Paso, on the Rio Grande, and thence on to Arizona; the other struck off at the mouth of the Peñasco and proceeded west up that stream and across the divide to near Fulerosa, whence a general southwest course was made for Las Cruces, on the Rio Grande. The main Arizona trail led through Florida Pass. The great drive followed the Pecos nearly to the thirty-fifth parallel, thence across the divide to the Canadian River, twenty miles above La Cinta, then east to the Canadian, due north, entering Colorado either through Trinchora Pass, or by northwesterly divergence through Clifton, across the Ratón Mountains.¹¹

The Dawson trail followed the path traversed by John C. Dawson in 1859. He came out of Indian Territory into Kansas on the ninety-sixth meridian and drove north about thirty-five miles

¹⁰*Ibid.*

¹¹*Census Report for 1880*, III, 990.

above the confluence of Walnut Creek with the Arkansas River. Then he crossed the Little Arkansas at or near where Sedgwick City now is. This route followed the Arkansas, generally on the north side, to Pueblo. From Pueblo he went up the east bank of Fountain qui Brouille Creek to the present Little Buttes, where it turned off east to the head of Squirrel Creek, then northwest across the divide and down Cherry Creek to its mouth, where Denver has since become a city.¹²

California has no trails comparable to the Chisholm or other Texas trails. Cattle were moved about, but not in the same paths as were those driven to eastern markets, but the pathways worn by the animals as they traveled back and forth from lowland to highland have had a marked influence on the development of public highways. Instinct taught the heavy beasts the line of least resistance. Settlers learned that the paths thus made were more suitable for the use of highways than paths of their own selection.¹³

Wyoming and Montana were stocked as an extension of the industry in Texas. Trails had to be beaten out of this phase of the industry. Individual drovers had routes of their own, but generally the young stock skirted the foothills of the Rockies in drives to the northern regions. Texan cattle growers in convention at St. Louis, 1884, advocated the creation of a national cattle trail six miles wide, extending from Texas to our northern boundary. Northern cattlemen opposed this proposed trail vigorously for two reasons: (1) Texan cattle infected the region over which they passed and northern animals caught Texas fever by passing over the same ground; (2) they feared that 200,000 or 300,000 cattle driven to the north over the proposed trail would overstock the ranges and injure, if not destroy, the business.¹⁴ Drovers had already purchased a strip on each side of the Arkansas along the eastern border of Colorado, but the extensive development of railroads annulled the demand for such a trail.

During the seventies and eighties many of the western lines of railroad were begun and completed. These revolutionized the method of transporting beef to the East. Mr. Joseph G. McCoy

¹²*Ibid.*, 974.

¹³Reminiscences of an experienced cattleman, given orally to the writer.

¹⁴Wilkeson, Frank, "Cattle Raising on the Plains," in *Harper's Magazine*, 72, 792.

was the pioneer in adapting the Kansas railroads to the Texan cattle industry. He visited business men of Kansas towns to interest them in a stockyard and he consulted railway officials to obtain rates and accommodations. The president of the Kansas Pacific had not faith enough to attempt the work. The president of the Missouri Pacific was very rude to the shabby Texan ranchman, but the general freight agent of the Hannibal and St. Joseph line offered rates and closed a contract for the transportation of cattle over his line.¹⁵

In the early days of shipping by rail all kinds of cattle were crowded into square open cars without regard to bruises or broken legs, which made the meat unfit for human food. Little provision was made for feeding or watering on the road.¹⁶ Railroads everywhere through the West sought for cattle freight after the experiment was made by the Hannibal and St. Joseph line from Abilene. Competition goaded lines to provide stock yards and better care. Facilities for feeding and watering were essential. The Northern Pacific in 1885 met this need by disembarking the cattle at places where the pasture was good, allowing them to feed several hours each day. Trains devoted to carrying cattle in this manner cost forty or fifty dollars per day. Free passage was granted the proprietor, who usually took a passenger train, and to a certain number of cowboys, who had a special car attached to the cattle train.¹⁷ Other railways took a better plan and began improving their cars. By 1885 the southern lines had begun using improved cars. Several of the lines made extra charges for their use. The Chicago, Alton and St. Louis line was the first to notify the Stock Growers' Association that no extra charge would be made for transportation in stable cars. These cars were separated into compartments and provided for feeding and watering in the car.¹⁸

Several kinds of improved cars came into general use. One of the best of these in 1888 was the Burton car, but it had the disadvantage of being divided into compartments permanently,

¹⁵McCoy, *Historic Sketches of the Cattle Trade in the West and Southwest*, Ch. III.

¹⁶*House Misc. Docs.*, 50 Cong., 2 Sess., No. 139, p. 361.

¹⁷Bancroft, H. H., *History of Washington, Idaho and Montana*, 736-7.

¹⁸*House Misc. Docs.*, 50 Cong., 2 Sess., No. 139, p. 333.

which interfered with return freight. The advantage of the improved car is shown by the report of Erskine R. Merrill, general agent of the Burton Stock Car Company. He shows that cattle weighing 935 pounds in Winslow, Arizona, lost only fifty-three pounds on their way to Kansas City, a trip of 1204 miles. The trip was made in seventy-two hours, during which the cattle had been fed with hay and watered twice a day. A trip of 1196 miles in the ordinary cars was made in five days. The cattle were unloaded at feeding stations and lost on an average one hundred eighty-eight pounds per head. The Burton cars showed the saving of one hundred thirty-five pounds per head. The Newell car was the adaptation of the old car to the conditions. It carried watering troughs and feed racks which could be folded out of the way, to permit the carrying of freight. Another improvement was modeled on the Pullman passenger car. It had forty two-inch steel-tired *papier maché* wheels, elliptic springs, Westinghouse air brakes, and automatic couplers to prevent jarring when stopping or starting. Cattle were driven into these cars and boxed off in separate compartments by transverse slats lowered from the roof. There was enough room in each stall for the animal to lie down at will. Food was dropped from a bin in the roof into mangers in the side of the car. Water also from a tank in the rear was supplied to troughs at the side of the car by pipes which ran around the car on the outside. Fan wheels at each end and a double roof kept the car well ventilated in the warmest weather.¹⁹

While the facilities for shipping live stock were being improved, the methods for transporting dressed beef were being developed. The invention of refrigerator cars in 1868 reduced the cost of transportation considerably. It is estimated that an average live beef weighs 1250 pounds, while the dressed carcass weighs about 700 pounds. The animal is in better condition for beef the nearer the range he is slaughtered, for he loses a considerable amount of flesh during his long ride, besides the expense of feed and care on the journey is considerable. The first fresh beef was shipped in a refrigerator car from Chicago to Boston in September, 1869, but this system of shipping beef did not come into general use

¹⁹*House Misc. Docs.*, 50 Cong., 2 Sess., No. 139.

until about 1875.²⁰ The arbitrary freight rates demanded by the railroads limited the shipping of packed meat for several years. In 1885 the rates were seventy cents per hundred weight against forty cents for live stock from Chicago to New York. This was before the days of the Interstate Commerce Commission.²¹ But in 1908 it was estimated that the saving was \$2.25 to \$2.50 per head from Kansas City to New York and \$13.60 to \$16.70 from Chicago to Liverpool by shipping the packed meat instead of the live animal.²²

Railroads brought competition into the beef market, which proved to be a great advantage to the consumer. This is shown in a government report of 1870, which says:

Beef and mutton are furnished to the San Francisco market chiefly by a few butchers who own considerable areas of pasture land near the city, and buy up great numbers of cattle. They agree on the price charged for beef, and before the competition of the Pacific Railway small dealers accepted their prices. But markets have been affected by receipt of beef slaughtered in Wyoming Territory and shipped in a frozen condition in refrigerator cars to San Francisco, where it is sold at eight or ten cents per pound, where California beef would otherwise sell for twelve or fifteen cents.²³

While the railroad increased the profits of the cattle industry temporarily, it brought in the settler. Limitation of the ranges was inevitable and much dreaded by the cattle growers.

Railroads eventually displaced the long drive. In 1884, 416,000 cattle, the largest number recorded, were driven to northern pastures from Texas. In 1888, 50,000 would cover the number driven over the same route, for which decrease the Texas and Denver Railroad was responsible. This trail was entirely abandoned in 1890.²⁴

There are drives yet, but they are insignificant in the larger sense of the term, for they only traverse the distance from the range to the nearest shipping station.

(Continued.)

²⁰*University of Illinois Agricultural Experiment Station Circular*, No. 169, p. 7.

²¹*House Misc. Docs.*, 48 Cong., 2 Sess., II, No. 25, p. 245 et seq.

²²*University of Illinois Agricultural Experiment Station Circular*, No. 169, p. 7.

²³*House Ex. Docs.*, 41 Cong., 3 Sess., Vol. 13 (not numbered), p. 246.

²⁴*University of Illinois Agricultural Experiment Station Circular*, No. 169, p. 7. *House Misc. Docs.*, 50 Cong., 2 Sess., No. 139, p. 333.

THE BEGINNINGS OF MISSION NUESTRA SENORA DEL
REFUGIO

HERBERT E. BOLTON

A short time ago Professor Barker, of the University of Texas, kindly sent me the following extract from the Lamar Papers, informing me that it was written by James Kerr, surveyor for DeWitt's Colony, probably between 1837 and 1839:

First Settlements on Matagorda Bay

On the west bank of the Garcites Creek,—and is called to this day old La Bahia and about one and half league above its mouth are to be seen the ruins of a fort and village, said to be the first settlement of La Salle, and is that settlement no doubt which some have represented as founded on the Lavaca river or river of Cows—La Salle or the Jesuits who came with him built a Mission on the margin of the bay del espiritu Santo and about 800 yards from the mouth of the Guadalupe river—some of the posts and other ruins are remaining to this day.¹

It will be seen that the first statement by Kerr confirms the identification which I have recently made of the location of La Salle's colony.² In his second statement, however, Kerr is evidently in error. The ruins to which he refers, I conjecture, were those of Mission Nuestra Señora del Refugio, at its first site, before its removal to Copano Bay. *Apropos* of Kerr's note, and since the fact that this mission once existed near the lower Guadalupe seems never to have been recorded in history, I submit the following brief and tentative sketch of the beginnings of the establishment. It was written some two years ago in answer to an inquiry by a friend, and makes no pretense at completeness or finality. It is based on considerable manuscript material in my possession. I have not had opportunity as yet to fully digest all of this material, but since it may be some time before I can give the matter further attention, I offer the note to QUARTERLY readers with the hope that it may justify the space assigned it.

¹Lamar Papers, No. 1642, Miss West's Calendar, Anonymous notes.

²*Austin American*, July 19, 1914; *Mississippi Valley Historical Review*, II, 165-182, September, 1915.

The founding of the mission of Nuestra Señora del Refugio was closely connected with plans for Texas of great breadth and importance; or, it might be said, its founding was the slender outcome of these larger plans, which had to be set aside by force of untoward circumstances.

Its inception reaches back many years before 1790, but it was in that year that the developments began which led immediately to the establishment of the mission. The proximate occasion seems to have been inter-college rivalry. In 1790 news reached the College of Guadalupe de Zacatecas that the College of Pachuca had asked permission to enter northern Texas to undertake missionary work. This led "the Apostolic emulation" of the members of the College of Guadalupe, who already had more than twenty missions in various parts of New Spain, to renew their efforts in northern Texas. It was asserted in the college that it had never abandoned the field in question, and that the sister college would be an inter-loper. As a result of several meetings of the *Discretorio*, Fray Manuel Julio de Silva, who had recently been elected to the high office of *comisario y prefecto* of the missions of New Spain, was authorized to undertake the launching of a broad program for work among the Tawakoni, Kichai, Taguayas, Tonkawa, Comanche, and other northern tribes, none of whom had been under missionary influence. In other words, the field of northern Texas opened by De Mézières through his recent journeys had attracted the attention of the college.

Father Silva accepted the charge, and chose as his companion Father José Mariano Garza, who had figured in the founding of the town of Pilar de Bucareli on the Trinity River, and who had subsequently served at Nacogdoches. Leaving Zacatecas by different routes, on January 1, 1791, the two met at the Hospice of Boca de Leones. Continuing thence, they reached La Bahia (now Goliad) on February 19, 1791.

At the outset the great scheme for northern Texas was interfered with by one of the ever-present difficulties of the Indian situation. It was at this time that Colonel Ugalde, *comandante* of the Eastern Interior Provinces, was undertaking his campaigns against the Lipan, and the authorities would permit no expedition to the northern tribes. In consequence, Fathers Silva and Garza turned their attention to a lesser problem, as a temporary occu-

pation. Just at this time the mission of Nuestra Señora del Rosario, near La Bahía, which had several times been abandoned, was in the process of revival, and Fathers Silva and Garza took a hand in the work while they were waiting for larger things.

The efforts to secure neophytes for the mission of Nuestra Señora del Rosario unexpectedly opened the way to the founding of a new mission for the Karankawan tribes of the coast. On March 31, 1791, Fresada Pinta, a heathen Karankawa chief, appeared at Mission Rosario. On leaving he promised to return ten days later with an escort, to conduct Father Silva to visit his people. In fact, he reappeared on April 7 with twenty-four warriors. On the tenth they set out, accompanied by five soldiers and two mission Indians. On the twelfth they reached the village of Fresada Pinta, which was a settlement of considerable size.

Father Silva said nothing about founding a mission, but devoted his attention only to making friends with the heathen. When he left it was with the promise from the Indians that they would always receive the missionaries well, even though the Karankawa should be at war with the soldiers. From this place Father Silva passed on to the village of another chief, named Llano Grande, where the same diplomatic policy was observed. Here he met some apostates from Mission Rosario, and took them back to the mission, promising to return to visit all the villages of the coast.

Father Silva was now recalled to Zacatecas to preach the sermon of the provincial chapter, and, being unable to return to Texas, he put the work with the Karankawa into the hands of Father Garza, as his deputy. Father Garza made several more visits to the coast, but as yet said nothing about missions, leaving the request to come from the Indians. On October 24, 1791, the hoped for petition was made. When Father Garza returned from the coast to Rosario on that day with fifty-two apostates in his train, he found awaiting him Fresada Pinta, desirous of taking him again to his village. At just the same time Father Garza was sent for by Chief Llano Grande.

Setting out with Fresada Pinta, Father Garza reached the village on October 28, finding there one hundred and twenty-four persons, assembled for the express purpose of asking for a mission in their own country, in order that they might not be obliged to leave the coast. Passing on, Father Garza reached the village of

Llano Grande on the 30th. This village was located at the junction of the San Antonio with the Guadalupe. Here, too, was an assemblage of Indians, likewise clamoring for a mission, for which they chose a site near the spot, called by Garza Refugio, because he had been there on July 17, 1791.

Returning to La Bahía, Garza reported to Governor Muñoz and requested his aid. The governor asked for a report on the site, that he might use it as a basis for a report to Mexico. This was on November 22. Without waiting for the report, Muñoz sent Garza's letter to the viceroy, who called a *junta* on January 4, 1792. The *junta*, without waiting for further reports, ordered the founding of the desired mission. This was unusually prompt work.

Father Silva went from Zacatecas to the City of Mexico, reaching there after the founding of the mission had been ordered. But he proposed, as a means of carrying out his larger project, the secularization of Mission Valero and several other old missions on the Texas frontier.

Returning to Texas affairs, it may be said that Father Garza in August went again to the coast, where he found 208 Indians at Muelle Viejo (Old Wharf), where he left them while he returned to La Bahía. Muelle Viejo seems to have been at the village or near the village of Llano Grande. In December President López called Garza to San Antonio to see about carrying out the order, which had arrived from Mexico, to found the new mission. In January, 1793, Father Garza returned, now in company with Governor Muñoz and Father Velasco to Muelle Viejo to found the mission, finding at the spot 138 persons, the rest having dispersed to hunt subsistence.

Muñoz wished to found the mission on February 2, but the friars preferred to wait till the 4th, Refugio's day.³ The governor insisted, the fathers yielded, and it was planned to perform the ceremony on February 3; but a storm arose, and the patron saint had her way, the mission being founded on the 4th, with 238 Indians. At this time temporary buildings were put up. The site was near the junction of the San Antonio and the Guadalupe.

³I do not turn aside here to identify the saints' days mentioned, but merely summarize Father Garza's statements.

Thus was founded a ninth mission near the little stream called the San Antonio River.

It is a matter of interest to note that the Countess of Valenciana had promised to bear all of the expenses for the mission, but for some reason she changed her mind, and the Lady of Refuge remained, as Father Garza put it, "sole patroness."

Some difficulties soon arose regarding the choice of the site. The consequence was that on November 21, 1794, the commandant-general of the Interior Provinces gave orders for transferring the mission to a place designated by Father Silva. On December 7 of the same year Governor Muñoz delegated this task to Juan Cortés, of La Bahía. The order was carried out in 1795. This explains why the ruins of Mission Refugio are at the Copano Bay and not at the mouth of the San Antonio. It seems probable, on the other hand, that the name Mission Bay, at the mouth of the Guadalupe River, is a permanent mark of the brief career of the mission in that locality.

BRITISH CORRESPONDENCE CONCERNING TEXAS

XVIII

EDITED BY EPHRAIM DOUGLASS ADAMS

ELLIOT TO ABERDEEN¹No. 17.²Washington on the Brazos
21st December 1844.

My Lord,

The Boat in which I left Galveston laid aground on the Bars between that place and Houston for a week, and hence my arrival here has been delayed till yesterday. But I avail myself of the first opportunity which presents itself, to report the tenor of a conversation I have this morning had with President Jones and Mr. Allen, the Attorney General temporarily charged with the State Department. They declared generally their decided opinions that the people of this Country would abandon all thought of annexation to the United States, if they could be formally certified of the recognition of their Independence by Mexico.

I believe that these are the sincere convictions of this Government, and if the Independence of the Country were recognized by Mexico, and it consisted with the power of this administration to direct or controul the subsequent course of the people of Texas, it is no doubt highly probable that the idea of annexation would soon be firmly replaced by wiser and more becoming principles. I am sure, at least, that the efforts of this Government in that sense, would be frankly and heartily made.

In making this admission I took the liberty, however, to remind the President that when General Houston first communicated to me the proposals of the Government of the United States in October 1843, I had ventured to express my inability to concur with them as to the dispositions of the people of Texas respecting annexation and my belief that they would not have it

¹F. O., Texas, Vol. 9.

²F. O. Texas, 9. Elliot to Aberdeen, No. 16, December 20, 1844, has been omitted. It transmitted a printed copy of President Jones' message of December 16, 1844, and a copy of *The Texas National Register*, December 14, 1844.

in their power to resist the popular impulses in that direction. Events had established the soundness of those impressions; and fully admitting their better means of judging of the probable movements of the people of Texas in any supposed contingency, I must confess that I was still unfortunate enough to differ from them on the point they had drawn into question, very materially indeed.

Whilst, therefore, it would be my duty to report the President's judgment to Your Lordship with whom it could not fail to have much more weight than my own, I should be compelled to add that I could not perceive there were any more sure grounds for thinking that the people of Texas were, or would be, less open to influence from the United States than they had hitherto been, and none whatever that that influence would not be actively employed in favour of annexation, or at all events against the accomplishment of settlement upon any other Views.

When, I should see both Houses of Congress joining in Resolutions, voted unanimously or by large majorities, declaring the inexpediency, not to use stronger terms, of ever entertaining further proposals from any quarter, having in view the sacrifice of the separate existence of the Country, I should admit that it was reasonable to depend upon the steadfastness of the people. And speaking for myself, I would add that I should consider such a movement to be conclusive of the whole question, for it had long been clear to me that the fate of the people of Texas was only in other hands, because they were pleased or led to leave it there.

The President knew much better than I did, that in the present temper of the public here, and so long as the annexation agitation existed in the United States it was out of the question to look for a different spirit in this quarter. He admitted that this was the case at present, but wished that Her Majesty's Government would transmit to me the proposals of which Your Lordship had spoken to Mr Ashbell Smith duly prepared for execution, with Instructions to lay them before this Government for completion, at any moment that might be judged propitious for supporting settlement upon that footing, before the people. He could not but think that such a moment would present itself, and he had a confidence that it might at once be taken advantage of

for the final and durable accomplishment of a satisfactory settlement.

I had only to repeat with respect to this proposal that I really cannot speak of it's probable success or advantage in terms of confidence. And the single sure mode of preventing some very mischeivous complication for the safety of Mexico, that presents itself to my mind, is in the immediate adoption of a wise policy on the part of that Government.

Her Majesty's Government may feel assured that very earnest efforts are in course of progress in this Country, not perhaps directly addressed to the Government, but certainly to the people and their Representatives, having in view the revival of hostilities in this quarter, so that an opening may be made for the operation of a variety of schemes and devices of the most dangerous character to the security of Mexico.

I have in other places taken occasion to mention to Your Lordship my belief that the present Government of the United States was practically pledged to support this Government in the event of an invasion from Mexico, and I entertain no doubt upon further and better grounds of consideration that such a belief is well founded. I am disposed to think too that the manner of the pledge was not very different from what I suggested to Mr Pakenham it might have been.

The Government of the United States pledged themselves verbally to the Representatives of this Government before they signed the treaty, and those Gentlemen shewed the Copy of their own despatches, reporting the terms of the obligation, to the Secretary of State at Washington, who authorized them to convey his assent to the accuracy of their communication.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN³

No 18.

Washington on the Brazos.

December 25th. 1844.

My Lord,

On reperusing my despatch No 17 of this year, forwarded three

³F. O., Texas, Vol. 9.

days since, I observe a mistake, which, with Your Lordship's permission, I will now correct.

I have said in that despatch that the first Communication of the proposals of the Government of the United States made to me by General Houston was in October *last*, instead of October 1843. Your Lordship will probably have understood me to mean October 1843, but I have still to offer my excuse for the error, and I have the honour to be,⁴

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

Downing Street.

ELLIOT TO ABERDEEN⁵

Secret

Washington on the Brazos.

December 28th. 1844.

My Lord,

The President visited me a few Evenings since and spoke to me at length upon the present situation of Affairs here, and, as he wished that his views should be made known to Her Majesty's Government in a confidential way, I have adopted this mode of communication.

Before I fulfil his desire it may be convenient that I should lay before Your Lordship some means of estimating the weight due to his opinions, apart from his public claim to attention.

He came here before the rupture with Mexico in search of professional employment as a Physician, but since that event has always been engaged in public life, either as a Member of the Houses of Legislature, for some time as Minister to the United States, and during the whole of the late Administration as Secretary of State. He is of course of the same politics as General Houston, and I have no doubt that his Administration will be marked by the same abstinence from the recommendation or countenance of any of those vast but visionary schemes of policy, or speculation in point of finance, founded upon an imaginary pros-

⁴Elliot was mistaken in thinking his dispatch No. 17 stated the wrong date.

⁵F. O., Texas, Vol. 9.

pective prosperity, which had gone so far to extinguish the Country before General Houston's return to power in 1841.

Unlike most other public Men in the Southern parts of the American Confederacy or here, Mr Jones is remarkably cautious and reserved, and with a moderate degree of the skill and firmness of his predecessor he will probably be able to controul affairs very materially with much less appearances of direct interposition than General Houston, and with less stormy opposition than General Houston's heats and rather free expression of his antipathies were apt to produce. In his intercourse with the European Governments I believe Mr Jones will be guided by a just appreciation that the only course which can be safe or successful is the direct. So far as I can judge he is not at all likely to make shipwreck of the fair and liberal consideration with which Her Majesty's Government in particular, will regard the necessities of his position at home, by any unworthiness either in his representations, or his reserve. In private life he is a worthy and friendly man, of a plainness of speech, and simplicity of manner which help the feeling of confidence, and I certainly know no one in Texas, now eligible for the station he fills, of sounder Judgment, more experienced in the Affairs of the Country, or generally better fitted for it.

With this information I believe Your Lordship will be able to form a judgment upon the trustworthiness of his own exposition of his situation and purposes, as well as upon the soundness of his suggestions. He expresses the belief that the Majority of the intelligent portion of this Community is aware that the best settlement for Texas is the preservation of their separate National existence. But they have seen so little reason to think that Mexico would abandon it's disquieting character of Warfare, the recent conditions and language of the Mexican Commissioners at Matamoras have so effectually broken up any hope of the recognition of Independence by Mexico, and they have so little faith in the force of the mere advice of Foreign Powers, to bring about that result that it ought to be no matter of surprise there should be a very general feeling in favour of annexation to the United States.

The result too of the late Election there, has naturally strengthened that feeling and state of expectation; and upon the whole in

the present temper of the public here, I must see that this Government can only watch the turn of events, and above all things carefully abstain from any course likely to persuade the people that they are secretly working against annexation. It may be depended upon, however, that they would neither advance one step to meet or encourage it.

The policy of the Government, and he hopes and believes of the present Congress will be to let all further advances and proposals come from the United States, reserving their own right to reject or accept them, according to their complexion. And he might mention to me in connexion with this point, that if the Texian Commissioners at Washington last Spring had obeyed their Instructions they would never have signed that treaty. Its completion upon such terms was a source of great mortification and disappointment to General Houston and himself. In his sincere Judgment, and General Houston's too, the United States had much better leave them alone to manage their own affairs. He has not much confidence in their ability to settle it in their way in their own Legislature, and for his own part he has a strong inclination to believe that parties there have made as much out of Texas as they intend just now, that they will be quite satisfied to have broken up the late Negotiations and their consciences quite at ease with the thought that there will be no further trouble from Mexico in the way of invasion.

In short foreseeing inevitable delays, and probably enough insuperable difficulties in that quarter and no long endurance of patience in this, he did anxiously hope that her Majesty's Government would use it's immediate and decisive influence with Mexico, to propose the recognition of Texas, simply and unconditionally, leaving all the terms to be matter of arrangement in the treaty of peace.

He does not doubt if it were in the power of this Government to declare to the people of Texas that such a proposal was before them, He and his friends would have strength enough to turn them aside from any further thought of annexation. He also expressed the hope (already signified in my despatches) that Her Majesty's and the French Governments would lose no time in placing their Representatives here, in a situation to conclude definitively at any propitious moment, so that everything may be irrevocably

completed before disturbing movements can come back from the United States.

Mr Jones wished me to inform Your Lordship that the most violent adherence to annexation here, came from a rising Sugar growing interest. This party believed that they had tested the capacity of the lower lands of Texas to produce Sugar, at least as well as those of Louisiana, and eagerly desired annexation that they might enjoy the protection afforded to Native grown Sugar under the United States tariff. When the proper time comes, if it come soon, and before this interest had grown to any strength, he had no doubt he should be able to shew those parties that they were no losers by settlement on the footing of Independence.

I told the President that I would immediately communicate his views to Your Lordship; but with no means of forming any decided opinion upon the judgment of Her Majesty's Government, I would venture to state to him as a matter of private impression that it seemed very unlikely to me they would ever be brought to interfere as decisively as He had suggested till they should be effectually certified that they were really acting in behalf of the Government and people of a durable and bonâ fide Nation of Texas. Mexico would indeed have just right to complain if it should appear in the sequel, that Great Britain had been doing no more than facilitating the quiet transfer of an immense Mexican territory to a third party behind a thin veil, soon to be dropped; which partly the Mexican people consider to be unjust and aggressive.

The President observed to me amongst other things that I knew he was sincerely averse to a renewal of hostilities. Such a state of affairs would be in the highest degree inconvenient to this Country exhausting it of it's Means, and filling it again with a class of persons of a bad description, of whom they had now almost got rid. But still if all other hopes failed, and Mexico continued it's preparations, and threats, and incursionary warfare, he had deliberately made up his mind to retaliate. Looking to the disturbed condition of Mexico, and with General Houston's skill (and it might be depended that the weight of his name would soon collect a large force) he should not despair of soon reducing Mexico to reasonable terms.

I told him that I should be very sorry to see such a state of things for I knew how true it was that every body was strong at home, and I felt quite safe in expressing the opinion that that truth would never be more signally or disastrously manifested than in the case of Texian invasion into Mexico. He cordially hoped that no such Measures would be necessary, and they would certainly never be resorted to by him till all other means and hopes of Settlement were exhausted.

Charles Elliot

To the Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN⁶

Secret.

Washington on the Brazos.

December 29th 1844

My Lord,

I have been endeavouring during my visit here to gather some correct idea of General Duff Green's position at this place; and generally of the nature and scope of his purposes. They are very curious, and by no means unworthy of Your Lordship's notice.

He was some time since named Consul at Galveston, an office almost without duties, but probably only offered and accepted as a convenient means of placing him in this Country. Your Lordship will perhaps have heard that he was sent first to Mexico as Bearer of the Instructions which led to Mr Shannon's Correspondence with Señor Rejon; and coupling General Green's family Connexion with Mr. Calhoun and the fact of his own involvement in the annexation agitation, it may be that Señor Rejon was not much mistaken in the impression that the excitement of a quarrel might be one of the chief objects of that Correspondence, the more so as the tidings of a Misunderstanding would reach Washington just in time to be helpful to Mr Tyler's proposals for immediate Annexation.

The President mentioned to me in confidence that Major Donelson had reminded this Government when he went to New Orleans a few days since, that General Green had no other public

⁶F. O., Texas, Vol. 9.

character than that of Consul at Galveston, and requested that all communication with him might be limited by that recollection.

The President thinks the explanation of this mistrust may be that these Gentlemen belong to different Sections of the Democratic party (Major Donnelson to that of General Jackson, and, General Green to that of Mr Calhoun). But it tends to shew that even amongst the parties friendly to the Measure of annexation, there is no cordial understanding, and amongst the larger and most influential part of the party (the Northern) it will certainly have very few friends upon any terms likely to suit the South.

In short circumstances satisfy me that his true position here is that of secret agent to the unshrinking advocates of annexation, in the United States, or I should rather say of extended mischief against Mexico, for it is manifest that their objects are not limited to the annexation of Texas only. There are other purposes and wider plans in contemplation; and it is possible that it may not be the sincere wish of certain parties in the United States to see annexation effected immediately, or till they have shaped suitable devices for the accomplishment of their schemes by the means of laws passed by this Legislature. General Green's Mission seems to be rather to act upon Congress and the people than on the Government, for I think they are so little trusted by his friends, as he is by them. At all events Your Lordship may be assured that General Green has not the least weight with them. There was on the contrary an old feud between General Houston and himself in the United States, and he is certainly neither liked or trusted by this Government.

The foundation of all his Schemes. is the incorporation of a land Company, (ostensibly I suppose for the Settlement of the ungranted lands in Texas, but aimed particularly at the N. W. and Western Sections, and eventually to extend across the Rio Grande) with the management of their affairs in the hands of a Director appointed by themselves, powers to levy and maintain troops for defence *against Indians*, appoint their own Officers, raise and appropriate funds within the limits of the Company, privilege to collect all the import duties West of the Mouth of the Colorado, and in short with powers not unlike those of the East India Company, but with no definite legal controul left to

the Executive Government, and no practical means of carrying it into effect, if the case were otherwise

The Company in consideration of these extensive powers and privileges to undertake the liability of the public debt of Texas, and to provide a certain fixed sum for the payment of the expences of the Government, or what might more properly then be called, the Nominal Government. In point of language and arrangement the Bills will of course be as guarded as may be practicable. But the real object is to transfer almost all the powers of the Constituted Authorities of this Country, with the use of it's flag, for purposes of disturbance and spoliation in Mexico, to a Confederacy of political Speculators and Capitalists in the United States, the last, probably as yet existing only, in the imagination of the parties who have devised these projects; for it is hard to believe that any men of real character and substance have already lent themselves to such proposals, and still less furnished authority to bind them to the contemplated liabilities.

The information I have received of General Green's warlike Counsels is consistent with the scheme, for it is a feature of it that the Conquests beyond the Rio Grande are to be parcelled out, and sold for the advantage of the Company. As soon therefore as all is ready to go into operation, that is the course they would desire, and in the mean time efforts are probably in contemplation or in progress to forment the disorders and discontent in the Northern Provinces of Mexico. Keeping in view General Green's implication in the Nullification Agitation, and intimate connexion with the leader of that party, the reflection will present itself that there may be in this strange Scheme some speculation of preparing for the disruption of the South from the North in the United States, and ultimately for the Establishment of a great Confederacy extending from the Atlantic to the Pacific, with the possession of the Californias.

But be the secret and ulterior purposes, what they may, and their character ever so chimerical, it is manifest that the animus falls nothing short of a conspiracy against Mexico. And that such a plot should have emanated from an Officer of the Government of the United States, in such near connexion and close confidential Correspondence with a Functionary at the head of the foreign affairs of that Country cannot fail to fix the very atten-

tive consideration of Her Majesty's Government. Carefully perusing the late report of the Secretary of War in the United States for presentation to Congress I incline to think that this report may be connected with his proposal to establish posts towards the Mouth of the Columbia.

I know too that one of General Green's Schemes, contemplates the removal of some of the Indian Nations now within the United States to the regions between their Western border and the Rio Grande, probably with the intention of dispossessing the tribes in actual occupation, and pressing upon Mexico in that way.

I shall of course endeavour to furnish Your Lordship with an accurate synopsis of these schemes as soon as possible. But they are very carefully kept out of sight at present; and if those earliest put forward should fail in the House of Legislature where they are presented I conclude that the more important will be set aside and kept concealed

The President tells me that he hears of a test attempt in the Senate, but has no idea that it will pass, and leans to the belief that failure there will discourage further Movement.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ABERDEEN TO ELLIOT⁷

Draft.

Foreign Office.

Captain Elliot.

Decr. 31. 1844.

No. 13.⁸

Sir,

As you will by this time have returned to your Post, I transmit to you a Copy of a Despatch which, during your absence from

F. O., Texas, Vol. 9. The letter is unsigned. The enclosures cover the more important diplomatic communications passing between Aberdeen and British representatives in the United States, France, and Mexico, relative to the plan of preventing annexation. These despatches explain the reasons for the giving up of that plan, and for the adoption of the passive policy here outlined to Elliot. For detailed statement and quotations from despatches, see Adams, *British Interests and Activities in Texas*, ch. VIII; Smith, *The Annexation of Texas*, p. 404.

⁷Aberdeen's despatches to Elliot after No. 5, January 31, to No. 13, December 31, 1844, were all on routine business and have been omitted. They are in F. O., Texas, 9, and by number and date were:

No. 6, February 3, 1844, acknowledging receipt of despatches.

Texas, I have received from Her Majesty's Minister in Mexico, as well as a Copy of my reply to that Despatch, on the subject of the position of Mexico with reference to Texas, and of the urgent expediency of the recognition of the Independence of Texas by the Mexican Government.

I transmit to you also Copies of four Despatches with reference to the projected Annexation of Texas to the United States, as well as to the policy proper to be pursued by Her Majesty's Government both in Mexico and the United States, with respect to that delicate question, which have been received by Her Majesty's Government from Her Majesty's Envoy in the United States, together with Copies of a Correspondence between me and Her Majesty's Ambassador at Paris upon the same subject. I add to these Papers the Copy of a Despatch which I address this day to Mr. Bankhead.⁹

These Papers will put you in possession of the line of conduct which Her Majesty's Government have pursued and intend to pursue both with regard to Mexico and to the United States, with reference to Texas. That line of conduct may be summed up in a few words. It is to urge Mexico by every available argument, and in every practicable Manner, to recognize without delay the Independence of Texas, as the only rational course to be taken for securing the real interests of Mexico, to which Country, the

No. 7, April 3, 1844, acknowledging receipt of bills satisfying the "Eliza Russell" claims.

No. 8, April 3, 1844, acknowledging receipt of despatches.

No. 9, April 18, 1844, acknowledging receipt of despatches.

No. 10, April 18, 1844, granting Elliot leave of absence.

No. 11, November 4, 1844, transmitting claims of Mr. S. Merana upon Mexican government, and documents relating thereto.

No. 12, Addington to Elliot, November 4, 1844, relating to the "Little Penn" claims, with copies of correspondence with Lizardi and Co.

⁹The enclosures here listed are all to be found in F. O., Texas, 20, being copies transmitted to Elliot, and preserved by him in his archives. Taken in the order named by Aberdeen, they are as follows:

Bankhead to Aberdeen, No. 54, July 31, 1844.

Aberdeen to Bankhead, No. 30, September 30, 1844.

Pakenham to Aberdeen, No. 74, June 27, 1844.

Pakenham to Aberdeen, No. 76, June 27, 1844.

Pakenham to Aberdeen, No. 123, November 13, 1844.

Pakenham to Aberdeen, No. 127, November 28, 1844.

Aberdeen to Cowley, No. 202, July 18, 1844.

Cowley to Aberdeen, No. No. 371, July 22, 1844.

Cowley to Aberdeen (Confid.), No. 568, December 2, 1844.

Aberdeen to Bankhead, No. 49, December 31, 1844.

Annexation of Texas to the United States would be ruinous, while, on the other hand, we have carefully abstained from any ostensible Act which could influence the wild and dangerous spirit which, partly from National, but more from party purposes, has been roused and sustained by demagogues in the United States, in favour of the Annexation of Texas, and which wanted but the evidence of active interference on the part of Great Britain to be kindled at once into a flame.

This policy we propose still to pursue, because, under present Circumstances, and until we can see our way more clearly with reference to the intentions of Mexico, as well as to those of the United States, under the altered circumstances which the Election of a new President may exhibit, we think a passive course, or rather a course of observation, the most prudent, and the least likely to involve us in difficulties with Mexico, or with the United States

Our feelings, however, are in no way changed with regard to the Independence of Texas. We consider that Independence of the highest importance for Mexico, for Texas herself, and even eventually for the United States, to which Country, in the opinion of Her Majesty's Government, the possession of Texas, although it might at the present Moment satisfy the peculiar interests of the South, and gratify the National vanity of all the States, would scarcely fail, in no long time, to become a serious source of Contention between the Northern and the Southern States, and, at the same time, expose the whole Confederation to great hazard.

Her Majesty's Government desire, therefore, that you should observe the greatest Caution in all your dealings and Conversations with the Authorities of Texas, and that you should in no way Commit your Government to any line of active policy with regard to that Country.

We have undoubtedly every reason to hope and believe that the present ruling Authorities in Texas will be found favourable to the Independence of their Country. Mr Anson Jones has the reputation of a Man of worth, judgment, and high minded feelings; and Mr. Ashbel Smith, who seems to be designated for the post of Secretary of State, is, to our personal knowledge, a man of excellent capacity, calm reflection, and holding sound opinions

respecting the position and interests of his Country. In these two Gentlemen, therefore we could place entire confidence. But we must always remember that the tide of public opinion may be too strong for them to withstand, especially if the pressure from without be, as it is not unlikely to be, applied with great force and craft.

However decided, therefore, the opinions of the President of Texas and his Secretary of State may be in favour of non-annexation, they may be overborne especially if the folly or obstinacy of Mexico should still come in aid of the United States, and may be compelled, however unwillingly to give way to irresistible Circumstances

Under this view of the case whatever might be our prepossession in favour of actively supporting the Independence of Texas, good policy seems to point out the course I have described, at least for the present, as the only one which we can prudently pursue.

You will not fail to observe, with the utmost vigilance, the progress of events, and the changes which may take place in public opinion in Texas, and to keep Her Majesty's Government correctly informed on these points.

I have no objection to Your verbally communicating the substance of this Despatch, but not of it's Inclosures, to the President and to Mr. Ashbel Smith, in whose steadiness, circumspection, and good faith I have much confidence. But you will on no account allow any Copy of it to be taken, nor will you speak of its contents to any person except to the President and Mr Smith

At the same time that you make such Communication, you will add the assurance that, although we feel confident that the threats of Invasion by Mexico are mere words, we do not the less appreciate all the injury which results to Texas from those threats, idle as they are, and shall not relax, but rather increase our efforts to induce Mexico to desist from so irrational and so prejudicial a line of Conduct

ABERDEEN TO ELLIOT¹⁰

Draft.

Captain Elliot.

F. O. Decr. 31st. 1844.

No. 14.

Sir,

I transmit to you herewith, for your information, Copies of two Despatches¹¹ which I have received from H. M. Minister at Frankfort respecting a body of Germans who have gone to Texas with a view to settle in that Country.

ELLIOT TO ABERDEEN*

No. 2.¹²

Washington on the Brazos.

January 2nd. 1845.

My Lord,

I have the honour to acquaint Your Lordship that Mr Allen the Attorney General and Secretary of State ad interim, informed me yesterday that the President had revoked the "Exequatur" issued to General Green as Consul to the United States for Galveston, owing to circumstances known to His Excellency which rendered that step necessary for the "interests, honour, and safety of the Republic."¹³

The President himself observed to me in allusion to this event, that no act of his public life had been so difficult for him, or occasioned him so much pain; But he had maturely considered his position and obligations, and was reluctantly carried to the conclusion that he could not have adopted any less stringent Measure without a dereliction of duty.

It was a source of concern to me, both from a knowledge of the regret that the circumstance would occasion him, and other

¹⁰F. O., Texas, Vol. 9. The letter is unsigned.

¹¹Not transcribed.

*F. O., Texas, Vol. 13.

¹²F. O., Texas, 13, Elliot to Aberdeen, No. 1, is missing from the archives.

¹³The President's objection to Duff Green was largely due to the latter's public accusation that the Texan government's policy was being moulded by Elliot. The matter was smoothed over after Green had written a letter of disclaimer and apology. For details and correspondence, see Garrison, *Diplomatic Correspondence of the Republic of Texas*, II, 332-337, 346-351, in *Am. Hist. Assoc. Report*, 1908, II. Also Reeves, *American Diplomacy under Tyler and Polk*, 183, note 44.

considerations, that he did not feel himself at liberty to wait the answers of the Government of the United States. But in making this observation I would by no means be supposed to cast doubt upon the necessity or propriety of any conduct which this Government may have seen fit to adopt in such a grave emergency as the tenour of the Proclamation has furnished room to suppose.

Indeed I think I should be in some sense wanting to the Government of this Country, young in it's relations with the rest of the world, if I omitted on an occasion of this kind to express my opinion, that their official intercourse whether personal or by correspondence cannot be conducted on terms of more care, or safety, or considerateness towards the proper Officers in communication with them; or at the same time in a manner more honourably mindful of that dignity and character which it is their duty to uphold.

Charles Elliot.

P. S.

Galveston, January 15th. 1845.

Since the above despatch was written General Green has published two letters in the Newspapers which I have cut out for Your Lordship's perusal. In that of the 2nd Instant he seems to be under an impression that I had some part in the President's proceeding towards him. That is a mistake.

I ventured on the contrary (founding the liberty on my long intercourse with this Government) to suggest to the President whether it might not be possible and preferable to pause for answers from the Government of the United States before he took any steps against this Gentleman. For beyond other considerations I will not deny that I was sorry any Circumstance should occur likely to indispose General Green from the development of the Measures which appear to have formed the Subject of his private and confidential communications with the President. They probably deserved publicity and attention, but the late events have apparently shut them up.

These events however disclose one or two circumstances of some interest:—First, that he is at Washington in the confidential employment of His Government, for otherwise he could not speak as he does of expecting “to encounter the combined in-

“fluence of the British Minister and the President of Texas acting in concert for the purpose of defeating the wishes of a majority of the people of Texas and the United States.” And again, “I am aware of the fearful odds against me, but I am not dismayed.” In the second letter he speaks of what I have heard now for the first time since I have been in the Country, that is the existence of any British influence on “*Our Western and North Western frontier.*” It appears, by the use of the word “our” that General Green considers the Country to be part of the United States, or that he is already a Texian Citizen.

The intention “to get possession of the Country between the Nuecas and the Rio Grande for the purpose etc. etc. etc.”, is also certainly new to me, and so far as I know to every other person in this Country. But the most important feature that I observe in these letters is the care to contradict the rumour that He is to bring into Texas a large body of Indians. “So far from this, one of the Measures which I proposed was to remove beyond *our limits* the Indians that were now in Texas”. The mode of that removal is not disclosed, neither does he drop where they are to go, or who are to come in their places.

Perhaps the report of the Secretary of War in the United States may furnish some means of divining what is proposed on these points. General Green probably considers that the Cherokees, Seminoles, etc. etc. are semi-Civilized (in short they are not Indians in the Savage sense of the word) and I am very far from thinking that they would be the worst Citizens that could come into Texas, but it is not so plain that the driving back of the Comanche and Apache tribes upon Mexico would be equally advantageous to that Republic.

This Indian project is particularly remarkable, coupled with the authority of the Government of the United States to their diplomatic Agent here to move United States troops into any part of Texas that he sees fit.

In the absence of General Green’s explanation of his own Measures, privately and confidentially communicated to this Government, and with the glimpses of them that he affords, it must be admitted that they are a subject of curiosity and interest

The Earl of Aberdeen, K. T.

Charles Elliot.

ELLIOT TO ABERDEEN¹⁴*Private.*

Galveston, January 15th. 1845.

My Lord,

A service of many years in the West Indies both in my own profession and in a Civil station connected with the Slave population, independently of my position here, have perhaps given me some qualification to form an opinion on a few of the points Mr Calhoun has noticed in the papers lately laid before Congress respecting the Annexation of Texas.

The accompanying notes were written for a private purpose that I sometimes hope to be able to accomplish; but it has occurred to me that Your Lordship may be willing to take the trouble of perusing them at the present conjuncture; and if that should be so, and it is thought they can in any way be useful to the public Service, I need not say that they are entirely at Your Lordship's disposal.

If they are of no interest or use to Her Majesty's Government, I will take the liberty, (with my excuses for the trouble to which I have exposed Your Lordship) to ask that they may be forwarded to my Sister Lady Hislop, living at No 37 Wilton Crescent Belgrave Square.

Charles Elliot

To The Earl of Aberdeen, K. T.

[Enclosure]¹⁵

Since I have been here I have carefully perused Mr Calhoun's late Instructions to Mr Shannon¹⁶ in Mexico, as well as his despatch to Mr. King¹⁷ at Paris dated the 12th of August.

The character of those to Mr Shannon has been stripped so bare by Señor Rejon and the press in Mr Calhoun's own Country, that they may very justly be cast out of further notice—I will make one observation about them, however, which I have not remarked elsewhere, and that is, that if they were not intended to create a misunderstanding, the tidings of which should

¹⁴F. O., Texas, Vol. 13.¹⁵F. O., Texas, Vol. 13.¹⁶In U. S. Docs. Ser. No. 449, Doc. 1, correspondence accompanying Tyler's Message of December 3, 1844.¹⁷In *Ibid.*, 39.

reach Washington just in time to help forward the President's proposals for immediate Annexation, their motive is inscrutable to me. Assuredly there was no practical need to require Mexico at the *end of the Month of October* not to make a descent upon Texas, which Mr Shannon must have known could not be done before next Spring, on account of the State of the Country in the Winter Season, setting aside all consideration of the prospect of intestine troubles, hourly looked for at the date of Mr Shannon's Notes.

The whole Series of these papers must I think, convince every impartial person that the absorption of this Country has always been deliberately intended by certain parties in the United States, and that the acknowledgment of the Republic of Texas (so far as those parties were concerned) was only a device for the quieting of the question till they should be able to perpetrate an Act of Spoliation on Mexico, chiefly with the purpose to extend the Market for their own internal Slave Trade.

I am sensible that it would be the height of injustice to suppose that the present Scheme of Annexation will be easily carried through the Legislature of the United States. But the attempt has been earnestly made and will be strenuously prosecuted, and there is no reason to think that it will fail from any particular scrupulousness either in point of representation or means, on the part of the present Government.

Mr. Calhoun pronounces that the Measure of Emancipation in the British possessions has been a total failure, and in support of that conclusion dwells at much length in the despatch to Mr King on the diminution of the supply of Sugar, which he considers to be entirely attributable to the change from forced to free labour.

In setting out it is to be observed that it is more compendious, than a complete or accurate mode of estimating the Situation, happiness and prospects of Countries, to cipher out the sum of Sugar produced at different periods of time. The Averdupois Weight of Sugar is not decisive of such a question as Mr Calhoun has raised.

Without undervaluing that consideration it is not to be denied that more things than Sugar should have been thrown into the balances before the pronouncement of this solemn sentence, for the

warning of the King of the French, that a great measure of justice had utterly failed, and that the British Government are conspiring to ruin every body else with whom they have friendly and profitable Commercial relations to redress the effects of what Mr. Calhoun seems to think was an Act of mixed folly and mischief.

Passing on from these reflections, however, I would wish to observe that it is natural Mr Calhoun should be incompletely informed as to the real Situation of those Countries, either now or formerly—But if he had not of late abated the disposition to cause men to marvel at any course that may next suggest itself to his mind, it would have occasioned great surprize that he should have chosen a subject for the better instruction of the King of the French through Mr King of Alabama,¹⁸ on which it would be his best and certainly his manifest excuse to admit at once, that he is entirely wrong and mistaken; and it is to be hoped, heartily sorry and ashamed for what he has said and done.

The position is that the West Indies and other British possessions where Slavery existed are in a ruinous condition, that state of things being mainly deduced, to his satisfaction, from the diminished supply of Sugar. But if those possessions are in an incomparably sounder and happier condition than they were, he will of course agree that the measure has not failed, though the supply of Sugar has fallen short.

Concerning Mr Calhoun's *Summum bonum*, however, he may learn by applying to proper sources of information that the British Sugar growing possessions have very varying powers of production—And it will by no means surprize him to hear that the effect of a high protecting Duty on Sugar had been to fasten the whole energies of the proprietary almost exclusively to that product, thus inducing a destructive internal competition between Soils of extremely various capacities, at the total disregard of the plain rule that it is good to secure the means of living comfortably before men embark all their Capital in a Speculation in which there are many Competitors with equal or more advan-

¹⁸William Rufus King. Member of Congress from North Carolina, 1810-1816. United States Senator from Alabama. Minister to France, 1844. Elected Vice-President of United States in 1852. Died, 1853. (Appleton, *Encyclopedia of Amer. Biog.*)

tages—He will learn that long before there was any idea of early emancipation, the proprietary in the Old and exhausted Colonies, and even in Jamacia, had been severely distressed, and many of them utterly beggared, owing to the acquisition of new and rich Countries peopled at the close of the trade in too great a degree with adult Males, that planters in the British possessions as in other parts of the World are not usually provident, and had been mistaking there, as elsewhere, profits and high prices on Capital in a fluctuating business, for steady revenue; that the peace,¹⁹ with the consequent increased supply from other quarters, had added to the pressure upon them, that in most of the Old Colonies the Soil had become so poor from the excess of this exhausting culture as to demand heavy expense to sustain it with a diminishing return and reduced prices; that they did not feed their inhabitants, that the race of labourers in some of the rich were in a very unsound condition in point of division of the sexes, age of the Male population, force of growing children so as to leave room for disquieting reflections respecting the future condition of the Countries; that, finally, it is strictly true, that at the period of the measure of emancipation, accompanied by a noble act of justice and generosity, it had only come in good time to save the great body of the Mortgagees from following the great body of the proprietary in the road to ruin, and restoring to some of the richest Colonies in the West Indies the hope of saving their population from extinction.

This was the state of circumstances at the period of emancipation, even in that Sugar point of view which has satisfied Mr Calhoun's judgment. But the British Government felt that there were other considerations which it consisted with their duty and honour to estimate more precious than pounds weight of Sugar, or of gold and silver. The wrongfulness of the Institution in the sight of God and Man, its debasing effects on Master as well as Slave, the temper of the Nation in respect to it, the claim of that population to the rights of British Law, and to all the reparation of which the nature of circumstances would admit for the wrongs that they and their ancestry had suffered.

Is it possible that an American Statesman, of mark, can in-

¹⁹That is, the peace of 1815 after the Napoleonic wars.

deed suppose that the British Government and Nation consider the measure of emancipation to be an error, and that the question now with them is how it shall be counteracted? that the feeling there is "That what has been done cannot be undone". Is this then the state of information and belief of one of the leading Statesmen of the United States of America as to the temper of the British Government and people respecting the measure of emancipation?

What incredible ignorance; what a deplorable exposure is here!

Can a person of such training, and in such a Station, doubt the existence of the real motives which dictated this measure? Is he so ignorant of their force?—The last state of that man is worse than the first!

Mr Calhoun may learn by consulting the papers that the failure of produce was fully expected.—How little soever he may understand that any considerations should prevail over the sordid, it is nevertheless true that Great Britain was prepared to incur that loss with the other heavy burden which this measure entailed upon Her.

And wisely too, for the price, great as it was, was none too much, that purchased lasting honour for Great Britain, and mighty benefits not only for Great Britain, and the race of men that Great Britain redeemed from Slavery, but for all the Nations of the Earth still suffering from this terrific moral disease, and for the generations of men that it will save from that curse, and raise up to the Stature of human beings.

It can hardly be that Mr Calhoun, in his wiser mood, does not perceive that the example of Great Britain will, sooner or later, be followed by every Christian people in the World, not by intrigue, and indirect means, and the miserable machinery that he has imagined, so unworthily of his character and station, but by the irresistible force of right principles, and a sense of honest shame. Cavils and strictures, and poor conceptions on such a matter from any quarter are less than naught, and will be forgotten with Mr Calhoun, and all the passing things of the hour. But history will record this measure of emancipation with its sacrifices, and the blessings which it purchased, as the worthiest deed in the most glorious career that any family of human race has yet run, the mightiest victory that any people ever achieved

over their selfishness and cupidity, for the sake of justice, and the cause of the helpless and oppressed, to the end of time.

It was from the state of circumstances (briefly sketched above) respecting the state of property and the population, long before and at the period of the emancipation that, and with a large consideration of all those higher motives, and a comprehensive recollection of the vast nature of the change, and the slow but sure consequences that such a change has always produced on the human race: these were the considerations with which a just and informed person would bring to the examination of the present situation and prospects of those Countries; and the World will determine how nearly Mr Calhoun approaches to a fit condition of mind for sitting in judgment on such a case as this.

Adverting to the condition of the population, Mr. Calhoun might gather in his researches that it had not consisted with the sense of right of the English Legislature to set up a great internal Slave Trade amongst their possessions when they abolished the African, and to recruit the rich Soils and unhealthy Climates where men decay under hard toil impelled by the Whip, at the sacrifice of the population in the exhausted and comparatively speaking the healthy, where men increase, though Sugar fails. He will discover in the prosecution of his task and at no advanced stage of it, that the real state of the fact in the British possessions where Sugar is produced, is not so much that there has been any unaccountable or desperate failure of the supply since the Emancipation but that a great deal too much was wrung from the soil and people under the old system, particularly towards its close when the means of manufacturing by improvements in machinery and the use of Steam every where exceeded the amount of the fruits of the Earth that could be brought to the Mills. It is well known (and the cause is well understood) that there is a vast difference where Slavery exists, between the advance of improvement in agricultural processes, which are the work of the Slave, and the mechanical, which are the invention of free men; and hence a pressure upon the people and the soil, not at all consistent with the well understood interests of the Countries, or indeed with their durable cultivation for any steadily profitable purpose.

Mr Calhoun will deduce another conclusion from an investigation of this subject, which will be interesting to him, for it is in accordance with his principles of fiscal policy, namely; that one of the sure ways to help Countries to ruin is to blight them with high protecting duties upon particular portions of their produce

He will remark, and that too should be another pleasing discovery to him, so far as his political economy is in question that if those British possessions send much less revenue, or what might more properly be called tribute to an absentee proprietary in Europe, they take and consume a great deal more of their own produce, and of all other things both from England, and other parts of the World, his own Country inclusive.

He will find too, and that discovery will be grateful to him both as a philosopher and a Philanthropist (but perhaps I should ask his pardon for calling him a Philanthropist for I observe that he has rather repudiated that word, but nevertheless there are such people)—He will find, however, philanthropist or not, that population is rapidly increasing, that education is common amongst the children, that the vices which Slavery begets, both in the Enslaver, and in the Enslaved, are in course of slow, but sure, eradication, and lastly, that no inconsiderable number of that hue of men, who we learn, upon his authority, are to perish if they are made free in America, flourish and do credit to high station under the British Crown in the West Indies.

It will be no light stroke to Mr Calhoun if some one of them should see fit to correct his headlessness and animadvert on his less pardonable spirit. For it would not be in human nature that the lesson should be administered without stern severity; and the doctrine and matter into which he has been betrayed in his later exertations, for the guidance of Kings and Ministers, would be roughly handled by Men of Colour in the West Indies, to the full his equals in capacity, and instruction, and character, and be it observed, that it is no disparagement to him to say so, for I speak only of very able and honourable persons.

Mr Calhoun's Mistakes and lack of information, on this subject, not only reach beyond the seas. He does not appear to have any clear conceptions of the possible, and the probable, near his own Gates.

Some of the most intelligent and experienced persons with whom I am acquainted in Louisiana and Mississippi, have assured me that they make no doubt those Countries would produce, certainly more Cotton, and probably more Sugar, (Mr Calhoun's test of the practicability of any Scheme that is to leave the Black Man the Master of his own body, and the wages of his own toil) within ten years after Slavery had quietly disappeared, at much less cost of production, and an immensely increased consumption of other merchandize and supplies

With regard to Sugar there may be less ease in the transition from slavery to free labour because of the continuous nature of the toil, and the want of sufficient labour in the market as yet to secure it at sufficiently moderate rates of wages, to leave the present rates of profit on the produce, and because too of the expensive nature of present processes, and the great proportion of Capital involved in the fixed form of costly buildings, and superfluous Machinery

But Mr Calhoun will remember that Sugar is entirely a forced production in the United States, under the effect of a high protecting duty, and if that duty were removed, as he will certainly think it should be, there will very soon be no other Sugar produced in the United States than is made on small farms, by economical processes; and at no more than average rates of profit. In that way, however, and under circumstances in which it would be out of the question to work large gangs of Slaves, or Slave labour at all at any profit, I firmly believe that more Sugar will soon come to be produced in the United States than is the case under the present system. But to revert to Cotton for a moment, which is the great staple of Slave labour in America, prices have fallen so low that the time has very nearly arrived when it can only be produced to profit, in the United States, on small farms in an inexpensive way, and by free labour, always cheaper, because better than Slave labour. That it may be produced in that way, I suppose even Mr Calhoun will not deny. At all events it is certain that a considerable amount of the Cotton brought to market in Texas is the produce of the labour of the free man, either in part or entirely. If Mr Calhoun has recently visited the great Cities of the South, he can hardly fail to have been struck at every hour of the day with some remark-

able proof of the rapid pace with which free labour is displacing that of the Slave; and if he really imagines that Her Majesty's Government suppose that the peaceful and gradual emancipation of Slavery in the United States would be attended with disastrous consequences to the wealth and happiness, and strength of the Country, it is good proof that his mistakes are very deeply rooted, but nothing more. Her Majesty's Government, I am very sure, can have no share in such extremely fallacious opinions, and if they entertained those evil designs against the prosperity of the United States which Mr Calhoun has imputed to them, they can desire nothing better than his Councils and their consequences should prevail.

They who strive for the illimitable continuance, and extension of the field of Slavery in the United States are no sound friends of the strength, happiness, and integrity of that Confederacy.

Mr Calhoun has resorted largely in his advice to the King of the French, to a very excellent and able Magazine published in England, and though it has not been his safe "letter writer" on this occasion, for reasons which it would not be hard to explain, he might, nevertheless, apply himself attentively and with advantage to a good deal of the doctrine expounded in those pages.

In reference, for example, to this particular subject, it would have reminded him in an hundred eloquent and instructive passages (better worthy of being drawn under the notice of the King of the French by Mr King than the Bill of parcels which Mr Calhoun collected, for His Majesty's attention) that civil and religious freedom, and instruction made Mr Calhoun and his Ancestors, and his Country what they are, not in the half Century; the yesterday which has succeeded the Signing of the Declaration of Independence, but in the slow growth of the Centuries which preceded it; and that the one thing which contributes most to the ruin of all the Great Empires of the past, was Slavery. Does Mr Calhoun indeed wish to consider this subject of British emancipation largely and attentively? Let him carry his thoughts forward two hundred years, and then let him suppose, if he will, that these wise and generous efforts of himself and his friends have saved this cherished institution for their Country so long.

What does he think would be the condition of his Country of

South Carolina, and its races of Slave holder and Slave, and the race of the free black Man in the West Indies at the end of that time. It is hard to say what change the Colour of their faces might have undergone, but in every other respect their condition would be worse than reversed. For freedom and religious instruction will raise the hardy Slave labourer to a higher station in no long lapse of time; But all experience has proved that it takes ages of oppression and of the gradual growth of resistance which oppression induces, to harden the fibre and unlift the character of an effeminate and subjected Master Class; and it has been the lot of all Master Classes of Slaves to become feeble and enslaved. It would be painful indeed to pursue such an enquiry, and unnecessary, for there is no rational ground to believe that such a curse is reserved for any of the people of our blood and race as the protraction of Slavery, let Mr Calhoun, and the rash and heedless Advocates of the System say and do what they may.

Mr King, it is apprehended, found it hard to persuade the King of the French (notwithstanding the date of the despatch, and the state of circumstances existing at that time) that because Sugar had fallen off in the West Indies, and because Mr Calhoun cannot divest himself of the imagination that the British Nation desire to ruin their Neighbors, (and I suppose to consume all their Manufactures themselves) and to come to the point, because the Annexation of Texas had been made an issue in the pending Presidential Election, that His Majesty should approve of an Act of Spoliation on Mexico, with all its certain and dangerous consequences.

His Majesty is a Gracious Prince. But Mr King must have certainly subjected the Royal Countenance to a hard trial when he had frankly entered upon the task of persuading the King that it was for the safety of Mexico to render the United States continuous with that Country, by the advance of the U. S. line several hundred miles nearer to the Pacific!

It is not for me to speculate upon the thoughts or words of the King of the French on the occasion of this dashing attempt at a surprize by the American Minister at Paris. But it is at least certain that the very last thing His Majesty would do, would be to countenance an Act of rapine on a weak Nation, from motives of groundless hatred to a powerful one, and the

intention to extend the market for the internal Slave trade of the United States.

But leaving the thoughts of Princes, Mr Calhoun must know that there are enough of Plain men in his own Country, and elsewhere, who will exercise their right to speak to this point (for he cannot enslave them and send them to Texas to be sold) and they will tell him something to the following effect

This Scheme of Annexation is founded on mixed feelings of ill will and envy against Great Britain, and a rapacious spirit against Mexico, and it may be, a dangerous purpose against the integrity of the present Union, and, assuredly, in no trifling degree, by sordid motives, and impulses of personal ambition, on the part of many of its most ardent supporters.

The Fathers of the United States when they imagined, and shaped the Scheme of society under which that people live, and might live so flourishing and respected, knew that it could only subsist by the maintenance and improvement of the great and good qualities of the race from which they sprung.

There was no hatred, no malice, or uncharitableness in their hearts towards Great Britain, or any Country. They desired that their descendants should emulate what was right, and avoid what was wrong, in England, and everywhere. They might have had too little regard to some considerations, and hoped too sanguinely on other points, but it is their just praise, and it will remain to them, let the fate of the United States be what it may, that their Scheme was based on the generous principle that men can be so just, and so honest, and so true to themselves, and to all the World, as to be trusted with the unchecked direction of their own affairs.

They knew well, indeed, what would follow from the prevalence of envy, and aggression, and cupidity, and dishonest fulfilment of engagements, and political intrigue, and the vulgar devices of Electioneering knavery, and the postponement of the claims of the great and the good to the clamour of demagogues. They knew that if there should come to be a substitution of the things glaring, and fulsome, for the things, just, and sound, in the Counsels of the Government to the Legislature, in the press, in the oratory of the political Arena, and the public meetings of the people; they knew, and predicted, and warned the people that,

when that virtue and simplicity, and sound practice in the business of self government, which the bye gone system had trained them in, should decay or degenerate, into the tyranny of an uncontrolled democracy, and when all those other evils should grow up in the stead of regulated freedom, and plain words, and pure morals, and just purposes, they would be worm and moth in their Charter, and reduce it to dust, before the wax, with which it was sealed had melted away.

Watchful observers in the United States and elsewhere, must remark with anxiety that the race of their great Statesman is rapidly passing away, that their influence is almost gone, that men of incomparably meaner dimensions are taking their places, and that there are other painful evidences of the grave truth that whilst the elements of durable power and happiness are of slow growth in Nations, as in Individuals, the decay of lights, and virtue, and the spirit of compromise is fearfully rapid.

But solicitously as these things are regarded in England (as they are too in the United States) Mr Calhoun manifests very erroneous and poor conceptions of the feeling of the British Government and Nation towards the North American Confederacy.

They desire nothing but happiness, peace, honour and prosperity, for the United States abroad and at home, for they well know that any convulsion in that System, or any great misfortune or shame arising out of it would be, in the words of a living English Statesman on another point, "a heavy blow and a great discouragement," to the cause of human freedom and rights.

For my own part, and a varied experience of men and affairs may give me some claim to offer an opinion, I will not deny that I see more reason to hope for the improvement and safe keeping of the principles of true freedom, and real liberality certainly in Prussia, or even in Australia, or Russia, than in the United States of America. I mean that freedom which is largely regardful of the rights of others, be they ever so weak, and that liberality which considers and respects the opinions of the minority, be they ever so few. The course of those Countries is one of improvement in the way of public right, at a various rate of progress indeed, but still of sure improvement. The course of the United States is not one of improvement in the things essential to the maintenance of their scheme of society, and it is well

known that the wisest and best Men in that Country are casting their thoughts upon the past with regret, for it is hard to recede, and upon the future with anxiety, for it is impossible to stand fast.

Desperate public Men in the United States have ceased to address themselves to the reason of their fellow Citizens, their attack is upon their passions. What the consequences may be, or how soon, no man can tell.

Mr Calhoun's strong prejudices and political eagerness have blinded his judgment, not only as to the feelings of Great Britain, towards the United States, generally, but with regard to Slavery, particularly—If he had been contented to take his stand on the position, that great as the evil of Slavery is, and much as it is to be desired it should be removed, no fair comparison can be instituted between the situation of Great Britain, in this particular, and that of the United States, every reasonable man would admit that Statement. But what is to be said of a high functionary of a great Republic, founded on an Instrument bristling with declarations of equal rights, who frights the world from its propriety (*mero motu* too, for there was no need to touch the subject) with the astounding doctrine that freedom is not a good thing *per se*, for the laboring people of the darker hue, and that it has been found to be particularly injurious to the eyes and limbs, and understandings of the enfranchised black people!

What can be adequately said of such a course by such a man, and in such a station, and in the division of feeling that exists upon the subject in this Country, but that like the desperate Malay he is "running amuck", stabbing at friend and foe, and probably ending his wild race, a self mangled victim.

If freedom produces this mischief on black people, it must in some degree do so, upon white. That has not been ascertained to be the fact, and I am inclined to believe that Mr Calhoun has collected his (black) statement from some very inaccurate statistics. At all events it is no satisfactory thing to have remarked that there are fewer deformed or helpless coloured people in a state of slavery than in a condition of freedom. The inference is painful

Let it not be supposed that I am one of these persons who

cast general blame on the Slave holding proprietary of the United States. Nothing can be farther from my feeling and purposes. I am well acquainted with many of these gentlemen, and I know that their people are humanely treated, and lightly worked, and well clad, and lodged and fed: And much more than all this, that the responsibility of their training for better things is deeply felt, and most honourably discharged at large pecuniary sacrifice, and in the beginning at no trifling amount of suspicion and ill will on the part of their neighbours; giving way now (as all such feelings will, before right motives and firm conduct) to the sounder spirit of assent, and laudable emulation. The whole Country is their Debtor. But the manifest error of these worthy persons is that they judge of the system from their own practice, forgetting that it constitutes the exception to the rule.

I will freely admit, however, that the Slave population of the United States of America appears to me to be better cared for, and in an incomparably more advanced condition in point of intelligence than any other that I have ever seen (and I have had a long and extensive experience on this subject). But this observation only convinces me more firmly that there is no ground for the arguments of the persons who resist further change and improvements, and who would continue to subject a people to the purchase and sale conditions of Cattle, arrived long since at the condition of an intelligent peasantry.

I remember to have read a Speech of Mr McDuffie's²⁰ delivered some years since in the Senate) connected with this subject, which seemed to me to be pregnant with truth and soundness up to a certain point; but thenceforward falling lamentably short of any just practical advice.

He dwelt with perfect truth, and beaming pride on the progress that this race had made on this Continent, he contrasts their situation with the state of the race on the Coast of Guiana; he compared it with that of several of the peasantries of Europe. In due succession it might have been supposed that he would have concluded with an assertion of their rights, as well as fitness, and with earnest advice to adopt at once some safe prin-

²⁰George McDuffie. Member of Congress from South Carolina, 1821-1834. Governor of South Carolina, 1834-1836. United States Senator, 1842-1846. (Appleton, *Cyclop. of Amer. Biog.*)

ciples for their gradual emancipation from a state of things, totally incompatible with their present stature in the scale of humanity, at utter variance with the fundamental principles of the society in which they live, and full of danger to the well being of the Country.

Mr McDuffie, however, did not appear to see that length, and for any thing I could observe to the contrary in his very remarkable speech, he would have the system stand where it was, till time, and the course of circumstances had obliterated all vestige of the black race, and the fields were full of Slaves of the same Colour as their Masters.

The imputation to which the Slave States are justly liable is, not that they do not at once emancipate the Slaves, for that cannot be done with safety, but that they make no preparation to do so by prohibiting the future exportation of such persons as merchandize, and by the establishment of schools for the Children, and by all the means of preparation which did so much to pave the way in the British Colonies, and, above all, by the establishment of liberal principles for the gradual introduction of the people of Colour (under proper guarantees of good conduct, and steady employment, and perhaps a property qualification) to the full privileges of Citizenship. Till this is done the United States have no just pretension to be called a land of freemen.

The great stain, however, of the Old Slave States, and it is a terrible one (and to the honour be it said, of a great portion of the Inhabitants, terribly felt) is the internal Slave Trade. Moderate men do not reproach them that they have Slaves: That is their misfortune, and it is not to be denied that Great Britain shared deeply in the original sin. But the heavy charge against them is that they desire to get rid of them by foreign traffic, and that some of their Statesmen are striving, heart and soul, to extend the market for this deeply wicked traffic.

For my own part, who have had the unhappiness to see many of these unfortunate people, *traveling in chains* to the Southern Market through the land of Washington and the greatest spirits that America ever produced, I could not but reflect how extensively that race had contributed to the happiness and strength of these Countries, and thus directly to the fostering of the very men who achieved Independence; and here was their reward!

I have not the least hesitation in declaring my own feeling that such a Slave trade is incomparably more indefensible than the African. In the one, men are selling the people and the descendants of people like Cattle, who have lived with their Fathers, or been born and brought up by the side of their Children, who have rejoiced with them, and sorrowed with them, and toiled for them, and whose final lot is the swamp, and the burning sun of the Banks of the Mississippi, where they too often languish and die in the very year of their arrival, under a new and hard task, in a climate as strange to them as to the Whites, with whom they were reared.

In the other, men at least are not adding the sin of ungratefulness, to the meanness of cupidity. The African is nothing to him, or he to the African, but the recollection of the gangs of people, who I have seen travelling through Virginia *in Chains*, will never pass away from me. It happened to me to be then perusing Mr Jefferson's Notes on Virginia, and I could not but feel the force of his eloquent lines upon the subject of Slavery very strongly. When he thought of it he trembled for his Country! Nothing that ever fell from his pen does more honour to Mr Jefferson than that striking page, and I greatly fear that there are rash Councils in operation in the United States, which may render it little short of prophetic.

Mr Calhoun remarks for the instruction of the King of the French, that to form a correct conception of what would be the result of freedom to the Blacks in the United States, (brought about by the influence of Great Britain,) we must cast our looks not to Jamaica, but to Saint Domingo. This influence of Great Britain, of which Mr Calhoun speaks so often may be very good matter to help the polls in the United States, but it is not exactly calculated for the Royal Cabinet of the Tuileries. It must be perfectly understood in that quarter to be no more than a creation for certain political objects in the United States. The King and all the rest of the World know that Great Britain has used no other influence, than the influence of example, and that to be sure is forcible enough. It will do its work in time, and peacefully, not to the injury, but to the incalculable advantage of the United States. But it may be asked, if real efficacy should be given in the United States to the principles which prevailed

in Jamaica, (duly modified according to the circumstances) why the King of the French should not be suffered to cast his eyes towards Jamaica, rather than Saint Domingo, in forming a judgment upon the probable result?

If there are none of the antecedents of the dismal story of Saint Domingo, in the measure of emancipation in the United States, it is reasonable to think that there will be none of the events. Let us hope there may be none of those antecedents, for that tale is full of warning, and may be summed up in a few words.

Saint Domingo was lost to France by the madness of the people. It was saved to her, or might have been saved (but for an Act of perfidy and cupidity of which the world has seen few worse examples) by the wisdom and conduct of a Black Man, and it was cast again into utter desolation from which it has never recovered by the rashness of Napoleon, at the cost of the flower of the French Army.

St Domingo is not a desert because Black Men are free, or idle, or because of any of Mr Calhoun's prejudices against the rights of that race. The history of that Country will prove that those people are as susceptible of improvement, by freedom and Christian Instruction, as any other in the world.—It will shew that great Men can have black faces, and unhappily that white Men can have black hearts; that the virtues of generosity, and constancy, and courage were as freely displayed by blacks as whites in that memorable struggle, and lastly, that the true curse of St Domingo has been pronounced of old, and came to pass by the neglect of the sacred warning, that the sins of the Fathers shall be visited on the Children to the third and fourth generation. The great Calamity of St Domingo is the hatred and jealousy between the mixed and black races, springing originally from the vices of the Whites, formented afterwards by their dark policy, and now reckoned against them by men of that Colour who have occasioned almost the whole burden of misery and wretchedness which has fallen upon that land. Let Mr. Calhoun assure himself that the fairest race of men in this planet, exposed to analogous disasters, and outrages, and calamities of all kinds, would have fallen as low as these unfortunate people; and still more should he bring himself to acknowledge that the single

sound treatment for such a state of things is to help them with counsels to cherish their freedom ardently, and to regulate it wisely, and to heal their differences, and, above all things, to instruct their Youth in the fear of God.

He would agree that it was only by such means that a fallen White people could be raised, and where is the wisdom, or justice, of this finger of scorn against an unhappy race of Black Men. Victims of desperate crimes and calamities, not of their creation?

St Domingo was no pleasing subject to draw under the notice of the King of the French, neither, I must say, is it at all to be detected that Mr Calhoun was better able to instruct His Majesty therein, than on any of those other points which Mr. King was desired to expound.

His Majesty's course with respect to the Slave Colonies of France, and His remedies for the disastrous state of things in St Domingo, would probably be of a totally different character from any that He would collect from Mr Calhoun. It is indeed to be believed that He would rather cast his looks Jamaica-wards, in any contemplated changes on this point, than to any direction that Mr Calhoun would indicate.

It may be observed in conclusion, that Mr Calhoun has rushed into an extremely unfortunate situation, on this whole subject.

He has unjustly attacked Great Britain; failed in an attempt to create coldness between France and that Power, in a moment of some crises; most unnecessarily aggravated the distrust and dislike with which he has long been regarded by a large part of the people of the United States, and, at the same time, contrived by his late Councils and correspondence, to do more injury to the cause which it was his purpose to sustain, than the whole host of Abolitionists in the United States could have effected in years of agitation. I certainly am one of those persons who regret the vexation and chagrin he has brought upon himself, for I have the honour of some slight acquaintance with him, and I cordially respect his high private character, and distinguished abilities.

Charles Elliot.

Galveston, January 14th. 1845.

[Endorsed] In private letter from Capn Elliot of Jan. 15/45.

BOOK REVIEWS AND NOTICES

The Education of the Negro Prior to 1861: A History of the Education of the Colored People of the United States from the Beginning of Slavery to the Civil War. By Carter Godwin Woodson, Ph. D. (New York and London: G. P. Putnam's Sons. 1915. Pp. v, 454. \$2.00.)

This book is an important contribution to the history of the negro race in America. Beginning with the efforts of benevolent clergymen to instruct the first comers from Africa in the rudiments of learning in order to prepare them for an understanding of the Christian religion, the author traces throughout the slavery era the slow and uncertain progress of the negro in the pursuit of the white man's learning. Naturally, progress was uneven. The author shows how religious conviction, political philosophy, social prejudice, the development of the plantation system, abolitionist ardor and the newer slave code in turn had to do not only with the quantity of instruction that was allowed the negro but also with the character of it. It is not necessary to follow his story here. Its trend is sufficiently indicated in certain of the chapter headings: "Religion with Letters," "Educating the Urban Negro," "The Reaction," "Religion without Letters," "Learning in Spite of Opposition," "Educating Negroes Transplanted to Free Soil," "Higher Education," "Vocational Training," "Education at Public Expense." There is a long appendix of documents which illustrates various phases of negro-education propaganda. The book is supplied with an extensive bibliography and a fair index.

The author has evidently been at pains to tell his story accurately. He has searched widely and collected an abundance of material. Although his style can not be termed eloquent or polished, in the main it is clear and readable. Of a doctor of philosophy of one of America's greatest institutions of learning, these things were to be expected. Of a negro, it is hardly to be expected, perhaps, that he should write in scientific detachment, without racial bias.

Of the failure to pass this test of historical scholarship the

pages of the book offer ample testimony. Ignoring the condition of the negro in the African forest, the writer would have it that by lack of instruction the slaves were "reduced . . . to the plane of beasts" and thereby "developed bad traits which since their emancipation have been removed only with great difficulty" (p. 12). Masters who refused to educate their negroes were "malevolent" (p. 64) and "merciless aristocrats" (p. 68); the project of colonization was but a "subterfuge" to prevent education; and John Wesley, who could have known but little of the race, is quoted with approval to the effect that the African is not stupid in his own country and that with equal opportunity he is "not only not inferior to the better inhabitants of Europe, but superior to some of them." The separation of whites and blacks in the public schools is denounced and it is boldly asserted that "it was the liberated Negroes themselves who, during the Reconstruction, gave the Southern States their first effective system of free public schools." It is unnecessary to give more examples of this sort, but plenty are available. They illustrate the chief fault of the book.

CHAS. W. RAMSDELL.

The History of Brenham and Washington County. By Mrs. R. E. Pennington. Houston, 1915. 123 p. This small volume is the product of a labor of love. It is not the purpose of the author to present a comprehensive history of either town or county. Nevertheless, she has succeeded in bringing to the attention of the reader the important part the people of this rich and beautiful section have played in the history of Texas. The data are grouped around historical sketches of the towns of Washington and Brenham and biographical sketches of Richard Fox Brenham, the Giddingses, the Shepards and a few others.

The final volume in the Series of Original Narratives of Early American History (Scribners), entitled *Spanish Exploration in the Southwest*, is by Professor Bolton, of the University of California. Pages 281-423 contain narratives of seventeenth century explorations of Texas: the Bosque-Larios expedition of 1675, the

Mendoza-Lopez expedition to the Jumano Indians in 1683-84, and the De León expeditions of 1686-87, 1689, and 1690.

Early Diplomatic Relations between the United States and Mexico (Baltimore: The Johns Hopkins Press. 1916. Pp. xi, 406), by Professor William R. Manning, of the University of Texas, is just from the press. It will be reviewed in a later number.

The Brenham *Banner-Press* on January 27, 1916, issued a Golden Anniversary Edition of fifty-six pages. The editor contributes a brief sketch of John G. Rankin, founder of the *Banner*. Mr. Rankin tells of "Fifty years of newspaper work." Mrs. R. E. Pennington gives an account of Washington on the Brazos, and Thomas H. Shannon of "Historic Independence." Over against Mrs. Hetty M. Curry's account of exasperating "Reconstruction days in Brenham" may be placed Mrs. Mary Hunt Affleck's "Glenblythe: the story of an old Southern home." The paper has many other historical and biographical sketches.

The Cameron *Herald* issued a Christmas edition December 16, 1915, containing a history of the *Herald*, now thirty-eight years old, "History of Cameron and Milam County," "Cameron after the Civil War," "Some interesting history since 1866" by Edward F. English, and "Reminiscences of forty-five years ago."

Doniphan's Expedition; containing an account of the conquest of New Mexico; General Kearney's overland expedition to California; Doniphan's campaign against the Navajos; his unparalleled march upon Chihuahua and Durango; and the operations of General Price at Santa Fé. . . . By John T. Hughes first published in 1847, has been reprinted as Senate Document 608, 63d Congress, 2nd Session.

Number 1 of the *Publications* of the Folk-Lore Society of Texas was recently published. Indian tradition, border ballads,

negro tales, school boys' slang, play-party songs, and wild horse stories are some of the subjects treated of in the papers.

A Pioneer Presbyterian Preacher in Texas: The Rev. Hugh Wilson, D. D., by Edward M. Browder, of Dallas. This small pamphlet contains a biography first printed in the *Texas Presbyterian*, January, 1916.

The Texas History Teachers' Bulletin, IV, No. 2 (February, 1916), contains extracts from the minutes of the ayuntamiento of San Felipe de Austin for March, 1828, which illustrate some features of local government in Texas under Mexican rule. The selection is translated from the original manuscript volumes in the General Land Office and edited by Professor Barker, of the University of Texas.

John Tyler, Tenth President of the United States, is the title of an address delivered by Armistead C. Gordon at the dedication, October 12, 1915, of the monument erected by Congress in Hollywood Cemetery, Richmond, Virginia, in memory of President Tyler. It is issued in pamphlet form by the committee in charge of the dedicatory exercises, as Senate Document No. 256, 64th Congress, 1st session, and it appears in the *Alumni Bulletin of the University of Virginia* (Third Series), IX, No. 1, Pp. 64-91.

Jefferson Davis and Repudiation in Mississippi, by John Douglass Van Horne (Glyndon, Maryland, privately printed), is a well written review of evidence acquitting Davis of the charge of favoring repudiation of State debts in Mississippi.

NEWS NOTES

Mr. Philip C. Tucker, 3d, has presented to the Texas State Historical Association a number of objects of much historical interest: (1) The original duplicate of the first seal of the General Land Office of the Republic of Texas. The financial agent of the Republic in New Orleans was instructed in 1836 to have this seal engraved, but delay attending the execution of the commission interfered with delivery of the seal when completed; in consequence it remained in private hands until now. (2) Two maps: one a "map of Galveston Island copied from surveys made by J. M. Wampler in 1849 and 1850 under the direction of the U. S. Coast Survey"; the other a map of the city of Galveston. (3) A package of manuscripts, comprising the minutes of a special grand jury, impaneled for the purpose of investigating and sequestering the property of alien enemies of the Confederacy. The jury was sworn and charged by Judge William P. Hill of the District Court of the Confederate States of America for the Eastern District of Texas, November 18, 1861, and extended to January 11, 1862. Accompanying the minutes are two reports of property of alien enemies and forty indictments filled out over the printed signature of William P. Ballinger, Receiver for Confederate States of America. The fact that records of the Confederate courts are almost unknown makes this gift of special importance.

Mr. William Edward Dunn, whose article on the Spanish Search for La Salle's Colony appears in this number of *THE QUARTERLY*, is now in Seville, Spain, making transcripts of documents bearing on the history of Texas and the Southwest. The work is financed by the University of Texas, in which Mr. Dunn is Instructor in Spanish-American History, the University of California, the Library of Congress, and the Texas State Library. Down to December 30, 1915, some 4000 pages had been transcribed.

In a review of historical activity in the Southwest, published in the March number of the *Mississippi Valley Historical Review*,

Professor Walter L. Fleming, of Louisiana State University, gives considerable attention to work originating in the University of Texas.

Moritz Tiling, author of the *History of the German Element in Texas from 1820-1850*, reviewed in THE QUARTERLY, XVII, 212, died at his home in Houston, February 18, 1916.

James D. Walthall, former Attorney General of Texas, and several other prominent Texans, perished in the fire that destroyed the San Antonio Country Club March 26, 1916.

Colonel George Wythe Baylor, a noted Indian fighter and Texas Ranger of earlier days, and a member of Terry's Texas Rangers during the Civil War, died at San Antonio March 27. The *San Antonio Express* of March 28 contains a sketch of his career.

AFFAIRS OF THE ASSOCIATION

The annual business meeting of the Texas State Historical Association was held at the University of Texas March 2, 1916. Eleven active members and two honorary members were added to the Association. For the ensuing year the following officers were elected: President, Mrs. Adèle B. Looscan (Houston); Vice-Presidents, Col. George W. Brackenridge (San Antonio), Hon. R. C. Crane (Sweetwater), Miss Katie Daffan (Austin), Mrs. Cornelia Branch Stone (Galveston); Secretary-Treasurer, Professor Chas. W. Ramsdell. Mr. E. W. Winkler was elected to the Executive Council from the Fellows for the term ending March, 1919, and Miss Julia Pease was elected from among the members for the term ending 1921. Mrs. Looscan, Eugene C. Barker, Herbert E. Bolton, E. W. Winkler and Z. T. Fulmore were elected to the Publication Committee. The Association adopted resolutions endorsing the plans for the celebration of the bi-centennial of the founding of San Antonio, and pledged its support to the undertaking. It also adopted resolutions thanking Hon. R. C. Crane, of Sweetwater, for his efficient service in

discovering, tracing, and recovering large quantities of currency of the Republic of Texas stolen from the comptroller's department at the State Capitol. The Association accepted from Mr. Philip C. Tucker, 3d, the important gift described on page 444 above.

The Treasurer made the following financial report:

TREASURER'S REPORT FOR THE YEAR ENDING FEBRUARY 29, 1916.

<i>Receipts.</i>	1916	1915
By membership dues	\$1,056 95	\$1,282 00
By sale of QUARTERLY.....	197 68	77 26
By sale of reprints	44 25
By sale of binding.....	9 00	3 00
By interest	70 00	110 00
By life memberships	26 00
By miscellaneous items	56 45	30 10
	<hr/>	<hr/>
Total receipts	\$1,434 33	\$1,528 36
Deficit for the year.....	90 50	353 98
	<hr/>	<hr/>
	\$1,524 83	\$1,882 34

Disbursements

To printing QUARTERLY	\$ 969 43	\$1,341 09
To binding QUARTERLY	18 00	19 00
To clerical expense	300 00	364 35
To postage	106 00	84 20
To stationery	46 10	57 85
To reprints of QUARTERLY.....	65 00
To miscellaneous items	20 30	15 85
	<hr/>	<hr/>
Total of disbursements.....	\$1,524 83	\$1,882 34

(Signed)

CHARLES W. RAMSDELL,
Treasurer.
J. ANTON DE HAAS,
Auditor.

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