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SECRET
JOURNALS OF THE SENATE
REPUBLIC OF TEXAS
1836-1845

EDITED FROM THE ORIGINAL RECORDS
IN THE STATE LIBRARY AND THE DE-
PARTMENT OF STATE BY ERNEST WIL-
LIAM WINKLER, STATE LIBRARIAN.


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PREPARATORY NOTE

The Secret Journals of the Senate of the Congresses of the Republic of Texas, except as noted below, have not heretofore been printed. As printed in the present volume, they follow closely the text, spelling, capitalization, and punctuation of the manuscript prepared by the Secretary of the Senate or his assistant. The secret messages of the President, sent to the Senate, have been compared with the originals, wherever the latter could be found. Many of these messages had been omitted from the Secret Journals by the Secretary of the Senate; in such cases copies were supplied from the originals. In a few instances, neither the originals nor copies have been found of messages that are missing from the Journals. Copies of all documents submitted to the Senate for consideration in secret session have also been supplied wherever possible, if they have not been printed elsewhere.

Unfortunately, the Secret Journals of the first or regular session of the Ninth Congress had to be omitted, since they could not be found in the archives of the State. To supply as nearly as possible the information contained in these missing journals, the President's secret messages to the Senate and the replies to the President from the Secretary of the Senate have been inserted. The Secret Journals of the second or called session of the Ninth Congress are printed on pages 87-94 of the public journals of this session, and, therefore, are not included in this volume.

To the Secret Journals have been appended the laws and joint resolutions passed in secret session. These, too, have not heretofore been printed. The archives of the State were searched carefully for these documents, but a few are still missing.

ERNEST WILLIAM WINKLER
State Librarian, Editor

ABBREVIATIONS

A list of the abbreviations used in this volume:

- MS. Manuscript.
A. D. Autograph document.
A. D. S. Autograph document signed.
L. S. Letter signed.
A. L. S. Autograph letter signed.
[] Words or letters supplied.
? ? ? Doubtful reading, or queried information supplied.

Note.—A number of references have been made to Garrison, *Diplomatic Correspondence of the Republic of Texas*, Part II. The page references, however, could not be given, as this work had not been published when the last proof sheets of the present volume were read.

CONTENTS

	Page.
Table of congresses.....	7
First congress.....	9-67
First session.....	11-41
Second session.....	42-67
Second congress.....	69-110
First session.....	71-84
Second session.....	85-105
Third session.....	106-110
Third congress.....	111-131
Fourth congress.....	133-179
Fifth congress.....	181-202
Sixth congress.....	203-228
First session.....	205-225
Second session.....	226-228
Seventh congress.....	229-278
First session.....	231
Second session.....	231-278
Eighth congress.....	279-302
Ninth congress.....	303-313
First session.....	305-312
Second session.....	312
Appendix	315-317
Index	319-325

CONGRESSES OF THE REPUBLIC OF TEXAS

Number.	Session.	Date.	Place.
First	First Session	October 3 to December 21, 1836.	Columbia.
	Adjourned Session	May 1 to June 13, 1837.	Houston.
Second	Called Session	September 25 to November 4, 1837.	Houston.
	Regular Session	November 6 to December 19, 1837.	Houston.
	Adjourned Session	April 9 to May 24, 1838.	Houston.
Third	Regular Session	November 5, 1838, to January 24, 1839.	Houston.
Fourth	Regular Session	November 11, 1839, to February 5, 1840.	Austin.
Fifth	Regular Session	November 2, 1840, to February 5, 1841.	Austin.
Sixth	Regular Session	November 1, 1841, to February 5, 1842.	Austin.
	Called Session	June 27 to July 23, 1842.	Houston.
Seventh	Called Session	November 14 to December 4, 1842.	Washington.
	Regular Session	December 5, 1842, to January 16, 1843.	Washington.
Eighth	Regular Session	December 4, 1843, to February 5, 1844.	Washington.
Ninth	Regular Session	December 2, 1844, to February 3, 1845.	Washington.
	Extra Session	June 16 to June 28, 1845.	Washington.

FIRST CONGRESS

Roll of Senators

Henry W. Augustine,¹
Shelby Corzine,¹ } for the District of San Augustine.
Richard Ellis, for the District of Red River.
Stephen H. Everitt, for the District of Jasper and Jefferson.
Jesse Grimes, for the District of Washington.
William H. Wharton,²
James Collinsworth,² } for the District of Brazoria.
William G. Hill,²
Alexander C. Horton, for the District of Matagorda, Jackson and Victoria.
Robert A. Irion, for the District of Nacogdoches.
Willis H. Landrum, for the District of Shelby and Sabine.
James S. Lester, for the District of Mina and Gonzales.
Edwin Morehouse³, for the District of Goliad, Refugio and San Patricio.
Sterling C. Robertson, for the District of Milam.
Francisco Ruiz, for the District of Bexar.
Alexander Somervell, for the District of Colorado and Austin.
Robert Wilson, for the District of Harrisburg and Liberty.

Officers of the Senate

Lorenzo de Zavala, Vice-President until October 22, 1836.
Mirabeau B. Lamar, Vice-President, inaugurated October 22, 1836.
Richard Ellis, President pro tem. during first session.
Jesse Grimes, President Pro tem. during second session.
Richardson Scurry, Secretary during first session.
Arthur Robertson, Secretary during second session.

¹H. W. Augustine was elected to fill the vacancy created by the resignation of Shelby Corzine, who was elected judge of the first district December 16, 1836.

²James Collinsworth was elected to fill the vacancy created by the resignation of W. H. Wharton, who was confirmed as minister to the United States on November 16, 1846. Collinsworth took his seat November 30th, and on December 16, 1836, was elected chief justice of the supreme court. Wm. G. Hill was elected to fill the vacancy created by the resignation of J. Collinsworth.

³E. Morehouse resigned December 22, 1836; he had no successor in the second session of the first congress.

FIRST CONGRESS

FIRST SESSION

Tuesday, October 4, 1836.
3 o'clock.

On motion of Mr. Everett,
The senate went into secret session.
The president *pro tem.* presented sundry documents accompanying
the president's message.

On motion of Mr. Grimes,
Resolved, That the injunction of secrecy be removed, and that the
documents accompanying the president's message lie on the table till
to-morrow morning.⁴

Secret Journal of the Senate
Columbia 25 Oct 1836⁵

A Message was Received from the President
The House went into secret Session.

Executive
Office

Columbia Texas
25th October 1836.⁶

Confidential

Gentlemen,

Of the Senate and House of Representatives,
Enclosed I have the honor of transmitting for your information, a
letter from President Jackson to General Santa Anna, also a letter to
myself, with sundry other documents from Gen[era]l Santa Anna⁷, de-
signed for the congress of Texas.

⁴*Journals of the Senate of the Republic of Texas. First Congress—First Session, p. 99.* The manuscript journal of the secret sessions of the senate makes no mention of this session, nor of two subsequent sessions held October 11 and 22, and noted in the printed journal; in fact, it appears that a secret journal was not begun until October 25, when President Houston sent his first confidential message to the senate.

⁵This is the beginning of the manuscript copy of the secret journal; it bears the title "Secret Journal of the Senate Chamber." The journal embraces thirty-seven unnumbered folio pages. It is a rough or first draft, and is written in several different handwritings. Occasionally the proceedings are signed by the secretary; the signatures of the secretary and the president *pro tem.* appear at the end of the journal. The journal is among the papers of the First Texas Congress, First Session.

⁶The copy of the message here printed has been compared with and made to conform to the original.

⁷The letter from President Jackson to Santa Anna, dated September 4, 1836, is printed in Richardson's *Messages and Papers of the Presidents*, III 275-6. What was included in the "sundry other documents from General Santa Anna" is difficult to determine; it may be assumed that they included Santa Anna's letter to President Jackson, dated July 4, 1836 (Printed in Richardson's *Messages*, III 274-5), and Santa Anna's letter to General Houston, dated October 24, 1836, and printed below.

It will be perceived at once, how delicate my situation must be in submitting to your consideration the letter of Gen[era]l Jackson to myself, from the sacred injunction which he has placed upon it

The present crisis, in connexion with the important subject referred for your consideration and action, could alone authorize or induce the course. It does seem to me that sound policy is not at variance with the plan proposed in the letters referred to: and that the policy is safe there can be no doubt.

Sam Houston

Hermitage Sept 4th 1836.*

Genl Saml Houston

Commander in chief of the army of the Texean Republic
Sir,

your letter of the 9th ultimo dated at Nacogdoches (Texas) with the documents therein referred to was rec[eive]d by express on my way from Florence hither, where I reached on the 3rd instant, and hastened to acknowledge its receipt.

I have duly examined the contents of your letter and the other documents referred to, and regret that, Mexico by her Minister Mr. Gorrastesa has made known to this Government, that Mexico does not, nor will not recognize any act of Genl Santa Anna, as President of Mexico, since he has been made Prisoner, and that the agreement made by him with Texas will not be recognized and agreed to by Mexico. you will at once see that until the Govt. de facto of Mexico, asks the friendly interposition of our good offices to put an end to the war we cannot interfere. *if she does, it will give me pleasure to become the mediator between you.* I shall set out in a few days for Washington, and will there make your note to me, and that of Genl St Anna, the basis of an interview with the Mexican Minister. In the mean time I would remark that I have seen a report that Genl St. Anna was to be brought before a military court, to be tried and shot. nothing *now* could tarnish the character of Texas more than such an act at this late period. it was good policy as well as humanity that spared him. it has given you possession of Goliad and the alamo without blood or loss of the strength of your army. his person is still of much consequence to you. he is the pride of the Mexican soldiery and the favorite of the priesthood; and whilst he is in your power the priests will not furnish the supplies necessary for another campaign, nor will the regular soldier *voluntarily* march when their reentering Texas may endanger or cost their favorite Genl his life. therefore preserve his life and the chances are you have won; let

*Copy from the Jackson Mss. in the Library of Congress.

not his blood be shed unless it becomes necessary by an imperative act of just retaliation of Mexican massacres hereafter. this is what I think, true wisdom and humanity dictates.

I enclose you a letter to Genl St. Anna which you will please seal and cause to be delivered to him.

I am Genl with great respect
your mo. obdt servt.

Andrew Jackson

To His Excellency Gen[era]l Sam Houston.

Orazimba, Oct. 24 1836.*

Much Esteemed Sir:

I enclose you the original answer of President Jackson to my letter of July 4th in order that you may be informed of its contents.

The communication from the Government of Mexico, referred to by Gen[era]l Jackson, stating that *no act of mine while a prisoner would be obligatory upon the authorities of the Nation*, emphasizes what I have repeatedly stated that my presence in the Cabinet of Mexico is necessary and indispensable, and that anything I do or write from here would be unimportant after the retreat of the Mexican Army to the other side of the Rio Bravo del Norte. It is necessary, my dear Sir, to be convinced at once that delay in fulfilling the treaty of May 14th results in nothing but the injury of all parties concerned. The independence of Texas would by this time have been recognized, or on the point of being so recognized, if the commotion at Velasco had not hindered my departure, after it had been so directed by the proper authority. The time lost is precious and perhaps will not return. Put away then unjust mistrust as unworthy of the offenders as of the offended. The acts of my public life shall not be stained by an unworthy act either in prosperity or in misfortune.

The reasons above stated persuade me that any thing I could write to the Mexican Minister in the United States would be useless; and to save time I could proceed to Washington, for there is no doubt that an interview with Gen[era]l Jackson would be beneficial to all.

Consider what is best, and you may depend on the approval of your friend and humble servant,

Ant. Lopez de Santa Anna

P. S.

I have discussed fully with General Austin and Col[onel] Bee the importance of my visit to Washington, preferring this certain communica-

*Translation from original letter in Mexican Diplomatic Correspondence. Texas State Library.

tion to paper. Wherefore I refer to these gentlemen for any information upon this subject.

L. de S[an]ta Anna.

Whilst the clerk was reading the accompanying documents Mr. Everitt submitted a resolution calling for all the documents referred to by Gen[eral] Santa Anna.

Resolved That the President be Requested to send to this house Translations of all documents connected with the communication of Santa Anna not hitherto sent.⁷

When the Message and documents was laid on the Table.

And the doors of the Senate opened.

Columbia Oct 26 1836

A Message⁸ was rec[eive]d from the president with closed doors

On motion of Mr. Everitt it was ordered that all the rooms adjoining the Senate Chamber be cleared whenever the Senate is in secret session Carried

Message⁹ Rec[eive]d from the President.

Executive Department
Columbia 26th Oct. 1836.

To the honorable
The Senate.
Gentlemen.

In accordance with your resolution of yesterday, requesting to be furnished with translations of all the documents, connected with the communication of Santa Anna, which have not heretofore been sent to you, I have the honor to transmit the entire series of communications accompanying this Message.¹⁰

⁷MS. Resolution in Papers of First Congress, First Session.

⁸Message has not been found.

⁹A space was reserved for this message in the secret journal, but was not filled in. The copy here printed has been taken from the original manuscript message.

¹⁰As the "communications accompanying this message" were not enumerated and are not filed with the message, there is no means of identifying them. However, as the question submitted to the senate was, Shall Santa Anna be released, the following documents were probably among them:

1. Orders from Santa Anna to General Filisola, three in number and dated April 22, 1836. Printed in *Telegraph and Texas Register*, September 6, 1836.

2. Letter from Santa Anna to General Filisola, transmitting a copy of the treaty of May 14, 1836. Printed in *Telegraph*, August 23, 1836.

3. General Filisola's ratification of the treaty of May 14, 1836, dated May 26, 1836. Printed in Yoakum's *History of Texas*, II 529.

4. Letter from Santa Anna to President Burnet, dated June 9, 1836, protesting against the nonfulfillment of treaty stipulations and his retention as a prisoner. Printed in *Telegraph*, October 4, 1836.

5. Letter from President Burnet to Santa Anna, dated June 10, 1836, replying to Santa Anna's protest. Printed in *Telegraph*, October 4, 1836.

Those parts of the correspondence which have emanated from the late Government ad interim, are in the English language and those emanating from the President Santa Anna, in the Spanish. The difficulty of procuring them to be translated, the length of time which would be required to transcribe them and the scantiness of clerical aid in this department, have induced me to submit to you the Originals belonging to the files of my office. These I intend to recall to their appropriate place and supply you with authenticated copies.

This method will be the most speedy and best adapted to hasten your action upon those interesting subjects now under your consideration; and I trust that therefore, a literal compliance with your resolution, will be dispensed with in this instance, as the defect arises from absolute necessity.

Sam Houston

Mr. Elliott [Everitt?] moved that a Committee of two be appointed to select a Translator Carried

Whereupon the Chair appointed Messrs Everitt [and] Morehouse said Committee

Judge Joseph Baker was appointed and sworn in as Translator to the Senate

On motion of Mr Everitt The Senate adjourned until 3 Oc[lock] P M

3 O Clock

Message from the President

Executive Department
Columbia 26 Oct. 1836¹¹

To the honorable
The Senate.
Gentlemen

I take pleasure in submitting to your consideration and action the following named gentlemen, whom I desire may fill the several Departments of the Government to which they are respectively assigned—

Stephen F. Austin Sec[retary] of State
Henry Smith Secretary of the Treasury
Thomas J. Rusk Secretary of War
S. Rhoades Fisher Secretary of the Navy.

Your honorable body must be well aware that in a country situated as ours is, the Executive head of the Government will have much difficulty in selecting those whose qualifications are precisely adapted to every important station.

With a total disregard to personal preference, I have selected such

¹¹See note 9 above.

persons to associate with myself in the administration of the Government, whose talents I think best suited to the furtherance of the interests of the country. As my constitutional advisers, I have respectfully to request of you, the confirmation of the several nominations.

Should any one of them be rejected I should feel myself at a loss where, or by whom to supply his place. And as I am held responsible to the people for the administration of the Government, you will readily admit that I have felt and must continue to feel a lively interest in knowing who are to co-operate with me in the discharge of my official duties

Sam Houston

Mr Everitt Moved To make the message the special Order for tomorrow morning Carried

Columbia Thursday Morning
Oct the 27th 1836

A Message was received from the President

Executive Department
Columbia 27 Oct. 1836.¹²

To the Honorable
The Senate.
Gentlemen

The nomination of an Attorney General was inadvertently omitted in my Special Message to you of yesterday.

James Collinsworth Esq. was intended to be included in that communication, as nominated to that high Office; and you will be pleased to consider my remarks of that date, as equally applicable to him.

Sam Houston

The nominations as they stood on the message were then taken up by the Senate, first

Stephen F Austin Secretary of State

Mr Everitt moved to suspend said nomination for further consideration which motion was lost.

On motion of Mr Everitt the senate adjourned until 1-2 past 2 O'clock.

1-2 past 2 O'clock

Mr Everitt moved to postpone until a day certain. lost.

Mr Robertson moved to postpone until tomorrow. Carried.

The Senate then went into the consideration of the other executive nominations, and advised and consented to the nominations unanimously of

¹²See note 6 above.

Henry Smith as Secretary of the Treasury
 Thomas J Rusk as Secretary of War and
 James Collinworth as Attorney General, and advised and consented
 to the nomination of S Rhoads Fisher as Secretary of the Navy.

When the session of the senate closed and the doors were opened.

R Scurry
 Secretary of the Senate

Columbia Monday [*sic*] Morning
 Oct the 28th 1836

The senate went into secret session. The order of the day being the nomination of Stephen F Austin as Secretary of State.

The ayes and noes were demanded on motion of Mr Everitt. The question being will the senate advise and consent to the nomination, the affirmative voters [were] Messrs Corzine, Horton, Irion, Landrum, Lester, Somerville, Wharton and Wilson—eight. The negative voters were Messrs Ellis, Everitt, Grimes, Morehouse, and Robertson—five the affirmative haveing the majority the nomination was confirmed.

The [rules] haveing been suspended Mr Everitt introduced a Resolution allowing the proceedings of the secret session to be freely discussed but not to be published in the news papers, so [far] as the nominations of the President were concerned. Which Resolution was adopted without a division

The Resolution from the House of Representatives instructing the President not to sell the bonds of the government at a greater discount than ten per cent was taken up by the Senate

Mr Everitt moved to strike out the word President wherever it might occur and insert in lieu thereof the word Commissioners, Which amendment was carried

When the secret session closed and the doors of the Chamber opened

R Scurry
 Secy of the Senate

Columbia Monday Morning
 Oct the 31st 1836

Mr Everitt moved to reconsider the vote on the Joint Resolution of the House of Representatives

On motion of Mr Wharton it was ordered that the Resolution be made to conform to the Bill, by the Secretary

the Resolution as amended by the Secretary was then read and adopted

On motion of Mr Everitt the message of Gen[era]l Santa Anna and accompanying documents was refered to a select committee of three

Whereupon the President appointed Messrs Everitt, Wharton and Ellis the committee aforesaid

The secret session adjourned and the doors were opened

E Scurry
Secy of the Senate

Columbia
4 Nov 1836¹⁸

The Senate went into secret session with closed doors

A message was receive[d] from the President by the hands of his Private Secretary Covering a decree of the revocation of Blockade of Matamoros

Executive Department
Columbia 2d November 1836¹⁴

To the honorable
The Senate
Gentlemen

I have the honor to present for your consideration, a revocation of the Decree of Blockade of the Port of Matamoros etc, proclaimed by the late Government ad interim.

The circumstances of the times no longer seem to require the existence of that edict: while the lawful commerce of our sister Republic of the North is alone affected by such arbitrary constraint; and our naval force is insufficient to interrupt and punish any illicit communication. Unless we can enforce our injunctions by a sufficient armament, they will appear to the world extravagant and futile.

As my constitutional advisers, you will consider the amity which should exist between this Republic and the Nations by which we are surrounded: and should it be deemed advisable, you will return that instrument with the resolution you may make thereon.

Sam Houston

Mr Horton submitted the following Resolution

Resolved That the senate return to the president his message of yesterday and accompanying revocation of Blockade with the suggestion that in their opinion it would be better that the proclamation or revocation had better and with the words force and effect concurring at the same time with the president in the propriety of removing the Blockade as promptly as possible¹⁵

¹⁸The printed journal (page 40) makes note of a secret session on November 3, the manuscript journal does not.

¹⁴The secret journal has no copy of this message; it has, therefore, been supplied from the original.

¹⁵The revocation of the blockade is printed in the *Telegraph*, November 18, 1836; the change suggested by the Senate was not adopted by the President.

Which was adopted
And the doors were opened

Secret Journal of the Senate
Nov 5th 1836

The Senate went into secret session with closed doors
On motion of Mr Everitt it was
Resolved That the Committee to whom was referred the Documents
of Santa Anna be discharged and that a joint committee of both Houses
be appointed
Whereupon the Chair appointed Messrs Wharton Corzine [and]
Grimes on the part of the Senate
And the doors were opened

Secret Journal of the Senate
Nov 9 1836

The Senate went into secret session with closed doors
A message was received from the President nominated Nat Robins
and Jno Dor as Commissioners to treat with certain tribes of Indians
and Hayden Arnold as Secretary to the Commissioners

Executive Department
Columbia 8th Nov. 1836"

To the honorable
The Senate.
Gentlemen,

The friendship and alliance of many of our border Tribes of
Indians will be of the utmost importance to this Government: keep-
ing them tranquil and pacific, and if need shall require it, affording us
useful auxiliaries.

Having received satisfactory information, that large bodies of those
people are desirous of forming treaties of peace and intercourse with
us and that they have assembled on the banks of the River Trinity, near
its three forks, I cannot too forcibly recommend the adoption of any
means which will attach them to us, nor too seriously impress upon
you the policy of drawing them to us by the cords of friendship by
means of Treaties and of Commerce.

With those views I have the honor to nominate to your consideration,
as Commissioners to treat with the several Tribes of Indians on our
Northern and Western frontier who are not now in Treaty, and to con-
clude articles of Peace, friendship and intercourse with them: Nathaniel

"See note 14 above.

Robins and John M. Dor, and Hayden S. Arnold to the duties of Secretary to said Commissioners. These are all gentlemen to whom the trusts will be judiciously confided and should you approve these nominations commissions will immediately issue

Sam Houston

On motion of Mr Horton it was referred to Committee on Indian Affairs [Messrs Robertson, Irion, and Lester.]

The doors were opened

Secret Journal of the Senate
3 O C[lock] Nov 9 1836

The Senate went into secret session with closed doors

The Com[mittee] on Indian Affairs to whom was referred the nominations of the President reported in favor of said nomination

Mr Ellis moved to advise and consent to the nomination of Nath Robins Carried unanimously

The Senate rejected unanimously the nomination of John M Dor

The Senate unanimously advised and consented to the nomination of H Arnold as Secretary

Secret Journal
Nov 10th 1836

The Senate went into secret session with closed doors

On motion of Mr Everitt the injunction of secrecy was removed relative to the nomination of Commissioners to treat with certain tribes of Indians

Mr Wharton from the Committee on the disposition of Mexican Prisoners reported a resolution giving the President power to dispose of them.

The rules were suspended and the Resolution was read second time

A message was rec[eive]d from the President nominating Adolpho Sterne and Isaac W Burton commissioners to treat with the Indians in conjunction with Nath Robins

Executive Department
Columbia 10th Novr. 1836¹⁷

To the Honorable

The Senate

Gentlemen

In consequence of the rejection of the Hon[ora]ble John M. Dor, as Commissioner to treat with the several Tribes of Indians now assembled on the Trinity, I have thought proper to nominate the Hon[ora]ble Adolfo Sterne and Isaac W. Burton in conjunction with

"See note 14 above.

Nathaniel Robbins, whose nomination was yesterday confirmed by the Senate; giving to any two of them powers, as Commissioners, to act on the subjects which may be embraced in their instructions from the War Department.

Sam Houston

The Senate unanimously concurred in the nomination of Isaac W Burton And refused to confirm the nomination of Adolpho Sterne

Mr Corzine moved the recommitment of the Report of the Committee relative to the Prisoner Santa Anna and the addition of Messrs Horton and Everitt to said Committee

Doors open

Secret Journal of the Senate
Nov 11 1836

The Senate went into secret session with closed doors

Mr Wharton introduced a report from the Committee relative to Santa Anna vesting the president with the custody [of] all the Mexican prisoners providing however that Sant[a] Anna and Almonte shall not be released without the advice and consent of the Senate

Resolved by the Senate of the Republic of Texas, That the president be and is hereby vested with the custody and disposal of all prisoners of war. Provided, that the prisoners Santa Anna and Almonte shall not be released or set at liberty on any occasion, without the concurrence of the senate, and that the president shall not have the power to release said prisoners during the recess of the senate.¹⁸

On motion of Mr Everitt the rules were suspended and the report adopted

And the doors were open[ed]

Secret Journal of the Senate
Nov 11 1836 3 O C[lock]

The Senate went into secret session Doors closed

On motion of Mr Everitt the injunction of secrecy in relation to the nomination of the Commissioners to treat with the Indians made by the president on yesterday be removed

And the doors were open[ed]

Secret Journal of the Senate
Nov 12 1836

The Senate went into secret session

A message from the president nominating Kelsey H Douglass and **Henry Millard Commissioners to treat with the Indians** was received

¹⁸A copy of this resolution was not found in the secret journal; it is printed in the *Telegraph*, November 26, 1836.

Executive Department
Columbia 12th Novr. 1836¹⁹

To the honorable
The Senate.

Gentlemen

In contemplation of a Treaty with the Indians, I have felt much anxiety. In the nomination of the Honorable John M. Dor, I was guided by these circumstances. He has been the Secretary of Col[onel] Benjamin Milam an Empresario of a Colony. He stands as fair and has for years, in the Town of Nacogdoches, as any man, and was clerk of the Ayuntamiento of that place, so long as it existed. He was Secretary when the Body was American and while it was Mexican. From all my intercourse, I deemed him a man of as strict honor as lived on the earth. In this I was liable to mistake. He was master of the Mexican language, a necessary qualification of some member of the Commission. I will assert that he has contributed as liberally to the support of the war to his means as any man in the Republic.

In the nomination of the Honorable Adolfo Sterne, I was directed by the reasons, that he spoke the Mexican language; has an amiable family in Texas and would feel anxious to do whatever was calculated to give security to them, and preserve his interests in the country. He was elected to the Convention in 1833 and voted for the Constitution then adopted by the Convention. Within the last year, he supplied at New Orleans, and paid the passage of a Company, (I think,) of Sixty men from New Orleans to Natchitoches on board a steamboat. It is due to these nominations to say, that I used those names without the slightest authority from them and without their knowledge. I owe this much to the Gentlemen and to myself.

I regard it of importance to the safety of the frontier, that a Treaty should be speedily held, and today I have learned that it is more than probable and almost certain, that Isaac W. Burton will not be enabled to act as Commissioner. I would therefore respectfully suggest the names of Kesley H. Douglass and Henry Millard with authority for any two of the Commissioners to hold and conclude a Treaty, etc

Sam Houston

On motion of Mr Everitt the injunction of secrecy be removed relative to the above nominations

The Senate advised and consented to the nomination of the President Kelsey H Douglass and Henry Millard

And the doors were opened

"See note 14 above.

Secret Journal of the Senate
Nov 16th 1836

The Senate went into secret session

A message was rec[eive]d from the President nominating Wm H Wharton as Minister Plenipotentiary to the Court of the U[nited] S[tates] of America at Washington City

Executive Department
Columbia 16th Novr. 1836^o

To the honorable
The Senate
Gentlemen.

I take pleasure in presenting to you the name of William H. Wharton Esquire, as Minister plenipotentiary to the court of the United States of America at Washington City, and request that you will confirm the same.

In making this nomination I have been influenced by a knowledge that an individual of more extended acquaintance in the United States cannot be nominated, nor one who has been longer and more intimately acquainted with the relations and true interests of Texas; no guarantee is required of the nominee, for the faithful and able discharge of the trust confided to him. If it were, it could be found in the identity of his fate with that of Texas.

Sam Houston

On motion it was laid on the table until evening

A message was rec[eive]d from the President relative to Mexican prisoners now in custody and returning certain resolutions of the Senate regarding the disposal of said prisoners²¹

On motion of Mr Ellis the Senate adjourned until 3 O C[lock]

Secret Journal of the Senate
3 O C[lock] Evening Nov 16

The Senate went into secret session

The Resolution relative to the Mexican prisoners was taken up and reconsidered

Mr Everitt moved to call the Ayes and Noes upon the question

Affirmative voters were Messrs Everitt Robertson Sommerville Wilson—4 And the Negative voters [were] Messrs Corzine Ellis Grimes Irion Landrum Lester Ruiz Wharton—8

²⁰See note 14 above.

²¹The veto message has not been found; the resolution returned is printed in the proceedings for November 11th above. The drift of the veto message may be gathered from portions of the debate in secret session printed in the *Telegraph*, November 23 and 26, 1836. In a letter to the editors of the *National Intelligencer*, dated January 21, 1837, William H. Wharton says "without a dissenting voice" the senate acquiesced in the views of the president. (*Niles' Weekly Register*, LI 340.)

The nomination of Wm H Wharton was then taken up

The Senate unanimously advised and consented to the nomination of Wm H Wharton as Minister Plenepotentiary to the U[nited] S[tates] of America

On motion of Mr Irion the injunction of secrecy was removed

On motion of Dr Everitt a Committee of two were appointed to inform Mr Wharton of the concurrence of the Senate in his nomination

The Chair appointed Messrs Everitt and Ellis

And the Doors were open[ed]

Secret Journal of the Senate

Nov 24th [1836]

A message was received from the President apprising the Senate that the appointment of Attorney General had not been accepted by the Hon[orable] Jas Collinsworth and proposing J Pickens [sic] Henderson to fill said appointment

Executive Department

Columbia 24th Novr. 1836**

To the Honorable

The Senate.

Gentlemen,

The Hon[orable] James Collinsworth, owing to his private circumstances, having declined accepting the appointment of Attorney General, to which he was nominated; that station is still vacant.

I have now the honor to present to you the name of J. Pinckney Henderson Esquire, as an individual possessing moral worth, genius and talents, proper to the discharge of the duties of that office; and one, whom I shall be pleased to appoint, if upon consideration you should concur in the nomination.

Sam Houston

On motion of Doct[or] Everitt [the message] was ordered to lie on the table Which motion was adopted

And the doors were opened

Secret Journal of the Senate

Nov 26 1836

The Senate went into secret session

The nomination of J Pinckney Henderson to the office of Attorney General was taken up

The Senate unanimously advised and consented to his appointment

**See note 14 above.

On motion of Mr Everitt the injunction of secrecy was removed
Doors [were] opened

Secret Journal of the Senate
30 Nov 1836

The Senate went into secret session

A message was rec[eive]d from the President nominating certain
Naval Officers which on motion was laid on the table until tomorrow

Executive Department
November 30th 1836²³

Gentlemen of the Senate

The accompanying nominations²⁴ furnished me by the Secretary of
the Navy, I have the pleasure to present you for your appointment,
and I particularly request that an immediate action may be had on it
as each day from information received, makes it more imperative
that our Navy should be placed in such an attitude as to render pro-
tection to our Coast and commerce.

Sam Houston

The injunction of secrecy was removed
And the doors were open[ed]

3 O Clock

The Senate went into secret session

A message was rec[eive]d from the president nominating M B
Menard and A J Yates Esqrs Commissioners to negotiate a loan on
the Bonds of the Government

Executive Department
Columbia 30th Nov. 1836²⁵

To the Hon[orable]

The Senate
Gentlemen

In conformity with an Act of Congress approved the 18th inst[ant]
"to authorize the President to negotiate a loan, on the Bonds of the
Government, not exceeding five millions of dollars" and providing for
the appointment of two Commissioners, into whose hands said bonds
shall be delivered by the President: I have the pleasure of submitting
the names of Michael B. Menard and A. J. Yates Esqrs. as gentlemen
whom I nominate as Commissioners and respectfully solicit the con-
currence of your honorable body in their appointment.

I will take leave to mention that the sooner they are despatched to

²³See note 14 above.

²⁴The list of nominations has not been found. Cf. journal of proceedings on
afternoon of December 1, 1836.

²⁵See note 6 above.

the United States the better they will be enabled to arrange the loan so soon as the Bonds can be prepared for them to act upon. They will have time to enter into an extensive correspondence which will be important to a knowledge of the money market, either in the United States or in Europe, if it should be necessary to extend the operations of the loan beyond the limits of North America.

Sam Houston

Laid on the table for one day

Secret Journal of the Senate
Deer 1st 1836

The Senate went into secret session

A message was rec[eive]d from the president nominating in addition to his nominations of yesterday

Executive Department
Columbia 1st Deer 1836**

To the Honorable
The Senate
Gentlemen

The accompanying list of officers has been this day returned to me by the Secretary of the Navy, and by him recommended as suitable persons to fill the respective stations assigned to each.

I have therefore the pleasure to nominate those individuals to you, for the appointments mentioned in that return.

Sam Houston

Navy Department
Columbia December 1, 1836

To Gen. Sam Houston
President of the Republic of Texas
Sir

I yesterday had the honor to submit to you for your nomination a list of Gentlemen as officers in the Navy, and have now to beg that the following may be named in addition, viz

Francis F. Chisman	}	Surgeons
Richard Cochran		
Thos. H. Living	}	Pursers
N. Hurd		
Henry Fisher		

I have the honor etc etc etc

S. Rhoads Fisher
Secretary of the Navy

**See note 6 above. In the manuscript journal this message is copied on the verso, and by symbol cited under the proceedings of November 30th, which perhaps is an error.

On motion the nominations of yesterday and today were postponed [sic] until 3 O C[lock] and a Committee were appointed by the Chair to ascertain which of the nominations were intended for immediate service in the Independence

The Chair appointed Messrs Horton and Everitt a Committee to call on the Sec[retary] of [the] Navy to ascertain the above

The nomination of M B Menard and A J Yates as Commissioners were unanimously concurred in by the Senate

On motion of Mr Everitt the injunction of secrecy was removed

Secret Journal of the Senate
[3 o'clock] Decr 1st 1836

The Senate went into secret session for the purpose of acting upon the nominations of certain Naval Officers postponed [sic] in the morning

The Senate unanimously advised and consented to the following nominations

Cha[rle]s E Hawkins Post Captain
Wm P B Taylor Post Captain
Geo Wheelright Master Commandant
Henry Livingston Thompson Master Commandant
Francis B Wright Lieutenant
Jno W Taylor Lieutenant
Jno T K Lothrop Lieutenant
J W Humphreys Lieutenant
Jas Mellus Lieutenant
Moreau Forrest Surgeon
Wm Thomas Brannum Purser
Francis F Chisman } Surgeons
Rich[ar]d Cochran }
Thos. H Living }
N Hurd } Pursers
Henry Fisher }

On motion the injunction of secrecy [was] removed
Doors open

Senate Chamber
Decr 2nd 1836

The Senate went into secret session

A message was rec[eive]d from the president inclosing sundry papers in regard to the Release of Santa Anna

Which was laid on the table

Executive Department
Columbia 2nd Decr 1836

To the Hon[orable]
The Senate
Gentlemen

I have the pleasure to acknowledge the receipt of the Resolution passed by your honorable body on the 1st inst[ant]²⁷ I find by reference to a copy filed in the Executive Office that a passport issued dated 20 ult[imo] to General Santa Anna and Col[onel] Almonte a copy of which I have the honor to inclose as well as an original letter in Spanish with a translation given by the Secretary of State It will be perceived that these documents²⁸ are confidential and it is desirable that they should be returned to the Office

Col[onel] Geo W Hockley Maj[or] Wm H Patton and Col[onel] Banard E Bee were directed (as will be seen by the face of the passport) to accompany General Santa Anna and Colonel Almonte to Washington City

I have not heard from the Escort officially since they left this point but have reason to believe that they left Orizembo on Saturday morning the 26 instant and would proceed to Washington by the most direct rout

I have the pleasure to present this information to your honorable body as all that I possess touching your resolution No treaty or treaties of any kind were entered into with him to my knowledge nor by my orders

Sam Houston

Mr Everitt moved to adjourn until 3 o c[lock]

²⁷On November 30th, Mr. Wilson submitted a resolution calling on the president for information as to the release of Santa Anna and Almonte. It was adopted December 1st.—*Journals of the Senate*, 1 Cong., 1 sess., pp. 67, 70.

²⁸Copies of the passport and of the letter from the Secretary of State have not been found. Some pertinent information may be found in the following documents:

1. Letter from Santa Anna to General Houston, November 5, 1836. Printed in Yoakum's *History of Texas*, II 530-1.
2. Letter from President Houston to General Jackson, November 20, 1836. Printed in *Texas National Register*, December 17, 1845.
3. Letter from S. F. Austin to W. H. Wharton, November 25, 1836. Printed in *Diplomatic Correspondence of the Republic of Texas*, I 143.

Executive Department
Columbia 9th Dec. 1836²⁹

To the Hon[orable]
The Senate
Gentlemen

I have the pleasure to nominate Joseph C. Williams to you, as captain of the Texian private Armed Schooner, Terrible; which is to be commissioned, as a Letter of Marque. Also submitting to your consideration the propriety of commissioning the said vessel, under the rules and regulations of the Navy.

Sam Houston

Executive Department
Columbia 10th Dec. 1836³⁰

To the Hon[orable]
The Senate.
Gentlemen,

I have the pleasure to nominate and recommend to you, F. Catlett Esquire, as Secretary of Legation, at the Court of the United States of America, near the City of Washington: and hope you will concur with me, in his nomination.

It is important for the interests of the country, that a Secretary should be dispatched, with the least delay possible; and I hope, this subject may meet your early attention, as well as your sanction.

Sam Houston

Secret Journal of the Senate
12 Decr 1836

The Senate went into secret session

The nomination of F Catlett was taken up

Mr Everitt introduced a resolution that the nomination should not take effect until the Independence of the Country was recognized which was lost

The Ayes and Noes were called for on the confirmation of the nomination

Ayes Messrs Ellis Lester Everitt Morehouse Grimes Robertson Irion Somerville Landrum Wilson Corzine 11

Noes Messrs Collinsworth [and] Horton 2

²⁹See note 14 above. No reference to this message is found in the public or secret journals. The Senate confirmed Williams' appointment. (Letter from Secretary of the Senate to the President. Record (MS.), Vol. 49, p. 80, in Department of State.)

³⁰See note 14 above.

Messrs Collinsworth and Horton gave notice that they would enter their protest against the nomination

The nomination therefore of F Catlett Esq was confirmed
And the doors were opened

Secret Journal of the Senate
14th Decr 1836

The Senate went into secret session

A message was rec[eive]d from the Pres[iden]t to wit^h

To the Honorable

The Senate

Gent[lemen]

I take pleasure in communicating to your honourable body the following list of nominations, to officer the Battalion of Mounted Riflemen, created by the late law of Congress, in which I ask the concurrence of the Senate

With Respect

Sam Houston

War Department

Columbia Decr 7th 1836

To His Excellency

Sam Houston

Sir

I beg leave to submit for your consideration the following named candidates for nomination to appointments in the corps of Mounted Riflemen lately established by law. These gentlemen are highly recommended by the inhabitants of the frontier

For the County of Gonzales	William H Eastland Capt[ain]
First Company	Joel Robinson First Lieut[enant]
	Nathan Mitchell Second Lieut[enant]
For the County of Mina	Micah Andrews Capt[ain]
Second Company	J H Wade First Lieut[enant]
	Nicholas Wren Second Lieut[enant]
For the County of Shelby	Robt O. Lusk Captain
Third Company	John P. Applegate First Lieut[enant]
	David Strickland Second Lieut[enant]
	Thomas H. Barron Captain
Fourth Company	Charles Curtis First Lieut[enant]
	David W. Campbell Second Lieut[enant]

*See note 6 above.

Daniel Munroe Captain
 Fifth Company Wm. H. Moore First Lieut[enant]
 McLaughlin Second Lieut[enant]

Major of Battalion..... Wm. H. Smith
 Surgeon of Battalion..... A. Ramsay
 Ass[istan]t Surgeon of Battalion..... R. Montgomery

With Respect
 Your Obt. Servt.
 William S. Fisher
 Acting Secretary of War

The Senate advised and consented to the nominations as follows

For the County of Gonzales W H Eastland Capt[ain]
 First Company Joel Robertson First Lieut[enant]
 Nathan Mitchell Second Lieut[enant]

For the County of Mina Mid Andrews Capt[ain]
 Second Company J H Wade First Lieut[enant]
 Nich Wren Second Lieut[enant]

For the County of Shelby R O Lusk Capt[ain]
 Third Company Jno P Applegate First Lieut[enant]
 David Strickland Second Lieut[enant]

Fourth Company Thomas H Barron Capt[ain]
 Chas Curtis First Lieut[enant]
 D W Campbell Second Lieut[enant]

Fifth Company D Munroe Captain
 W H Moore First Lieut[enant]
 McLaughlin Second Lieut[enant]

Major of Battalion..... Wm H Smith
 Surgeon A Ramsey
 Asst Surgeon R. Montgomery

On motion the injunction of secrecy was removed.

Executive Department
 Columbia 15th Dec. 1836**

To the Honorable
 The Senate
 Gentlemen

I have the pleasure to nominate the Honorable John Woodward,

**See note 14 above. No reference to this message is found in the public or secret journals. The nomination was confirmed by the senate. (R. Scurry to Sam Houston, December 15, 1836. MS. in Senate Confirmations. Texas State Library.)

formerly a citizen of the United States of America, as Consul General to the Port of New York. This General Consulate, to embrace the Ports of Boston, Philadelphia and Baltimore, with powers to appoint vice consuls in the three last mentioned Ports.

Your ratification, to the above nomination, is most respectfully requested; and particularly so because Judge Woodward's high standing in the United States; and his zealous devotion to the cause of Texas, as well as his disposition to give her further aid, will, I have no doubt, render his official services of essential importance to our Country.

Your Obt Servt

Sam Houston

Executive Department
Columbia 15th Dec. 1836**

To the Hon[orable]
The Senate.
Gentlemen

I take pleasure in nominating to you Niles F. Smith, as a suitable person to be appointed Commissioner "for the purposes contemplated in the 10th Article of the Charter of the Bank of Agriculture and Commerce;" as confirmed by a joint resolution of your honorable body, "for the relief of Messrs. McKinney & Williams."

And I hope, your honorable body, will freely concur with me in his appointment.

Your obt servt

Sam Houston

Columbia Monday
19th Decr 1836

A message was received from the President

Executive Department
Columbia 19th Dec. 1836.**

To the Hon[orable]
The Senate
Gentlemen

I take pleasure, in accordance with the Constitution, to nominate to you, as suitable and proper persons, for the office of District Attorney,

**See note 14 above. No reference to this message is found in the public or secret journals. The nomination was confirmed. (R. Scurry to Sam Houston, December 15, 1836. MS. in Senate Confirmations. Texas State Library.)

**See note 6 above.

Richardson Scurry, for the First District
 A. M. Tompkins for the Second District
 H. C. Hudson for the Third District and
 John Ricord for the Fourth District of this Republic.
 And I trust that you will concur with me in their appointment.
 Sam Houston

The rules being suspended the Senate unanimously advised and consented to the nominations contained in the foregoing Message

Columbia 20th Decr 1836.

A message was received from the House of Representatives, which on motion of Mr Everitt was laid on the table. Ayes—6, Noes—5
 Ayes—Everitt, Grimes, Horton, Lester, Sommerville, [and] Wilson.
 Noes—Corzine, Ellis, Irion, Morehouse, [and] Ruiz

Columbia 20th Decr 1836

A message was received from the President

Executive Department
 Columbia 20th Dec. 1836.⁸⁵

To the Hon[orable]

The Senate
 Gentlemen

It gives me great pleasure to nominate to you John W. Moody as a suitable person to be appointed Auditor of Public Accounts for this Republic.

Mr. Moody is highly recommended and I trust your honorable body will therefore concur with me in his appointment.

Sam Houston

Executive Department
 Columbia 20th Dec. 1836.⁸⁶

To the Hon[orable]

The Senate
 Gentlemen

It gives me great pleasure to nominate to you Asa Brigham, as a suitable person to be appointed Treasurer for this Republic.

Mr. Brigham is highly recommended and I trust your honorable body will therefore concur with me in his appointment.

Sam Houston

⁸⁵See note 6 above.

⁸⁶*Ibid.*

Executive Department
Columbia 20th Dec. 1836.*

To the Hon[orable]

The Senate

Gentlemen

I have the pleasure to nominate and recommend to you as Chief Justices of the several County Courts, the following gentlemen:

Thomas Barnet for the County of Austin
George B. McKinstry for the County of Brazoria
Joseph Baker for the County of Bexar
Mathew Parker for the County of Sabine
B. D. McClure for the County of Gonzales
W. H. McIntire for the County of Goliad
Andrew Briscoe for the County of Harrisburg
Joseph Mott for the County of Jasper
Chichester Chaplin for the County of Jefferson
D. P. Coit for the County of Liberty
Silas Dinsmore Jr. for the County of Matagorda
Andrew Rabb for the County of Mina
Chas. S. Taylor for the county of Nacogdoches
Robert Hamilton for the County of Red River
John McHenry for the County of Victoria
William McFarland for the County of San Augustine
George O. Lusk for the County of Shelby.
John Dunn for the County of Refugio.
John Turner for the County of San Patrico
John P. Coles for the County of Washington
Massillon Farley for the County of Milam
Patrick Usher for the County of Jackson and
William Menifee for the County of Colorado.

Sam Houston

The question being put, The Senate advised and consented to all the nominations contained in the three foregoing messages.

Columbia 20th Decr 1836

A message was received from the President

*See note 6 above.

Executive Department
Columbia 20th Dec. 1836.³⁴

To the Hon[orable]
The Senate
Gentlemen

I have the pleasure of presenting to you for your approval the names of Thomas J. Green, as Senior and Felix Huston as Junior Brigadier Generals, in the Army of Texas. I have not presented the nomination of a Major General, as there is not a Division now composing our Army, and even less, than a Brigade in the field.

Whatever appointments may of necessity be made in the Army, in the recess of Congress (should your Honorable Body adjourn soon) will be made with an eye single, for the good of the service, and will be most promptly submitted at the next session for your approval.

Commissions will issue to none until they have received the sanction of the Constitutional advisers; nor will I add to the accumulated expenses of the Government, by appointing persons, who can render no corresponding advantages.

With great respect,

Sam Houston

The rules being suspended

On motion of Mr Everitt the nominations were taken up one by one, and the question being put will the Senate advise and consent to the nomination of Thos J Green as senior Brigadier Gen[eral] of the Army of Texas, the nomination was rejected

Ayes Messrs Morehouse Ruiz and Somervell

Noes Messrs Ellis, Everitt, Grimes, Horton, Irion, Lester, and Somervell

The question being then put will the Senate advise and consent to the nomination of Felix Huston as Junior Brigadier Gen[eral] of the Regular Army of Texas the nomination was rejected.

Ayes Messrs Ellis Grimes Morehouse and Wilson 4

Noes Messrs Everitt, Horton, Irion, Lester, Somervell, and Wilson—7

The doors were then opened

Executive Department
Columbia 20th Dec. 1836.³⁵

To the Hon[orable]
The Senate
Gentlemen

I have the pleasure of laying before you a Treaty made the 23rd

³⁴See note 6 above.

³⁵See note 14 above.

day of February 1836 between the commissioners on the part of the Provisional Government of Texas on the one part, and the chiefs, head men etc of the Cherokee Indians and their associate bands then residing in Texas of the other part, and most earnestly recommend its ratification. You will find upon examining this treaty, that it is just and equitable, and perhaps the best which could be made at the present time. It only secures to the said Indians the usufructuary right to the country included within the boundary described in the treaty, and does not part with the right of soil, which is in this Government; neither are the rights of any citizen of the Republic impaired by the views of the treaty, but are all carefully secured by the third article of the same. In considering this treaty, you will doubtless bear in mind the very great necessity of conciliating the different tribes of Indians who inhabit portions of country almost in the centre of our settlements as well as those who extend along our frontier. This becomes the more judicious at present when we are at war with Mexico, the authorities of which have been labouring to engage the different tribes to war against us; and it has been confidentially stated, that these Indians are among the number, who have already engaged to join the Mexican army against us in the event of a second invasion, they being induced doubtless by promises of land and country; and should you ratify and confirm this treaty, it doubtless would tend to secure their permanent friendship, a thing at this time much to be desired, all of which is respectfully submitted.

Sam Houston

Treaty with the Cherokees.⁴⁰

This Treaty made and established between Sam Houston and John Forbes, Commissioners, on the part of the Provisional Government of Texas, of the one part, and the Cherokees and their Associate Bands now residing in Texas or the other part—towit Shawanees, Delawares, Kickapoos, Quapaws, Choetaws, Boluxies, Iawanies, Alabamas, Cochatties, Caddos of the Naches, Tahocattakes, and Unataquous—By the Head Chiefs, Head Men and Warriors of the Cherokees, as Elder Brother and Representative of all the other Bands, agreeably to their last General Council. This Treaty is made, conformably to a declaration made by the last General Consultation, at St. Felipe, and dated 13th November A D 1835.

⁴⁰The journal has no copy of this treaty; it has, therefore, been supplied from the original MS. in Indian Affairs. Texas State Library.

Article First.

The parties declare, that there shall be a firm and lasting peace forever, and that a friendly intercourse shall be preserved by the people belonging to both parties.

Article Second.

It is agreed and declared that the before named Tribes, or Bands, shall form one community, and that they shall have and possess the lands within the following bounds, towit,—laying West of the San Antonio road, and beginning on the West, at the point where the said road crosses the River Angeline, and running up said river, untill it reaches the mouth of the first large creek (below the Great Shawanee village) emptying into the said River from the north east, thence running with said creek to its main source, and from thence a due north line to the Sabine River, and with said river west—then starting where the San Antonio road crosses the Angeline river, and with the said road to the point where it crosses the Naches river and thence running up the east side of said river, in a north west direction.

Article Third.

All lands granted or settled in good faith previous to the settlement of the Cherokees, within the before described bounds, are not conveyed by this treaty, but excepted from its operation. All persons who have once been removed and returned shall be considered as intruders and their settlements not be respected.

Article Fourth.

It is agreed by the parties aforesaid that the several Bands or Tribes named in this Treaty, shall all remove within the limits or bounds as before described.

Article Fifth.

It is agreed and declared, by the parties aforesaid, that the Land, lying and being within the aforesaid limits shall never be sold or alienated to any person or persons, power or Government, whatsoever else than the Government of Texas, and the Commissioners on behalf of the Government of Texas bind themselves, to prevent in future all persons from intruding within the said bounds. And it is agreed upon the part of the Cherokees, for themselves and their Younger

Brothers, that no other tribes or Bands of Indians whatsoever shall settle within the limits aforesaid, but those already named in this Treaty, and now residing in Texas.

Article Sixth.

It is declared that no individual person, member of the Tribes before named, shall have power to sell or lease land to any person or persons, not a member or members of this community of Indians, nor shall any citizen of Texas be allowed to lease or buy land from any Indian or Indians.

Article Seventh.

That the Indians shall be governed by their own Regulations and Laws, within their own territory, not contrary to the Laws of the Government of Texas. All property stolen from the citizens of Texas, or from the Indians shall be restored to the party from whom it was stolen, and the offender or offenders shall be punished by the party to whom he or they may belong.

Article Eighth.

The Government of Texas shall have power to regulate Trade and intercourse, but no Tax shall be levied on the Trade of the Indians.

Article Ninth.

The parties to this Treaty agree that one or more agencies, shall be created and at least one agent shall reside, specially, within the Cherokee Villages, whose duty it shall be to see that no injustice is done them, or other members of the community of Indians.

Article Tenth.

The parties to this Treaty agree that so soon as Jack Steele and Samuel Bengé shall abandon their improvements, without the limits of the before recited tract of country, and remove within the same, that they shall be valued and paid for by the Government of Texas, the said Jack Steele and Samuel Bengé having until the month of November next succeeding from the date of this treaty, allowed them to remove within the limits before described. And that all the Lands and improvements now occupied by any of the before named Bands or Tribes, not lying within the limits before described shall belong to the Government of Texas and subject to its disposal.

Article Eleventh.

The parties to this Treaty agree and stipulate that all the Bands or Tribes, as before recited (except Steele and Benge) shall remove within the before described limits, within eight months from the date of this Treaty.

Article Twelfth.

The parties to this Treaty agree that nothing herein contained shall effect [*sic*] the relations of the Saline, on the Naches nor the settlers in the neighbourhood thereof until a General Council of the several Bands shall take place and the pleasure of the Convention of Texas be known.

Article Thirteenth.

It is also declared, that all Titles issued to Lands, not agreeably to the declaration of the General Consultation of the People of Texas, dated the thirteenth day of November, eighteen hundred and thirty five, within the before recited limits, are declared void, as well as all orders and surveys made in relation to the same.

Done at Colonel Bowls Village on the Twenty third day of February, Eighteen hundred and thirty six, and the First Year of the Provisional Government of Texas.

	Sam Houston
	John Forbes
	his
	Colonel + Bowl
	mark
Witness	his
his	Colonel + Bowl
Fox + Fields Interpreter	mark
mark	his
	Big + Mush
	mark
Henry Millard	his
	Samuel + Benge
	mark
Joseph Durst	his
	Oosoota +
	mark
A. Horton	his
	Corn + Tassle
George W. Case	mark
	his
Mathias A. Bingham	The + Egg
	mark
Geo. W. Hockley	his
	John + Bowl
	mark
Secretary of Commission	his
	Tunnetee +
	mark

Columbia 21st Decr 1836

Secret Session of the Senate.

On motion of Mr Horton the question for the nomination of Felix Huston, as J[unio]r Brigadier General of the Army of Texas, was reconsidered. The question being put, will the Senate advise and consent to the nomination of Felix Huston as Junior Brigadier General of the Army of Texas, the Senate advised and consented to the nomination.

Ayes—Messrs. Corzine, Ellis, Grimes, Horton, Irion, Lester, Robertson, Morehouse, Ruiz, and Wilson—10

Noes—Messrs Everitt, and Somerville—2.

Secret Journal

Decr 22nd 1836

The substitute submitted by Mr Horton on yesterday was taken up, and the ayes and nays being taken were as follows:⁴¹

And the rules being suspended, the bill passed

Mr Everitt moved a reconsideration of the vote on the nomination of General Green, and called for the ayes and noes.

Ayes—Messrs. Corzine, Everitt, Morehouse, Robison [sic,] and Wilson—5

Noes—Messrs Ellis, Grimes, Horton, Irion, Lester, Ruiz and Somerville—7. Lost.

Mr Morehouse moved that the injunction of secrecy be removed, as regarded nominations. Carried.

The following message was received from the President, handed in by his Private Secretary.

Executive Department
Columbia 22nd Dec. 1836.⁴²

To the Hon[orable]

The Senate

Gentlemen

It affords me pleasure to make the following nominations, which with great respect I submit for the consideration of your Hon[orable] body, as well as their confirmation: For Senior Brigadier General of the Army of Texas, A. Sidney Johnson; For Colonel of Ordnance, George W. Hockley; For Colonel of Engineers, N. Winter Smith; For Adjutant General of the Army, E. Morehouse; For Inspector General, John T. Collinsworth; but not having it in my power to inform myself with regard to those Officers, not nominated for the reason that I have received no returns from the Army, and not having

⁴¹The journal does not show the result of the ayes and noes.

⁴²See note 6 above.

been there in person, I will hereafter inform myself with regard to the qualifications of those who present themselves, and will observe singular caution in making the temporary appointments, none of whom will be commissioned, but the whole number will be laid before your Honorable body at the next Session of Congress for your ratification.

The Gentlemen nominated are either known to me as highly meritorious or were recommended by the highest authority.

Your obt servt

Sam Houston

The foregoing nominations were advised and consented to by the Senate

On motion of Mr. Everitt, the injunction of secrecy was removed, as regarded the above nominations

The subject of a treaty with certain tribes of Indians was taken up, and on motion of Mr. Corzine, was laid on the table, until the first Monday in May next.

The following message was received from the President

Executive Department
Columbia 22 Dec. 1836.⁴⁸
Columbia 22. Dec. 1836.⁴⁸

To the Hon[orable]

The Senate

Gentlemen

I have the pleasure to nominate and shall be pleased to appoint Robert Barr Esq. for the office of Post Master General, and respectfully ask the concurrence of the Senate

Your Obt Sevt

Sam Houston

The above nomination was advised and consented to by the Senate

R Scurry

Secretary of the Senate

Richard Ellis

Pres[ident] of the Senate pro tem

⁴⁸See note 6 above.

FIRST CONGRESS

SECOND OR ADJOURNED SESSION

Secret Session
May 10th 1837¹

The senate went into secret session The following communications were rec[eive]d from the President

Executive Department
City of Houston 10th May 1837²

Gentlemen of the Senate

I take pleasure in presenting to you for your constitutional advice and ratification the following appointments:

Albert T. Burnley and Thomas W. Gilmer as Commissioners to the United States to negotiate a Loan of One Million of Dollars.

Your concurrence is respectfully solicited and your ratification will be highly gratifying.

Sam Houston

Executive Department
City of Houston 10th May 1837³

Gentlemen of the Senate

I take great pleasure in submitting to your Honorable body the following Gentlemen for the offices specified, for your ratification, who have been appointed during the recess of Congress

J. Pinckney Henderson, Secretary of State.

William S. Fisher, Secretary of War

Peter W. Grayson, Attorney General

Sam Houston

Executive Department
City of Houston 10th of May 1837.⁴

Gentlemen of the Senate

With pleasure I present to you for your constitutional advice and

¹The manuscript of the secret journal of the First Congress, Second Session, bears the title "Journals of the Senate Secret Session." It is a rough or first draft, covers twenty-four unnumbered folio pages, and, while the entire journal appears to be in the handwriting of the secretary, it is not signed by that officer nor by the president pro tem. The manuscript is among the papers of the First Congress, Second Session.

²The copy of the message here printed has been compared with and made to conform to the original.

³*Ibid.*

⁴*Ibid.*

ratification the appointment of Memucan Hunt as Minister Plenipotentiary and Envoy Extraordinary to the Government of the United States of North America.

Your concurrence is respectfully solicited and your ratification will be highly gratifying.

Sam Houston

Executive Department

City of Houston 10th May 1837.⁵

Gentlemen of the Senate

With pleasure I enclose to you for your constitutional advice and ratification, the following appointment of Officers in the Army of Texas.

Your concurrence is respectfully solicited, and your ratification will be highly gratifying.

Sam Houston

A List of Officers actually in Service in the Army of the Republic of Texas⁶

Brigadier Generals	A. Sidney Johnston, Senior*
	Felix Huston, Junior*
Adjutant General	E. Morehouse*
Assistant Adj't General	P. H. Bell
Quarter Master General	William H. Patton
Quarter Masters	Pinckney Caldwell
	M. H. Short
	William Lawrence
	Valentine Bennett
	Gabriel Long
Asst Quarter Masters from the line ⁷	
Pay Master General	Jacob Snively
Pay Masters	Robert Oliver
	J. W. Scott
Surgeon General	A. Ewing
Medical Director	Walter Fosgate
Surgeons	James B. P. January
	Ezra Read
	Wm. F. H. Davidson
	Wm. M. Shepard
	A. Lynch
	Wm. G. Lewis
	Philip Borton

*See note 2 above.

⁵D. S. in Army Papers. Texas State Library.

⁷No names were submitted for this place.

Assistant Surgeons F. A. Whitaker
 T. T. Anderson
 Lorenzo Fulton
 C. F. Beaumlien
 R. Montgomery.
Commissary General of Purchases A. S. Thruston
Commissary of Purchases Samuel Hewes
Commissary General of Subsistence D. F. Weymouth
Inspector General William G. Cooke
Assistant Inspector General Charles De Morse
Colonel of Engineers N. Winter Smith*
Lieutenant of Engineers Manasseh Sevey

ORDNANCE DEPARTMENT

Geo. W. Hockley Colonel*

CAVALRY

H. W. Karnes Colonel
Lieutenant Colonels Lysander Wells
 Juan N. Seguin
Major J. W. Tinsley
Captains of Cavalry John S. Hendershot
 Salvador Flores
 Manuel Flores
 Antonio Menchaca
 Thomas Pratt
First Lieutenants of Cavalry
 L. Demott
 John Keating
 John Miller
 Leander Arreola
Second Lieutenants of Cavalry
 Robert P. Crockett
 Arthur Thynne
 Ambrozio Rodriguez
 William G. Still

ARTILLERY

Dugald McFarlane, Captain
Adam Clendennin, Captain
First Lieutenants Geo W. Morgan
 M. B. Skerritt
Second Lieutenants Brice C. Duncan
 William O'Neill

REGULAR INFANTRY

Colonel Amasa Turner

Lieutenant Colonel N. Lynch

Major R. Boyd Irvine

Captains M. K. Snell

R. D. McCaskey

Lindsay Hagler

Eugene T. Smith

James Jevans

Geo T. Howard

D. S. Nelson

John M. Clifton

Barton Peck

Levi P. Lockhart

Oliver H. Peters

James Moncur

First Lieutenants Regular Infantry

Samuel B. Carson

Daniel O. Driscoll

William M. Dunnington

Mathew McGovan

M. P. Woodhouse

C. D. O. Gilland

Charles Stewart

Eldrige G. Saunders

James Berry

John M. Hall

Joseph Brutton

Robt. G. Saunders

Second Lieutenants Regular Infantry

R. E. Sevey

James B. Reeves

Sam B. Mixon

Geo W. Fulton

Wm. L. McCutcheon

William Redfield

Jno. D. Jamieson

Charles Somerville

Lewis Richardson

Sam W. Allen

H. C. Craig

George Leonard

PERMANENT VOLUNTEERS

Colonels J. H. D. Rodgers
H. R. A. Wigginton

Lieutenant Colonels
Alonzo B. Switzer
Benj. Y. Gilland

Majors John Grey
J. H. Davis

Captains Clark L. Owen
D. Y. Pyron
J. B. Robertson
John McClure
T. Jefferson Morgan
L. S. Peebles
J. F. Wright
Andrew Neill
Joseph Wicht
John Holliday
John H. Harry
F. P. Gray
Thomas Leftwich
Sam W. Jordan
J. J. M. Hall

First Lieutenants
James H. Chisholm
J. J. Price
G. B. Jones
Robert Wilkins
Andrew Daily
Richard A. Abbott
John S. Gilder
Leonard Clark
A. V. Faro
James Campbell
John Lemon
H. M. Thompson
Henry L. Grash
Azal Sharp
G. H. Haas
Philip Young
Daniel Murphy
P. K. Garner
F. Jones

Second Lieutenants

C. C. Colly
 T. D. Allen
 Jesse Beason
 John R. Jennings
 John Devine
 James Allston
 John W. Brown
 B. H. H. Butts
 Edward Smith
 Charles A. Clark
 Anthony Deffenbaux
 C. Butterfield
 D. J. Kyger
 Henry C. Buht
 Edward W Sargeant
 Willis Edson
 T. F. Veatch
 Samuel King

In relation to the list of officers submitted for the consideration of your Excellency, to prevent misconstruction on the part of the Senate to whom the same have to be submitted, I will simply state that the whole are now actually in service, and that no superfluous officer is attached to the Army of Texas. Five of the principal officers, marked thus *, have already been recognized by the Senate. My object in placing them upon the list of nominations was that I might have some paper to refer to in making out an Army Register after the whole had been recognized by the constitutional authority. According to the list of officers submitted to you it will appear that two Lieutenant Colonels are attached to the one regiment of Cavalry recognized by law. In explanation of this apparent discrepancy I will state that in accordance with an act of Congress, authorizing your Excellency to employ such forces as might in your opinion prove most efficient for the defence of the frontier I have with your consent detailed Lieutenant Colonel Lysander Wells, from the Cavalry, as commander on the frontier from the River Guadalupe to the Sabine.

Respectfully

Your Obedient Servant

William S Fisher

Secretary of War

Which were made the Order of the Day for Monday next

Secret Resolution

Resolved that a committee of three be appointed to wait on the President and ask from him all information of an official nature that he may have touching the conduct of Brigadier Felix Huston.

The committee to consist of Messrs Everitt Horton [and] Irion

May 15th, 1837.

A message from the president, by his private secretary Mr. Richardson, was received and the senate went into secret session.

May 19th

The following communication was received from the President, and the Senate went into secret session

Executive Department
City of Houston 19th May 1837

Gentlemen of the Senate

I take pleasure in presenting to you the following names for Revenue Officers at the different Ports of Texas

For the Port of Galveston, Gail Borden, Collector.

For the Port of Brazos, Jeremiah Brown, Collector.

For the Port of Matagorda Thos Stewart Collector

For the Port of Beaumont, or Sabine Bay R. C. Doom Collector his control to extend from the Gulf of the Sabine as high as Laws ferry on said river.

For the Port of Gains ferry on Sabine James Gains Collector to include Laws ferry and all crossings of the river Sabine between said point and thirty second degree of North latitude on said river

From the extent of line which will be necessarily embraced in this recommendation I would respectfully suggest that in reference to the two last nominations it might be well that they should have power to appoint such deputies as shall be required for enforcing the revenue laws by first referring the subject to the Secretary of Treasury

(Signed) Sam Houston

On motion of Mr. Everitt the nominations was taken up

First Gail Borden Jr as Collector of Galveston Port voted as follows

Ayes—Messrs Pres[iden]t, Augustine, Ellis, Everitt, Hill, Horton, Irion, Lester Robinson [sic], [and] Sommerville

Noes Mr Willson. Carried 10 ayes 1 Nay

Jeremiah Brown as Collector of the Port [of] Brazos

Journal of the Senate of the Republic of Texas, 1 Cong., 2 sess., p. 10. The message has not been found. Secret sessions of which nothing is known were also held May 16 and 18.

Ayes, Messrs President Augustine Ellis Everitt Hill Horton Irion
Lester Sommerville Willson

Noes Mr Robertson Carried 10 Ayes 1 Nay

Thomas Stewart as Collector of the Port of Matagorda.

Ayes Messrs Hill and Horton 2

Noes Messrs President, Augustine Ellis Everitt Irion Lester Robert-
son Sommerville and Wills[on] 9 Lost 2 Ayes and 9 Noes

R C Doom Collector on the Gulf up the Sabine as high as Laws
Ferry on said river was unanimously elected

James Gains Collector for Gaines Ferry to extend as far [as] the
32° of North Latitude Unanimously rejected

On motion of Mr. Everitt the injunction of secrecy was removed
and [the] door opened

Journal of Senate

Saturday 20th May 1837^a

On motion of Mr. Everitt the Senate went into secret session
and on motion of same gentleman the injunction of secrecy was
removed and act recorded on secret journal.

Monday May 22nd 1837

On motion of Mr Everitt the Senate went into secret session and
the nominations of the Pres[iden]t of the officers of the Army was
taken into consideration and confirmed

P H Bell Assistant Adjutant General

Wm H Patton Quarter Master General

Pinckney Caldwell

Wm Lawrence

Gabriel Long

“Asst Quarter Masters for the line”^b

Jacob Snively Pay Master General

Robt Oliver

J. W. Scott

Walter Fosgate Medical Director

Jas B P January

Ezra Read

Wm F. H Davidson

Wm M Shepard

A Lynch

Wm G Lewis

Phillip Borton

} Quarter Masters

} Pay Masters

} Surgeons

^aManuscript of public journal. The secret journal makes no note of this session.

^bSee note 7, p. 44.

F A Whitaker	}	Ass[istant] Surgeons
T J Anderson		
Lorenzo Fulton		
C F Baeumlein		
R Montgomery		
A S Thruston		Commissary General of Purchases
Saml Hewes		Commissary of Purchases
D F Weymouth		Commissary General of Subsistance
Wm G Cooke		Inspector General
Charles De Morse		Ass[istant] Inspector General
Manasseh Sevey		Lieut[enant] of Engineers
(Ordinance Department confirmed at 1st session)		

CAVALRY

H W Karnes	Col[onel]	
Lysander Wells	}	L[ieutenant] Col[onel]s
Juan N. Seguin		
J W Tinsley	Major	
John S Hendershot	}	Capt[ains] of Cavalry
Salvador Flores		
Antonio Menchaca		
Manuel Flores		
Thomas Pratt		
L Demott	}	First Lieutenants of Cavalry
John Keating		
John Miller		
Leander Arreola		
Robert P Crockett	}	Second Lieutenants
Arthur Thynne		
Ambrozio Rodriguez		
William G Still		

ARTILLERY

Dougald McFarlane	}	Captain
Adam Clendennin		
Geo W Morgan	}	First Lieutenants
M. B. Skerritt		
Brice C Duncan	}	Second Lieutenants
William O'Neill		

REGULAR INFANTRY

Amasa Turner Colonel
 N Lynch Lieutenant Colonel
 R Boyd Irvin Major

R D McCaskey
 Lindsay Hagler
 Eugene T Smith
 James Jevans
 Geo T Howard
 D S Nelson
 John M Clifton
 Barton Peck
 Levi P Lockhart
 Oliver H Peters
 James Moncur

Captains

Saml B Carson
 Daniel O. Driscoll
 Wm M Dunnington
 Matthew McGovan
 W P Woodhouse
 C D O. Gilland
 Charles Stewart
 James Berry
 John M Hall
 Joseph Brutton

First Lieutenants Regular Infantry

R E Sevey
 James B Reeves
 Saml B Mixon
 Geo W Fulton
 Wm S McCutcheon
 Wm Redfield
 John D Jamieson
 Charles Somerville
 Lewis Richerdson
 Saml W. Allen
 H C Craig
 George Leonard

Second Lieutenants Regular Infantry

PERMANENT VOLUNTEERS

H R A Wigginton Colonel
 Benj T Gilland Lieutenant Colonel
 John Grey
 J H Davis

Majors

Clark L. Owen
 D Y Pyron
 J. B. Robertson
 John McClure
 T Jefferson Morgan
 L S Peebles
 J F Wright
 Andrew Neill
 Joseph Wicht
 John Holliday
 John H Harry
 F P Gray
 Thomas Leftwich
 Samuel W. Jordan
 J J M Hall

} Captains

Jas H Chisholm
 J J Price
 G B Jones
 Robt Wilkins
 Andrew Daily
 Richd A Abbott
 John S. Gilder
 Leonard Clark
 A V Faro

} First Lieutenants

James Campbell
 John Lemon
 H M Thompson
 Henry L Grash
 Azel Sharp
 G H Haas
 Philip Young
 Daniel Murphy
 P K Garner
 F Jones

C C Colly	}	Second Lieutenants
T D Allen		
Jesse Beason		
John R Jennings		
John Devine		
James Allston		
John W Brown		
B H H Butts		
Edward Smith		
Charles A Clark		
Anthony Deffenbaux		
C Butterfield		
D J Kyger		
Henry C Buht		
Edward W Sargeant		
Willis Edson		
T F Veatch		
Sam'l King		

List of those rejected by the Senate

J H D Rodgers Colonel of Permanent Volunteers
 Alonzo B Switzer L[ieutenant] Col[onel]
 M K Snell Capt[ain] R[egular] Infantry

Names of postponed for the present

M H Short	}	Quarter Masters
Valentine Bennett		

A. Ewing Surgeon General

First Lieut[enants] Regular Infantry postponed

Eldridge G Saunders

Robert G Saunders

Mr Everitt moved a reconsideration of the nomination [of] Gail Borden Jr, as Collector of the Port of Galveston which was lost

Mr Everitt moved that the injunction of secrecy be removed. Carried

On motion of Mr Everitt the Senate adjourned until this evening 8 OClock

8 OClock P M May 22

Mr Everitt moved that the Senate should go in[to] secret session. Carried

The communications of the President rec[eive]d May 10th being the Order of the Day the nomination of Memican Hunt Minister Plenepotentiary and Envoy Extraordinary to the United States was read and on motion of Mr Everitt was laid on the table until tomorrow

Second The nomination [of] J Pinckney Henderson [as] Secretary of State was confirmed

Third The nomination of Wm S Fisher as Secretary of War was laid on the table until Wednesday next

Fourth The nomination of Peter W Grayson as Attorney General [was] Confirmed

The nominations of Albert T Burnley and Thomas W Gilmer to the United States as commissioners to negotiate a loan of one Million of dollars was laid on the table until Wednesday next.

The following communication from the President was received by his private secretary and ordered to be read.

Executive Department
City of Houston 22d May 1837.*

Gentlemen of the Senate

I take pleasure in presenting to you the names of the following Gentlemen for the offices of Collectors viz.

For the Port of Matagorda, George M Collinsworth, Collector.

For the Port of Gains' Ferry, John G. Love, Collector

These are offered instead of Thomas Stewart and James Gaines, who were rejected by your honorable body.

I respectfully solicit your concurrence in the above nominations
Sam Houston

The above was laid on the table until tomorrow.

Executive Department
City of Houston 22nd May 1837.¹⁰

Gentlemen of the Senate

With pleasure I present you the following names for officers of the Navy, viz.

James Gardiner Hurd, Lieutenant

James D. Boylan, Master Commandant

I most respectfully solicit your concurrence in the above nominations.

Sam Houston

Laid on the table until Wednesday next

Mr Horton moved the injunction of secrecy be removed Carried
On motion of Mr Horton the doors were opened

*See note 2 above.
"Ibid.

Journal of the Secret Session
Tuesday A M May 23rd 1837

The nominations as made by the President of the Republic was taken up

First The nomination of Memican Hunt as Minister plenepotentiary and envoy extraordinary to the United States.

Mr Ellis moved the nomination to lay on the table until tomorrow. Carried.

Second The nomination of Geo M Collinsworth as Collector of the Port of Matagorda was read and the Ayes and Noes being called was confirmed.

The Ayes and Noes towit.

Ayes Messrs Pres[iden]t, Augustine, Ellis, Hill, Horton, Irion, Lester and Sommerville 8

Noes Messrs Everitt, Robertson, and Willson

Majority of 5 in favor of confirmation

Third The nomination of John G Love as Collector of Gains Ferry was unanimously confirmed

The following communication from the President was read and laid on the table towit:

Executive Department
City of Houston 23rd May 1837

Gentlemen of the Senate

With pleasure I submit [to] you the names of the following Gentlemen for appointment in the Commissary General of Subsistance Department viz

Commissaries of subsistance George Clinton Frailey and Wm Kennedy Stiles

Ass[istant] Commissary of Subsistence John Doleman

Your concurrence is respectfully requested in the above nominations.

Sam Houston

Laid on the table

Mr Sommerville moved a reconsideration of the nomination of Martin K Snell as Capt[ain] of Regular Infantry. Carried and his nomination confirmed

On motion of Mr Everitt the nomination of A B Switzer as Lieutenant Colonel was reconsidered and confirmed

On motion of Mr Everitt the nomination of A Ewing as Surgeon General was taken up, and on motion of Mr Ellis was postponed until tomorrow

Mr Sommervill moved the confirmation of the nomination of Eldridge G Saunders and Robert G Saunders as First Lieutenants of Infantry which was unanimously confirmed

The nomination of A M Short was taken up and rejected

Valentine Bennett as Quarter Master was taken up and the Ayes and Noes being called was confirmed towit

Ayes Messrs Pres[iden]t Augustine, Horton, Irion Lester Robertson and Sommervill—7

Noes Messrs. Ellis, Hill and Willson—4

Majority of three in favor of confirmation

Mr Everitt moved the injunction of secrecy to be removed and the proceedings published Carried

Journal of Secret Session

May 24th 1837

On motion of Mr Everitt the Senate went into secret session

When the nomination of Memican Hunt as Minister Plenepotentiary and Envoy Extraordinary was resumed and

By leave of the Senate Mr Ellis read a communication¹¹ from the Secretary of State showing cause why he Mr Hunt had received that appointment.

On further leave of the Senate his nomination was postponed until further communication from the President

Mr Ellis moved that the nomination of William S Fisher as Secretary of War to be postponed until the second Monday of November next and to be made the order of that day Carried

The nomination of Albert T Burnley and Thomas W Gilmer as commissioners to the United States to negotiate a Loan of One Million of Dollars, On motion of Mr Everitt was laid on the table until called up

Mr Everitt moved that the Committee on Finance be requested to wait on the President and solicit from him a statement of the situation of affairs, in regard to the loans authorized by Congress, etc

The nomination of James D Boylan as Master Commandant, postponed until called up

The nomination of James Gardiner Hurd as Lieutenant of the Navy was unanimously confirmed

The nominations of Commissaries of Subsistence towit

George Clinton Frailey

William Kennedy Stiles and

Ass[istan]t Commissary of Subsistance to wit

John Doleman

was unanimously confirmed

¹¹Communication being of a private nature was not handed in to the Secretary. Note by Secretary of the Senate.

The nomination of A Ewing as Surgeon General was taken up and Mr Horton moved that the President be requested to withdraw his nomination Carried

Thursday May 25th 1837

A message was received from the Pres[iden]t relative to the appointment of M Hunt as Minister Plenepotentiary and Envoy Extraordinary to the U[nited] S[tates] was reconsidered and confirmed

The following is a true copy of the communication received from the President

Executive Department
City of Houston, 25th May 1837.¹²

Gentlemen of the Senate

I have the honor to reply to your communication of the 23rd inst[ant] touching the appointment of the Hon[orable] Memucan Hunt as Envoy Extraordinary and Minister Plenepotentiary to the Government of the U[nited] States.

When the Hon[orable] Wm. H. Wharton was appointed as Minister Plenipotentiary to that Government, the Hon[orable] Congress of Texas was then in session, but the different Departments of Government were not organized; and it was impossible to effect through him the assurances of our condition, which would be of the most satisfactory character as to our capacity of self government. So soon as the Congress had adjourned and the various Departments of Government completely organized.

I was satisfied that it was expedient and necessary to appoint another Minister and I could select no one more suitable than the one nominated, who had been present during the session of Congress and at its adjournment and could make the most satisfactory explanations at Washington in behalf of this Government. Mr. Hunt was sent as coadjutor to the Hon[orable] Mr. Wharton and as such he was recognized, and as Mr. Wharton assured the Secretary of State was very acceptable to him. Mr. Wharton in anticipation of the Recognition of the Independance of Texas by the U[nited] States, desired that he might be allowed to return after the 4th of March last, alledging the condition of his private circumstances as the foundation of his desire. The Secretary of State advised him that he had leave to return, and requested that he would hand over such documents touching the mission as were in his possession to Mr. Hunt, who would remain in his place until further orders. I considered

¹²See note 2 above.

Mr. Wharton's situation would be vacated agreeably to his wishes so soon as he returned to Texas.

That a Minister is necessary at Washington there can be no doubt, and from the state of our finances it is very desirable that the Minister should be a Gentleman of fortune, and one whose own means for the present should be expended in his support. Mr. Hunt thus far has made no requisition in this Government for means of support. I respectfully solicit leave to recommend Mr. Hunt to the Senate for his appointment.

Sam Houston

The nominations of Commissioners to the U[nited] States to negotiate a loan of One Million of Dollars was taken up to wit

Commissioners Albert T Burnley and Thomas W Gilmer which was unanimously confirmed

On motion of Mr Everitt the injunction of secrecy was removed and the doors opened

May 27th, 1837.

A message having been received from the President through his private secretary,

On motion of Mr. Everitt, the senate went into secret session.

Mr. Somervell moved that the injunction of secrecy be removed, and the communication be referred to the committee on finance, which was carried.¹³

Secret Session May 29th 1837

Executive Department

City of Houston 29th May 1837.¹⁴

Gentlemen of the Senate

I take pleasure in nominating to your Honorable body, James Pinckney Henderson Esq. as Agent and Commissioner to the Government of His Britanic Majesty, near the Court of St. James and I most respectfully solicit your confirmation of the same.

Sam Houston

[The] communication [was] laid on the table

On motion of Mr. Sommerville the injunction of secrecy was removed and the doors opened

¹³*Journals of the Senate of the Republic of Texas*, 1 Cong., 2 sess., p. 22. No note is made of this session in the secret journal.

¹⁴See note 2 above.

Secret Session

June 1st 1837

On motion of Mr Sommerville the following communication which was received from the President was read to wit

Executive Department
City of Houston 31st May 1837¹⁵

Gentlemen of the Senate

I have the pleasure of presenting to you the accompanying nominations for officers which are to compose the Regiment of Mounted Gun Men for the defence of the frontier and respectfully request your concurrence in the same, as I am extremely anxious that the Corps should be speedily organized and rendered efficient

Sam Houston

For Colonel Commanding	Joseph Bennett
For Lieut[enant] Colonel	Alexander Horton
For Major	John G. McGhee
For Captain (County of Austin)	James Perry
For First Lieutenant	Hiram Thompson
For Second Lieutenant	Edward Pettus
For Captain (Harrisburg Co[unty])	John M. Bowyer
For First Lieutenant	A. B. Van Ben Thuysen
For Second Lieutenant.....	Michael Dick
For Captain (Nacogdoches Co[unty])	Elisha Clapp
For First Lieutenant.....	J. Gossett
For Second Lieutenant	Thomas J. Anthony
For Captain (St. Augustine Co[unty]).....	John Clark
For First Lieutenant	Goodloe
For Second Lieutenant	James Burrus
For Captain (Red River Co[unty])	John R. Craddock
For First Lieutenant	Thomas Jonitt
For Second Lieutenant	Robert Ragsdale
For Captain (Red River Co[unty])	John H. Dyer
For First Lieutenant.....	Richard Peeters
For Second Lieutenant.....	James E. Hopkins
For Captain (Milam Co[unty])	James A. Wilkerson
For First Lieutenant	Schea Walker
For Second Lieutenant	Ben. F. Fitch
For Captain (Washington Co[unty])	J. G. W. Pearson
For First Lieutenant	Milton Swisher
For Second Lieutenant	Geo. W. Robinson

¹⁵See note 2 above.

For Catpain (Jasper Co[unty]) Hannibal Good
 For First Lieutenant William Thomaston
 For Second Lieutenant J. M. Taylor
 For Captain (Shelby Co[unty]) George English
 For First Lieutenant Claborne Walker
 For Second Lieutenant..... James Strickland

Rule suspended. all concurred in *except* the nomination of *J. G. W. Pearson* as Capt[ain] of Washington Co[unty] Company, upon which the Ayes and Noes were called and stood as follows

Ayes Messrs Pres[iden]t Everitt Hill Irion and Sommerville 5
 Noes Messrs Augustine Ellis Horton Lester Robinson [*sic*] and Willson 6

The nomination of James D Boylan as Master Commandant in the Navy was taken up and rejected,

and the following communication from the President was read

A Joint Resolution authorizing the President to perform certain acts for the benefit of Texan Prisoners.¹⁰

Resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the President be instructed to send the armed vessels Brutus and Invincible, with a flag of truce, to the Brazos Santiago, to treat with the Mexican authorities for the release of the crews and passengers of the Texas schooners Independence and Julius Caesar, lately captured by the Mexican cruisers; and any other Texan citizens who may be prisoners: And on failure to procure their release, the commandants of said vessels be authorized to take such steps to effect their object, as in their opinion circumstances may justify.

B. T. Archer Spkr. of H. of R.

Jesse Grimes Prest Protem of the Senate

Executive Department

City of Houston 31st May 1837

To the Senate and House of Representatives of Texas

Gentlemen

Your resolution received on the 29th inst[ant] instructing the President to send the Armed Schooners Brutus and Invincible to the Brazos Santiago has been received with some surprise and regret

After giving it all the consideration due both to the importance of the measure and the dignity of the body from which it emanated I

¹⁰The Secret Journals have no copy of this Joint Resolution; it has been copied from the enrolled bill that was vetoed by the President. The substitute adopted by Congress is printed in Gammel, *Laws of Texas*, I 1329-1330.

regret that I am compelled to withhold my sanction and the more so as it contemplates an object in which the deepest feelings of my heart are concerned

But having been entrusted by my country with the exercise vested by the Constitution in the Executive Department of this Government, I feel myself constrained to adopt the views respectfully submitted to you and in so doing I will endeavor briefly to give you the reasons for my course

As a naked question of ordinary prudence it would be a most hazardous step, after the enemy have already in their possession one of our Armed Vessels, to send the other two without even knowing the force they have on the Gulf or the course they will pursue in regard to our flag.

If they are disposed to receive a flag and treat for an exchange of prisoners a flag sent by a neutral or unarmed Vessel would answer all the purposes of two Armed Vessels of War, and should the enemy be disposed to disregard the rules of civilized warfare, would we not hazard too much to place in their hands the remnant of a Navy already too weak to defend our coast in the Gulf and only sufficient to protect our Bays. From all the information I have been able to obtain, I have every reason to believe, that Mexico has a Navy that would greatly overpower our Ships of War should they be sent as proposed. The consequence of this would be to give them the entire command of the Gulf and permit the most insignificant armed vessel they might send, not only to annoy our coast, but entirely to cut off our trade in the Ocean. The Consequences of which must be manifestly ruinous

But there is another objection to this part of the resolution that I think must have escaped Congress in their laudable zeal to liberate their Countrymen. The resolution directs that these vessels shall be sent to treat for the release of the crews and passengers of the Texian Schooners Independence and Julius Ceasar [*sic*]

From all the information in the possession of the Executive the Julius Ceasar is an Armed Vessel sailing under United States colors and for all we know such is the rational and legal presumption, her crew if not many of her passengers are Citizens of the United States

Would it not be justly considered a bold presumption of power by Mexico as well as the civilized world, as far as [for us?] to undertake the recovery of property or prisoners improperly captured under the flag of the United States

It seems to me with all deference to your honorable body that this branch of the resolution could not have received the consideration due to its importance

Another serious objection which I entertain to this resolution and one which I trust Congress will gravely consider, is what I regard a dangerous infringement of Executive rights. The Framers of the Constitution taking for their guide the constitution of the United States divided the Government into three Departments Executive, Legislative, and Judicial. To the Legislative was entrusted the power of legislation and neither of the others can legislate or pass any law however necessary for the public good or repeal one however obnoxious. Does it not then follow equally clear that the legislative has no right to direct by resolution or otherwise how a judge shall determine a legal question or construe a Law in force. If so the Judiciary would be useless, and that branch of our Government soon be merged in the Legislative.

Then is it not equally clear that the powers entrusted by the constitution to the executive are equally necessary and sacred and among these powers it will not be denied that of Commander of the Army and Navy are expressly conferred. Then would it not be as great an assumption of power for the legislature to take from the executive who is charged with the duty of executing the laws a portion of power vested in him by the constitution for that purpose, as it would be for the President to direct the legislature what laws they should pass and, an assumption of the latter kind on [the] part of the executive I am sure would deserve but little countenance from your honorably body

Then it does not clearly appear that the three branches of Government are sovereign within their sphere, and that neither has a right to controll any of the functions assigned to the other by the Constitution. It is a proper knowledge and observance of these powers that has made the United States of America so great, free, prosperous and happy. To the want of that knowledge and a just regard of it Mexico owes her depression and has always been a prey to faction and internal commotions. Let us be careful not to follow those abuses in the commencement of our political [?] course that impelled us to the hazardous but necessary step of separating ourselves from the government of our adoption. Should we do so well might the world say the gallant have bled in vain and the victories of Goliad, Conception, San Antonio and San Jacinto would only serve to show that tho[ugh] we had the Valor to conquer we had not the Wisdom and Virtue to enjoy rational and civil *liberty*.

The latter clause of the resolution takes from the executive the power which is given him by the Constitution to command the Army and Navy in as much as he is instructed to vest the commandants of the said vessels with discretionary power to "take such steps to effect their object as in their opinion circumstances may justify" in

the event of the refusal of the Mexican authorities to comply with their proposition, because it may be that the executive who is responsible would not be willing to trust the commandants with discretionary powers that he might deem it proper as the Commander in Chief of the Navy to give special instructions to guide the commanding officers in their actions in the event of a refusal of the Mexican authorities to treat for the release of the prisoners taken on board of the Independence and Julius Ceasar.

On the ground of policy and the safety of our fellow citizens who are prisoners I am opposed to sending a flag of truce on an Armed Vessel or Vessels to the port of Brazos Santiago I am satisfied that a flag from an armed vessel would not be received, and our force would not be such as to coerce and [any?] demand which might be made in behalf of our prisoners. No man on earth feels more solicitude for their release and restoration than myself; but I must confess that if the course suggested is pursued, I apprehend the most disastrous consequences will result to them

I do really believe that the appearance of our armed vessels in their port would so excite and influence the population in Metamoros, that under the impulse of ignorance and phrenzy they would massacre our friends and most probably every North American in the city If this were not the case I have no doubt but what our friends would be sent to the interior of the country immediately, or the rigor of their confinement greatly increased.

If a neutral vessel were sent with a flag the authorities would be compelled to respect it and if they would receive a flag from Texas it could be ascertained without jeopardizing the safety of the individual who bore it, or jeopardizing the only resource of defence of our coast by placing our vessels in the power of a vastly superior naval force. For I have been assured that the Urea has been released at Pensecola and today I am advised that our Naval Commanders off Galveston believe she is a cruising off that port

I have suggested these reflections and facts for the consideration of your honorable body in a spirit of kindness, frankness and cordiality in which I feel confident I shall be met by both Houses and I will conclude with the expression of my sincere desire that the different Departments of our Infant Republic may act with that spirit of wisdom patriotism fortitude charity and forbearance which ensure the perpetuity of our Infant Country and the happiness and prosperity of unborn millions

Sam Houston

On motion of Mr. Sommerville the injunction of secrecy was removed and [the] doors opened

June 1st 1837¹⁷

A message was received from the president through his private secretary Mr. Richardson, and

On motion of Mr. Irion, the senate went into secret session.

Executive Department
City of Houston 7 June 1837¹⁸

Gentlemen of the Senate

I take pleasure in nominating General George S. McIntosh as Secretary of Legation to the Hon. J. Pinckney Henderson our Agent and Minister to the Courts of St. James and St. Cloud, and solicit the concurrence of your Honorable body.

Sam Houston

Executive Department
City of Houston 7 June 1837¹⁹

Gentlemen of the Senate

I take pleasure in nominating Ashbel Smith M. D. as Surgeon General of the Army of Texas, and your concurrence is respectfully solicited.

Sam Houston

7th June 1837²⁰

On motion the senate went into secret session.

The nomination of the Hon. Gen[era]l Geo S McIntosh as Secretary of Legation to the Court of St James

the rules [were] suspended and he was duly elected

Ashbell Smith as Surgeon General

And the doors were opened

Secret Session
June 8th 1837

Mr Everitt introduced the following resolution

Secret Resolution

Resolved by the Senate and H[ouse of] Rep[resentatives] of the Republic of Texas in Congress assembled that the Commissioners for

¹⁷*Journals of the Senate of the Republic of Texas*, 1 Cong., 2 sess., p. 30. The secret journal makes no note of this session. Secret sessions were also held on June 5th, and no minute of them has been found.—*Ibid.*, pp. 37, 38.

¹⁸The secret journal has no copy of this message; it has, therefore, been supplied from the original.

¹⁹*Ibid.*

²⁰The journal for this day was copied from a portion of the manuscript of the public journal, marked "Secret Session."

the Five Million Loan authorized by an Act passed last session of congress be and are hereby empowered to receive upon said loan Notes of the Bank of the U[nited] States or Notes of any other Banks in the United States which they in their discretion may deem solvent even though such Banks may have suspended specie payments and may yet continue to suspend them. Anything in the Act authorizing the loan to the contrary notwithstanding

Read first time in the Senate

on motion of Mr Everitt [the rule] was suspended
resolution read second and third time and passed

The Senate was informed by the Chief Clerk of the House that the House had passed the following Joint Resolution

Joint Resolution Authorizing etc

Be it resolved by the Senate and House of Representatives of the Republic of Texas, That the President be and he is hereby authorized to empower Brig[adie]r Gen[era]l Felix Huston to raise One Thousand men rank and file for the purpose of carrying on an offensive war against Mexico; said men to be raised from soldiers and officers who may be on furlough and such citizens and other persons as may voluntarily offer their services.

Be it further resolved that all officers and soldiers engaged in the contemplated expedition shall be organized according to the Laws of Organization of Volunteer Companies except that all officers who are not now in commission over the rank of Captain shall be appointed by the President and the whole shall be subject to the rules and regulations of war for the Republic

Be it further resolved, that the Commanding General of the expedition may have power to summon forthwith Court Martials, and approve sentences of death and carry the same into immediate execution.²¹

Be it further resolved that any soldier or officer who shall be guilty of unlicensed plunder contrary to orders shall suffer death or such other punishment as a court martial may adjudge

Be it further resolved, that court martials on the contemplated expedition may consist of five commissioned officers none of whom shall be below the rank of Captain.

Be it further resolved that Gen[era]l Felix Huston may with the permission of the President employ the forces to be raised under this resolution with such transports as he can obtain in the invasion of Mexico

²¹This section does not appear in the Secret Journals; it was copied from the original MS. bill in Papers of First Congress, Second Session.

Be it further resolved that the officers and soldiers engaged in this expedition may be discharged at such times as the Com[mandin]g General directs but shall if he requires serve the term of six months from the date of their enrollment but no such discharge shall release those who are on furlough from their prior engagement

Be it further resolved that the proceeds of the expedition according to the rules of civilized warfare may be paid by the Com[mandin]g Gen[era]l according to such contracts as he may make for transportation, arms, ammunition, provisions *etc etc* and to the officers and soldiers under regulations to be adopted by him provided however one tenth of all such proceeds shall be reserved and paid over into the treasury of *Texas*

Be it further resolved that the officers and soldiers engaged in this expedition except those on furlough shall receive the same remunerations as is allowed by law to soldiers now in service according to the time they serve and that all *armed* vessels and all arms taken shall belong exclusively to the Republic of Texas

Read first time in Senate June 8th 1837

Journal of Secret Session

June 10th 1837

On motion of Mr Everitt the following communication from his Excellency the President to wit

Executive Department

City of Houston 10th June 1837.²¹

Gentlemen of the Senate

I take pleasure in nominating Colonel James C. Allen, as Judge Advocate General, of the Army of Texas, also Major Thomas J. Morgan as Brigade Inspector of the Army.

I very respectfully request your concurrence in these nominations as the appointments have issued some time since, and the Gentlemen have been in the discharge of their duties.

From the confusion produced by the removal of papers from Columbia to this place they were overlooked in the general nominations. I hope your honorable body will permit them to take rank from the date of their appointments

Sam Houston

passed its third reading.²²

Mr Everitt then moved that the resolution authorizing the carrying

²¹See note 2 above.

²²There is nothing in the context to show what passed to its third reading.

on an offensive war be taken up Motion carried. And the resolution was read a second time.
and the doors were opened.²³

²³Here ends the manuscript journal of the First Congress, second session.

SECOND CONGRESS

Roll of Senators

Henry W. Augustine,¹
John A. Greer,¹ } for the District of San Augustine.
George W. Barnett, for the District of Washington.
Isaac W. Burton, for the District of Nacogdoches.
John Dunn, for the District of Goliad, Refugio and San Patricio.
Richard Ellis, for the District of Red River.
Stephen H. Everitt, for the District of Jasper and Jefferson.
Alexander C. Horton, for the District of Matagorda, Jackson and
Victoria.
James S. Lester, for the District of Mina and Gonzales.
Emory Rains, for the District of Shelby and Sabine.
Sterling C. Robertson, for the District of Milam.
Thomas J. Geen,²
Juan N. Seguin,² } for the District of Bexar.
Alexander Somervell, for the District of Colorado and Austin.
William H. Wharton,³
William J. Russell,³ } for the District of Brazoria.
Robert Wilson, for the District of Harrisburg and Liberty.

Officers of the Senate

Mirabeau B. Lamar, Vice-President.
Stephen H. Everitt, President pro tem.
Arthur Robertson, Secretary during called and regular sessions.
Manasseh Sevey, Assisant Secretary during called and regular sessions.
William Fairfax Gray, Secretary during adjourned session.

¹H. W. Augustine resigned November 24, 1837; he was succeeded by John A. Greer, who took his seat at the opening of the adjourned session.

²The seat of the senator from Bexar was declared vacant October 20, 1837; the election of Juan N. Seguin as senator from Bexar was reported to the senate December 5, 1837.

³W. J. Russell succeeded W. H. Wharton, resigned, and took his seat at the opening of the adjourned session.

SECOND CONGRESS

FIRST OR CALLED SESSION

Secret Journal of the Senate Extra Session

Sep. 29th 1837^{*}

On motion of Mr Green the Senate went into secret session.

Mr. Green stated that he had been secretly instructed by Congress, when in session at Columbia, to offer the command of the Texian Army to Gov[ernor] Hamilton of S[outh] Carolina^s, and he moved **the injunction of secrecy** respecting the same be removed, but on some remarks being made by the President of the Senate, he withdrew the motion

Mr Burton introduced a Resolution authorizing and instructing the President of the Senate to address a communication to the Vice President of the Republic recalling him to fulfill his constitutional duties, which was *unanimously* adopted.

The doors were then opened.

Secret Session

Sep 30th 1837

The President pro. tem. of the Senate submitted his communication to the Vice President of the Republic written in accordance with the resolution passed in Secret Session Sep 29th 1837, which, together with the communication, is subjoined.

Houston 29th Sep. 1837

Secret Resolution

Resolved, by the Senate of the Republic of Texas, That the absence of our Vice President at this particular crisis is particularly **detrimental to the Public interest**, because that in the first place, by the unforeseen hand of Providence, the the Chief Magistracy of this Republic may devolve upon him, and secondly from the limited number of Senators, it is extremely inconvenient to this body to spare one of its members to perform the duties of Vice President.

^{*}The secret journal of the called session of the second congress follows immediately that of the second session of the first congress; it is in the handwriting of Manasseh Sevey, Assistant Secretary of the Senate. It embraces ten unnumbered folio pages, and is signed at the end by the presiding officer.

See No. 1 of Appendix for Joint Resolution on this subject.

Resolved, therefore, that the President pro. tem. of the Senate is hereby authorized and requested to address a letter to the Vice President requesting and enjoining the immediate return to the discharge of his constitutional duties.

M. B. Lamar Vice President of the Republic of Texas

Sir

As will be seen by the accompanying resolution, I am instructed by the Senate, as its presiding officer in your absence, to invite your immediate return to the Republic.

The approach of the season when movements by our national enemy may be looked for, the opening of the land office for the distribution of the public domain, which it is presumed will soon take place, and the protracted illness of his Excellency the President, presents a crisis in our affairs that devolves unusual responsibility on our Government. The safety of the country requires her leaders to take their posts.

Your presence is wanted in her Councils, your arms may be needed for her defence.

The active and devoted patriotism which has heretofore distinguished your services in the cause of our adopted country, forbid us to doubt that this call will be answered by your speedy return. Suffer me to add my own most earnest personal wishes for your prompt compliance with the wish expressed in the resolution as also the assurance of my most distinguished consideration.

(Signed) S. H. Everitt

President pro. tem. of the Senate.

The doors were then opened.

Oct. 4th 1837

On motion of Mr Wharton The Senate went into secret session and

An order was issued to the Serg[ean]t at Arms to detain Capt. J. D. Boylan of the Navy in town until further orders.

The doors were then opened

Secret Journal

7 Oct

A communication* was rec[eive]d from the Pres[iden]t and the Senate went into secret session on the subject of the Message in re-

*The communication has not been found.

lation to the reinstatement of S Rhodes Fisher to the Office of Sec[retar]y of Navy

A resolution was offered by Mr Wharton and read
he then moved to suspend the rules to read it second time

Mr Augustine called for the Ayes and Noes

Ayes Mr President Augustine Barnett Burton Green Lester
Raines Robertson Wharton 9

Noes Wilson 1

Motion lost for suspension of rules

On motion the injunction of secrecy was removed

Mr Wharton who voted in the majority moved a reconsideration
of the vote removing the injunction of secrecy.

The Ayes and Noes were called

Ayes Mr President Augustine Barnett Burton Robertson Wilson 6
Noes Green Lester Raines Wharton 4

The injunction was removed and the doors were opened.

Oct 11th 1837

On motion of Mr Wharton the Senate went into secret session

On motion of Mr Rains the reading of the secret journals was
suspended.

Mr Wharton offered a substitute for the Resolution introduced
on Saturday, directing the President to reinstate the Hon[orable]
S. R. Fisher which was received, read and adopted. Mr Wilson
entering his protest against the same.

Resolved that a committee of two be appointed to wait on his Ex-
cellency and inform him that his message of the 6th Instant in re-
gard to the reinstatement of the Secretary of the Navy is deemed by the
Senate disrespectful, dictatorial and evincive of a disposition on the
part of the Executive to annihilate those co-ordinate powers con-
ferred upon the senate by the constitution in all cases of the appoint-
ment or removal of Cabinet Officers. The welfare of the country and
the respect due to the chief Magistrate greatly dispose the senate
to act in concert and harmony with him, but the oath which [they
have] taken to support the constitution imperatively bind them to
prevent their legitimate powers from being infringed by any other
department of the Government. They deem the message of his Ex-
cellency referred to as an attempt at such infringement and therefore
reject and return it with an earnest reiteration of their resolution
requesting the reinstatement of the Sec[retar]y of the Navy or a pre-
sentation of the charges which induced his suspension from office.

The Secret Journals have no copy of this resolution; it has, therefore,
been copied from the original MS. in Papers of the 2d Cong., 1st Sess.

The senate do not deny in toto the power of the Executive to suspend a Cabinet Office, but they conceive that such suspension ought only to be made under very extraordinary circumstances and then that justice to the Individual and respect for the co-ordinate powers of the senate would justify and indeed require an immediate convocation of that body that the suspension might be concurred in or rejected

Mr President of the Senate and Mr Burton were appointed a committee to wait on his Excellency [the President] with the same.

On motion of Mr. Wilson, the injunction of secrecy was removed. The doors were then opened.

Oct 12th 1837

The senate went into secret session.

The President of the Senate, Chairman of the Committee appointed to wait on his Excellency the President with the Resolution respecting the Sec[retary] of the Navy, made a verbal report, giving a sketch of his conversation with his Excellency respecting the suspension of Hon[orable] S. R. Fisher and other officers from their duties.

The doors were then opened.

The Senate went into secret session again for the purpose of hearing the Report of Mr Burton, Chairman of [the] Committee on Indian affairs [Messrs. Burton, Green and Robertson], which was read and laid on the table

Committee Room, 12th Oct 1837*

Mr. President,

The Standing Committee on Indian Affairs beg leave to report That they have had the subject under consideration and that in its investigations they have found it one of vast importance to the Republic comprising a complication of conflicting interests, and one which necessarily forces within the observation of your committee those *Public Acts* had in reference to the Indians within the borders of this Republic.

Your Committee have thought proper to lay before the Honorable Senate as correct a list of the different tribes with their forms, habits, locality, interests, origin, and probable feelings in reference to this Gov[ernment] as the limited means of information in posses-

*A. D. S. in Indian Affairs. Texas State Library.

sion of your committee will allow. And they frankly admit that much of this information is derivable from individual information; no official information having been furnished your committee through any of the departments of this Gov[ernmen]t other than the documents herewith submitted.

South of the San Antonio road in the counties of Nacogdoches and **Liberty live the Coochattees Alabamas Baluxies and Muscogeeges** the three former of about 50 and the latter of about three years residence in Texas all originally from the "Creek Country" of the U[nited] S[tates]. They speak a similar dialect are about 150 warriors in number, mostly hunters of pacific feelings towards the Gov[ernmen]t of this Republic and having very limited if any pretensions to Territory. These indians have no communication with the tribes of the Prairies whom they dread and with whom they have been at variance.

The Huawnies and Choctaws live in the counties of Nacogdoches and Shelby on the waters of the Attoyaque and Patroon. They are of the old Choctaw nation have resided in Texas about ten years are of pacific feelings, are about forty in number and have no pretensions to soil among them are a few Chickasaws, of similar character.

The Caddoes, Ionis, Anadacoos, and Abadaches among whom are dispersed the Ayish and Nacogdoches Indians speak a similar language are descended from the old Caddo Nation and with the exception of the Caddoes are natives of the country. They all understand and speak the Castilian Language. They are about 225 in number and previous to their late hostilities lived in the county of Nacogdoches. Some have returned to their old homes but most of them are still with their squaws and children on the Prairies united with the hostile tribes that dwell there; about one-half of these Indians are good marksmen all of them hunt for a living and are on intimate terms with all the tribes of the prairies. They are thought to be the greatest rogues and the most treacherous Indians on our frontier.

The Keechis, Tywoccanies, Wakkos and Towiash or Pawnies are Indians of the Prairies. Hunt altogether for a living, travel altogether on horseback armed mostly with bow and lance. What fire arms they have are smooth bores or traders guns of little value and seldom used. They rove from place to place, move with great celerity, and are but little dependent on civilized man for necessary articles. They are now at war with this Republic. Their number is about 500 warriors, despicable soldiers but formidable rogues, and for five years past have greatly annoyed our frontier during which time they have occasionally found opportunities to commit most horrible outrages

and to carry off children and females as prisoners. The latter of whom your committee are justified in saying are forced to subserve to purposes that any beings other than *fiends* would blush to think of.

These Indians reside mostly on the headwaters of the Trinity, Brassos and Colorado, and are on good terms with both the Comanches and the Northern Indians living within the limits of Texas.

Of the Comanches your Committee know but little, they are however the natural enemies of the Mexicans whom they contemptuously denominate their *stock keepers* and out of which nation they procure slaves. They are roving indians, live on game, and have many horses. Their arms are the bow and lance. Your Committee have not any evidence of hostile feelings on the part of these Indians towards the people of this Republick and do not entertain a doubt but that a treaty of amity between this Gov[ernment] and those Indians might be effected if prudent and energetic measures were adopted for that purpose by the Executive and Congress of this Republick.

The people called Lipans, Karankways, and Tonkaways your Committee consider as part of the Mexican Nation and no longer to be considered as a different people from that nation. They occupy the western part of Texas.

Those tribes usually denominated Northern Indians are the Kickapooos, Shawnees, Delawares, Potawatames, and Menominis. They reside in the county of Nacogdoches and are hunters with a few exceptions among the Delawares and Shawnees, all are excellent hunters and marksmen well armed about 500 in number and roam the Prairies in perfect confidence. They are of about eight years residence in Texas are friendly to the whites and have but slight pretensions to soil, making almost their sole subsistence by the chase, some of them have occasionally fought the Comanches but are all now at peace.

The Cherokees whom your committee have chosen to mention last because intimately connected with important subjects to be discussed in this Report live also in the county of Nacogdoches on the waters of the Angeline, Neches, and Sabine rivers; they are about 220 in number, are farmers and hunters, raise stock, have some domestic manufactures, and read and write their own language. Their war chief is called Bowles their civil chief is called Big Mush.

They are a branch of the old nation of that name which they left some forty or fifty years since settling first on the St Francis afterwards on the Arkansas river and finally about fifteen years since in Texas. They are good riflemen and have elevated views of their own importance and claims. They also appear desirous of taking the lead

and forming an union of the different tribes in Texas. They trade with and are now in continual communication with the Prairie Indians with whom until the commencement of our revolution they were at war.

These Cherokees in the event of war would feel the horrors of invasion in a degree very nearly equal to the whites as their squaws and children never leave their farms, which is also the case with a few Delawares and Shawnees. They would have no strongholds, no interminable thickets, or swamps, to retire to, but would be forced to give battle or fly to the prairies.

In forming their Report to your honorable body on this subject your committee deem that it is their duty to elucidate as nearly as possible the nature of the claims of these different tribes of Indians on the Republick or soil of Texas; and in making up their report your committee have been guided by a sincere and anxious wish to recommend that course of policy that will redound to the honor and safety of our country as well as the securing to the Indians their just claims. Your committee are of opinion that their actual *vested rights* which the different tribes of Indians now within our limits were invested with by the Mexican Gov[ernmen]t previous to our declaration of Independence and which they have not subsequently forfeited by overt acts against the peace of this Republick should be held sacred and inviolable.

But your committee have not upon the most mature consideration and the most assiduous enquiry been able to ascertain that a vested right of any kind had accrued to or been attained by any tribe or tribes of Indians, other than the *prima facia* rights of occupancy to those tribes *natives* of the country before mentioned.

Your committee preparatory to investigating the Treaty concluded with the Cherokee Chiefs by Sam Houston and Jno. Forbes on the 23rd day of February, 1836, have had under consideration the Declaration of the Consultation, dated 13th November, 1835, and which Declaration^s is submitted with this report.

Your committee after mature reflection are of opinion that the *premises* assumed in that declaration are *false* and that acknowledged rights when based on *false* premises are of no effect and void, which your committee conceive to be the case in this instance. There has been no evidence presented to us, nor do we know of any, showing that such a community exists as that recognized by the aforesaid Declaration (under the title of "Associate Bands") or that the rights therein mentioned ever did exist or were ever granted. On the contrary there is before your committee *notorious* evidence that part

^sThe Declaration is printed in the *Journals of the Consultation*, pp. 52-53.

at least of the tribes enumerated in that list of which the Cherokees are represented as "Head Chiefs" "Elder Brothers" etc. have been the most savage and ruthless of our frontier enemies ever since and even at the very date of the signing of this Treaty.

It is also notorious that no part of said tribes have been our friends in war.

Again your committee find upon inspection of said Declaration and the treaty formed under it, that the territory therein mentioned forms part of the soil granted to David G. Burnet Esq for the purposes of colonization and which colony was filled or nearly so prior to this Declaration. Many of the titles being completed and others commenced and now in progress.

Your committee are satisfied that the grant of this territory to David G. Burnet Esq for the purpose of colonization and that many years after the settlement of those Indians on the soil, should be taken as conclusive evidence that no obligation was created by grant promise or otherwise which that nation considered binding in favor of either of the Cherokees or this community of "Associate Bands" to be represented by the "Head Chiefs" "Elder Brothers" etc of the Cherokee nation.

Your committee reflecting that the people of Texas were at the time of this Declaration acknowledged citizens of Mexico are utterly at a loss to conceive on what principles of legislation the act was passed, or rather they are of opinion that said act was an unwarrantable assumption of authority which was in no way obligatory on the Mexican Gov[ernmen]t at that time nor on this Gov[ernmen]t now.

Your committee are informed by Documents A and B^o, herewith submitted, that a treaty has lately been concluded between the Anadaco and Ionie Tribes of Indians and T. J. Rusk and K. H. Douglass on the part of this Republic.

Your committee also learn by the submitted copy of instructions to Jesse Watkins that a treaty is at this time negotiating between the Keechi Wakko Towiash and Tywocani tribes or a part of them and this Republic.

Your committee on a review of the different bearings of this important subject beg leave to offer the following resolutions

Resolved by the Senate of the Republic of Texas that they disapprove of and utterly refuse to ratify the Treaty or any articles thereof concluded by Sam Houston and Jno. Forbes on the 23rd day of February, 1836, between the Provisional Gov[ernmen]t of Texas of the one part, and the "Head Chiefs" Head men and War-

*Documents A and B have not been found.

riors of the Cherokees on the other part. Inasmuch as that said treaty was based on premises that did not exist and that the operation of it would not only be detrimental to the interests of the Republic but would also be a violation of the vested rights of many citizens.

Resolved that the Senate advise and consent to ratification of a treaty entered into between T. J. Rusk and K. H. Douglass on the part of the Republic of Texas and the Chiefs of the Ioni and Anadaco tribes of Indians on the 21st day of August 1837.

Resolved that the President of the Republic be authorized and advised to appoint a commissioner or commissioners and furnish them with instructions, such as he may deem most expedient to bring about friendly relations between the Comanches and this Republic; Provided that no fee simple right of soil be acknowledged by this Government in favor of those Indians.

Resolved that should the Treaty, in course of negotiation by Jesse Watkins be perfected, the Senate deem that it would be advisable to establish not less than three block houses on the northern and western frontier for the purpose of protecting trading houses to be conducted under proper legal regulations and restrictions.

Resolved that the Senate consider the Northern tribes of Indians resident in this Republic as properly under the superintendence and direction of the Government of the United States of America. And that they recommend the most urgent remonstrances to the United States Government on that subject.

I. W. Burton, Chairman.

Nacogdoches 14th Sept 1837¹⁰

To Jesse Watkins Esq

'Sir You will proceed to the Prairies to meet the Head Men of the **Keechey Caddo Towaconeys** and Ioni Tribes of Indians taking with you as an interpreter Lewis Sanchez you will first listen to any talk they may desire to hold with you and then inform them that we are disposed to be at peace with all our Red Brethren that we are disposed to break our long knives and bury our Tomahawks with them and to open a wide road between the house of the Red and White man that all we shall require of them will be to give up the prisoners they have of ours to bring back all the property they have stolen and not to murder or steal any more and to prevent other Indians from doing so when they may know of it to all of which if they will agree you may promise them that we will make a Treaty of Peace with them which shall last forever the presents which are furnished to you you

¹⁰MS. in Indian Affairs. Texas State Library.

can distribute as you may think most proper and you may make such arrangements about the chiefs coming in as is most satisfactory to the Indians We would like well if they could be brought down to the Seat of Government but for fear that cannot be done we will ask the President to nominate Two Commissioners here who can treat with them and who will be furnished with the proper instructions. In your talk with them you will be careful not to promise them land at any particular place and be cautious you make no promises however slight that cannot be strictly complied with

Very Respectfully Your Obt Servants

Signed Thos J Rusk

K H Douglass

The doors were opened.

Secret Session

Oct 16th 1837

On motion of Mr Burton to take up the Report of the Committee on Indian Affairs the Senate went into secret session.

A motion to remove the injunction of secrecy on said Report was lost and it was taken up in its second reading.

Mr Lester was called to the Chair.

Mr Green introduced some Resolutions to appoint some Commissioners to treat with the Cherokees.

On motion of Mr Wharton the Report was laid on the table till called up.

The President of the Senate resumed his seat and the doors were opened.

October 18, 1837.

Resolved by the senate,¹¹ that the Hon. S. Rhoads Fisher be instructed to immediately resume the active exercise of his duties as Secretary of the Navy.

Oct 20th 1837

A communication was rec[eive]d from the Hon[orable] S. Rhoads Fisher, respecting his resuming his duties as Sec[retar]y of the Navy, which was read and laid on the table until the 27th inst.

¹¹See note 7 above.

Houston October 20th: 1837¹²

To The Hon[orable] the Senate etc.

Gentlemen,

Having on the 18th inst[ant] been furnished with a copy of a Resolution of your Hon[orable] Body of that date, in relation to my resuming the duties of my office, I have to state that I yesterday addressed the acting Secretary of the Navy, Wm. M. Shepherd, a note of which you herewith have a copy; and on the evening of the same day received his reply which is also enclosed. Having now Gentlemen laid before you the facts, and copies of the correspondence in relation to your Resolution, I await the further orders of your Honorable Body.

With sentiments of high respect

I am etc. etc. etc.

S. Rhoads Fisher
Secretary of the Navy

Copy

Office of the Sec[retar]y of Treasury
Houston Octo[ber] 19 1837

Hon. Wm M Shephard

Acting Sec[retary] of Navy

Sir

I have the honor to herewith present you a copy of a resolution of the Hon[orable] the Senate by which you will perceive I am instructed to resume the duties of my office. You will oblige me by appointing an hour when you will be prepared to deliver the papers which belong to it

Respectfully your obt servt

S Rhoads Fisher
Secretary of the Navy

Copy.

Houston Oct. 19, 1837

Hon. S Rhoads Fisher

Sec[retary] of the Navy

Sir

I have the honor to acknowledge the rec[eip]t of your note of this morning and the enclosed resolution of the Senate instructing you to resume the duties of the Sec[retar]y of the Navy. In reply to which I beg leave respectfully to remark, that having obtained the appoint-

¹²A. L. S. in Navy Papers. Texas State Library.

ment which I hold from the Executive, I cannot yield the papers of the Department, without instructions from the same source

I have the honor to be very respectfully

Your Obedt Servt

Wm M Shepherd

Act[in]g Sec[retar]y of the Navy

The doors were then opened.

Oct 27th 1837

The Senate on motion of Mr Burton went into secret session.

Executive Department.

Houston Oct. 26th 1837²³

To the Hon[orable] the Senate of Texas

Gentlemen:

It has been my intention for days to have submitted to you charges and specifications against S. Rhoads Fisher. These matters have been and are in progress. It has been impossible for me to accomplish my desires; they will soon be finished and submitted to the discretion of your Hon[orable] Body. Peculiar circumstances have controlled this delay, although there has been no disposition to postpone them one moment, or the slightest desire to excite the inquisitive. The only desire of the Executive will be to submit all matters of import connected with the Cabinet to the Counsel and advisement of the Hon[orable] Senate.

Sam Houston

The communication from S. Rhoads Fisher which was the special order of the day, was laid on the table till called up.

The Report of the Com[mittee] on Indian Affairs was called up and some parts of it read.

Mr Burton offered a Resolution calling upon the President to lay before the Senate any treaty or treaties he may have made with the Indians, which was adopted.

And the doors were opened.

Oct. 30th 1837.

On motion of Mr Wharton the Senate went into secret session.

The communication from S. Rhoads Fisher was called up and read.

²³The secret journal has no copy of this message; it has, therefore, been supplied from the original.

Mr Wharton introduced a Resolution to send all the papers, correspondence etc relative to S. Rhoads Fisher to the House for their consideration, which was read and laid on the table as the special order of the day for Thursday Nov 2nd

Resolved,¹³ That all the resolutions papers and correspondence in the possession of the senate, in relation to the suspension and impeachment of the Honbl. S Rhoads Fisher, be communicated to the House of Representatives for the purpose of obtaining their advice and action on the subject.

On motion of Mr Robertson the Senate adjourned till tomorrow 10 o'clock A. M.

Thursday Nov. 2nd 1837

On motion of Mr Burton the Senate went into secret session.

The Resolution to communicate all the papers etc concerning Hon-[orable] S. Rhoads Fisher, to the House for their consideration, being the special order of the day, was taken up and laid on the table as the special order of the day for Tuesday Nov. 7th

Mr Wharton introduced a Resolution providing for raising funds for the construction of the Navy, which was read and laid on the table.

Resolved¹⁴ That the President of this Republic be authorized and required to furnish the agent who may be appointed to proceed on to the U[nited] States for the purpose of buying or building certain vessels for the public service of Texas, in accordance with an act of the present congress, with a letter to Messrs Gilmer and Burnley requiring them to raise and pay over to said agent the amount of 280,000 \$ which has been appropriated for the purchase of a navy for this Republic

Resolved That the President is hereby authorized and required to instruct said Commissioners Messrs Gilmer and Burnley to sell the bonds of the Government of Texas at a discount of 50 per cent if the above appropriation for the Navy cannot be otherwise procured.

The doors were then opened.

Nov. 3rd 1837

The Resolution requiring the President to authorize the Commissioners Gilmer and Burnley to sell the bonds of [the] Government to raise funds for constructing a Navy was taken up on its second reading.

¹³See note 7 above.

¹⁴*Ibid.*

Mr Wharton introduced a Resolution as a substitute, which was rec[eive]d and adopted.

Resolved¹⁵ that the President of this Republic be and he is hereby authorized and instructed to furnish the agent appointed to buy or build certain vessels for the public service of Texas with a letter to Messrs Gilmer and Burnley authorizing and requiring them to raise the \$280,000 appropriated for the navy, by the discount of the bonds of the Government for one million of dollars as contemplated by a joint resolution of Congress passed 24th December 1836.

The doors were then opened.

S H. Everitt
President pro tem of the Senate

¹⁵See note 7 above.

SECOND CONGRESS
SECOND OR REGULAR SESSION
Secret Journals of the Senate
Regular Session¹

Nov. 7th 1837

The Resolution to communicate all documents papers etc relating to the Hon[orable] S. Rhoads Fisher to the House for their consideration was taken up on its second reading.

The Sec[retar]y of the Senate was instructed to wait upon his Excel[lency] the President forthwith and inform him that the Senate was in secret session and ready to receive any communication he might have to make respecting the Hon[orable] S. Rhoads Fisher; and the Senate took a recess until the return of the Sec[retar]y.

The Sec[retar]y returned and stated that his Excel[lency] informed the Senate that his communication was ready and that he would send it to the Senate in the course of the day.

The doors were then opened.

3 o'clock P. M.

Two messages having been rec[eiv]ed from His Excel[lency] the President the Senate went into secret session.

The first message with the accompanying documents,² contained the charges against S. Rhoads Fisher, which were read and referred to the Com[mittee] on Naval Affairs [Messrs. Wilson, Rains and Robertson].

Mr Horton introduced a Resolution authorizing the Com[mittee] on Naval Affairs to furnish S. Rhoads Fisher with a copy of the charges which was read, amended and adopted.

Mr Barnett was added to the Com[mittee] on Naval Affairs.

On motion of Mr Horton the Naval Com[mittee] was allowed the privilege of a clerk.

The second message of His Excellency, nominating chief justices for the counties of Matagorda, Houston, Jefferson, Sabine, Bexar and Victoria, was read and laid on the table.

¹The secret journal of the regular session of the second congress for the period from November 7 to 23 follows immediately that of the called session, and is in the handwriting of M. Sevey, Assistant Secretary of the Senate. It embraces five unnumbered folio pages. The continuation of the secret journal, covering the period from November 27 to December 19, 1837, forms a separate document, which bears the title "Journals of Secret Sessions Regular Session Nov. 1837 Senate." This portion embraces seven unnumbered folio pages, and is signed at the end by the president pro tem. The document is filed among the papers of the second congress.

²This message with the accompanying papers has not been found.

Executive Department.
 Republic of Texas.

City of Houston
 Nov. 7th 1837.*

To the

Honourable Senate of Texas.

Gentlemen,

The herein enumerated gentlemen, I have nominated as Chief Justices to the Counties to which their names are respectively attached.

Sinclair D. Gervais.....Matagorda County.

Collin AldrichHouston County.

Henry MillardJefferson County.

Francis T. Gains.....Sabine County.

Erasmus SeguinBexar County.

Jno HayesVictoria County.

The ratification of these nominations by the Honourable Senate is respectfully requested.

Sam Houston

The doors were then opened.

Nov. 8th 1837

The second message of His Excel[lency] the President, nominating chief justices, was taken up.

The nomination of Sinclair Gervais for Ch[ief] Justice of the County of Matagorda was confirmed.

The nomination of Collin Aldrich for the County of Houston [was] unanimously negatived.

The nomination of Henry Millard for the County of Jefferson [was] confirmed.

The nomination of Francis T. Gaines for the County of Sabine [was] confirmed.

The nomination of Erasmo Seguin for the County of Bexar [was] confirmed.

The nomination of John Hayes for the County of Victoria [was] confirmed.

The injunction of secrecy so far as concerned the confirmed nominations was removed, and the doors were opened.

Nov. 10th 1837

The message of H[is] E[xcellency] the President nominating Mr R. A. Irion as Sec[retar]y of State and Mr B. E. Bee as Sec[retar]y of War and Mr J. C. Allen as Chief Justice of Refugio Co[unty] was read and laid on the table.

*The secret journal has no copy of this message; it has, therefore, been supplied from the original.

Executive Department
 Republic of Texas
 To the Hon[orable] Senate of Texas.
 Gentlemen,

City of Houston
 Nov. 8th 1837.⁴

I have the honor of offering for the consideration of your Hon[orable] body the nominations of Mr. R. A. Irion as Secretary of State, appointed June 13th 1837, and Mr. B. E. Bee as Secretary of War appointed 23rd August 1837.

Your confirmation of these nominations is most respectfully requested.

Sam Houston

Executive Department
 Republic of Texas
 To the Hon[orable] Senate of Texas
 Gentlemen,

City of Houston
 Nov. 9th 1837.⁵

I have the honor of offering for your consideration the nomination of Mr. J. C. Allen as Chief Justice for the County of Refugio. Your confirmation of the above named gentlemen is most respectfully requested.

Sam Houston

Mr Burton introduced a Resolution instructing the Navy Com[mittee] to report the documents relating to Hon[orable] S. Rhoads Fisher for the action of the Senate, and the rules being suspended it was lost.

Resolution that the Committee on Naval Affairs be ordered to report the documents in their hands relative to the suspension of Rhoades S. Fisher for the action of the Senate and that counsel be allowed for and against at the Bar of the Senate⁶

Mr Horton introduced a Resolution to allow the President to employ counsel in the case of Hon[orable] S. Rhoads Fisher, and a motion for a suspension of the rule being lost, it was withdrawn.

On motion of Mr Burton the Report of the Com[mittee] on Indian Affairs was ordered to be the special order of the day for tomorrow.

Doors opened.

Nov. 11th 1837

The communication of H[is] E[xc]cellency the President making nominations was taken up and the nomination of R. A. Irion for Sec[retary] of State was unanimously confirmed.

⁴See note 3 above.

⁵*Ibid.*

⁶The secret journal has no copy of this resolution; it has, therefore, been supplied from the original manuscript in Papers of the Second Congress, Second Session.

The nomination of B. E. Bee for Sec[retar]y of War was unani[mously confirmed].

The nomination of J. C. Allen for Chief Justice of Refugio Co[unty] was unanimously confirmed.

Mr Burton Chairman of the Com[mittee] on Indian Affairs stated that he should be prepared to report on Monday, and the doors were opened.

Nov. 18th 1837

A message from H[is] E[xcellency] the President nominating Wm S. Hunter for Chief Justice for the county of Goliad was read and laid on the table,

Executive Department
Republic of Texas
To the Honorable Senate.

City of Houston
16th Nov. 1837^a

Gentlemen:

I take pleasure in presenting the nomination of Wm L Hunter as Chief Justice of the County of Goliad, and respectfully request that the same may be confirmed by the Senate.

Sam Houston

and the doors were opened.

Nov. 20th 1837

Two communications from the President were read.

The first announced that he would send his annual message tomorrow 12 o'clock.

Executive Department
Republic of Texas
To the Hon[orable] Senate of Texas.

City of Houston
Nov. 20th 1837^a

Gentlemen:

It affords me much gratification to inform you, that I will be ready to communicate my annual Message to the Hon[orable] Congress, at 12 o'clock tomorrow the 21st inst.

Sam Houston

The second¹⁰ nominated Mr Saml Swartwout as agent for procuring ships of war, which was read and laid on the table.

⁷The word "confirmed" has been eaten off the secret journal; it is supplied from a communication from the Secretary of the Senate, dated November 13, 1837, to President Sam Houston. MS. in Senate Confirmations. Texas State Library.

⁸See note 3 above.

⁹*Ibid.*

¹⁰This message has not been found.

The nomination of Wm L. Hunter was taken up and confirmed, and the injunction of secrecy was removed and the doors were opened.

Nov. 21st 1837

The nomination of Mr Swartwout as agent for procuring ships of war for the Republic was taken up.

Mr Everitt moved that the President be respectfully requested to withdraw the nomination, and the motion being put¹⁰

Mr Wharton moved¹⁰ to communicate to the Pr[esident the] objections which the Senate entertained respecting the nomination, and the ayes and nays being called stood as follows

Ayes Messrs. Barnett, Burton, Everitt, and Wharton—4.

Nays Messrs. Dunn, Horton, Lester, Rains, Robertson and Wilson—6, and the motion was lost.

The doors were then opened.

Nov. 23rd 1837

The nomination of Mr Swartwout was taken up.

Mr Everitt moved that a committee be appointed to wait on the President and respectfully request him to withdraw the nomination of Saml Swartwout as agent for procuring vessels or war, and the motion was carried and Messrs Everitt, Ellis and Wharton were appointed s[ai]d committee.

and the doors were opened.

Secret Journals of the Senate¹¹

Nov. 27th 1837

The Resolution on which the investigation of the case of Hon[orable] S. Rhoades Fisher had been held, was taken up.

Mr Everitt offered a substitute for the same and also a Resolution informing the Sec[retary] of the Navy that it was the wish of the Senate that he should resign, and the ayes and nays being called on the Substitute and Resolution stood as follows

Ayes Messrs Burton, Everitt, Robertson, Wharton and Barnett—5.

Nays Messrs Dunn, Horton, Lester, Rains and Wilson—5. and the votes being equally divided the President voted in the negative and the substitute was lost.

Resolved by the Senate that the charges preferred by the President of this Republic against the Hon[orable] the Sec[retar]y of the Navy are not sustained by the evidence adduced by the President,

¹⁰Several words have been eaten off the secret journal.

¹¹See note 1 above.

so as to justify this Senate to advise and consent to the removal of the Hon[orable] the Sec[retary] of the Navy on the grounds contained in those charges; that the Senate will not therefore advise and consent to the removal of the Hon[orable] S. R. Fisher from the office of Sec[retary] of the Navy of this Republic.

Resolved, That the Hon[orable] S. R. Fisher be respectfully informed that it is the wish of the Senate that he resign his station as Sec[retary] of the Navy, as the Senate conceive that the breach between him and his Excellency is such that it could not be for the interest of our common country that he should retain the station he now holds any longer.

Mr Horton offered another substitute, authorizing [the] President to remove the Sec[retary] of the Navy.

The doors were opened.

3 P. M.

Mr Horton withdrew his substitute and

Mr Wilson introduced a substitute declaring that Hon[orable] S. Rhoads Fisher was not a proper member of the Cabinet and authorizing the President to appoint a new Sec[retary] of the Navy, which was read a first time

On motion of Mr Everitt the doors were opened and [the] Senate adjourned.

Nov. 28th 1837.

Mr Wilson withdrew his substitute for the Resolution respecting Hon[orable] S. R. Fisher, and

Mr Rains offered another substitute, which was rec[eive]d on its second reading.

Resolved That the Senate fully sustains the President in the course which he adopted in suspending from office S. Rhoads Fisher late Sec[retary] of the Navy, and consents to his removal; at the same time we must do S. Rhoads Fisher the justice to say that there has been no evidence before us to prove that he has been guilty of any crime.

The doors were opened.

3 o'clock P. M.

Mr Rains substitute was taken up and withdrawn and Mr Everitt offered another and the ayes and nays being called on its adoption stood as follows

Ayes Messrs Barnett, Burton, Everitt, Robertson and Wharton—5.

Nays Messrs Dunn, Horton, Lester, Rains and Wilson—5.

and Messrs Horton, Dunn and Robertson were appointed a committee to wait on the Hon[orable] Mr Ellis and take his vote; upon

which the Senate took a recess of 15 minutes. At the expiration of the recess the committee returned and reported that Mr Ellis voted in the affirmative, and the substitute was accordingly adopted. The ayes and nays were then called on the final adoption of the Resolution and stood as follows—

Ayes Messrs Barnett, Burton, Everitt, Robertson and Wharton—5
Nays Messrs Dunn, Horton, Lester, Rains, and Wilson—5.

and the same com[mittee] was reappointed to wait upon Mr Ellis and receive his vote. Mr Ellis voted in the affirmative and the Resolution was adopted as follows—

Resolved, that the Senate on the grounds of harmony and expediency advise and consent to the removal of the Hon[orable] S. Rhoads Fisher from the office of Sec[retary] of the Navy, but in doing so they must do the Secretary the justice to say that the President has not adduced sufficient evidence that proves him guilty of dishonorable conduct.

The injunction of secrecy was removed.

On motion of Mr Everitt it was voted that the reporter be permitted to publish the proceedings in the case of Hon[orable] S. Rhoads Fisher at his own expense for his own benefit.

The doors were opened.

Nov. 29th 1837

The journals of the secret session of yesterday were read and amended.

Mr Everitt offered a Resolution referring the correspondence between our Minister at Washington and the Sec[retary] of State of the U[nited] States to a committee.

Mr Everitt withdrew his Resolution and Mr Wharton offered another appointing a special com[mittee] with instructions to report on the prospect of annexation to the U[nited] States, and the ayes and nays being called stood as follows—

Ayes Messrs Barnett, Burton, Everitt, Robertson and Wharton—5.
Nays Messrs Dunn, Horton, Lester, Rains, and Wilson—5.

and the votes being equally divided the Pres[ident] of the Senate voted in the affirmative and the Resolution was adopted, and Messrs Horton, Everitt and Rains were appointed said committee.

The doors were opened.

Nov. 30th 1837

The message from H[is] E[xcellency] the President nominating Warner L. Underwood as District Attorney for the First Judicial

District of the Republic was read and the rule being suspended it was unanimously confirmed.

Executive Department
 Republic of Texas
 To the Senate of Texas.

City of Houston
 Nov. 25th 1837.¹²

Gentlemen:

I take pleasure in offering for the ratification of Your Hon[orable] body, the nomination of Warner L. Underwood, as District Attorney for the first Judicial district of the Republic of Texas.

Sam Houston

The journals of the Secret Session of the 28th inst[ant] were read and approved.

Mr Wharton presented the protest of himself and Mr Burton against the Resolution passed on the 28th inst[ant] respecting Hon[orable] S. Rhoads Fisher, and the ayes and nays being called on its insertion in the journal, stood as follows—

Ayes Messrs Burton and Wharton—2.

Nays Messrs Barnett, Dunn, Everitt, Horton, Lester and Wilson—6. and the motion was lost.

Messrs Rains and Robertson being excused from voting.

The doors were opened.

Friday afternoon
 Dec 1st 1837.

The doors being closed Mr Horton as chairman of a committee to wait upon the President concerning the nomination of Mr. Swartwout, reported that His Excellency had consented to withdraw it.

On motion of Mr Wharton Messrs Everitt and Horton were appointed to wait upon the President and urge upon him the necessity of appointing a Commissioner to determine the boundary line.

The doors being opened.

Tuesday Dec 5th 1837

Executive Department
 Republic of Texas
 To the Hon[orable] Senate of Texas
 Gentlemen

City of Houston
 Dec. 5th 1837.¹³

I take pleasure in offering for the ratification of your Honorable body the following nominations:

¹²See note 3 above.

¹³*Ibid.*

Shelby Corzine, Commissioner to run the Boundary Line.
 Wm. M. Shepherd, Secretary of the Navy in place of S. R. Fisher,
 removed.

John Birdsall, Attorney General vice P. W. Grayson, resigned.

Peter W. Grayson, Naval Agent to the United States.

E. M. Pease, Comptroller of the Treasury.

Jno. G. Welschmeyer, Second Auditor.

Wm. G. Cooke, General Stock Commissioner.

G. Wilson Capse, Surgeon in the Army.

Robt. H. Watson, Surgeon in the Army.

Robt. W. Cassin, Lieutenant in the Navy.

Robt. H. Foote, Chief Justice of the County [of] San Augustine.

The advice and consent of the Honorable Senate is respectfully requested, in confirmation of the Executive designation of the several officers named, and Agents.

Sam Houston

The message of H[is] E[xc]ellency the President, making nominations, was read, and the rule being suspended they were acted upon as follows:

Shelby Corzine, Commissioner to run the boundary line [was] unanimously confirmed.

Wm M. Shepherd, Sec[retary] of the Navy, [was] unanimously confirmed.

John Birdsall, Attorney General, [was] unanimously confirmed.

P. W. Grayson, Navy Agent to the U[nited] States, [was] unanimously confirmed.

E. M. Pease, Comptroller, [was] unanimously confirmed.

J. G. Welschmeyer, Second Auditor, action [was] deferred.

Wm G. Cooke, Gen[era]l Stock Commissioner, [was] unanimously confirmed.

G. Wilson Capse and Robt. H. Watson, Surgeons in the Army; Messrs Everitt, Horton and Dunn were appointed a Com[mittee] to wait upon the President and respectfully request him to withdraw these nominations.

Robt. A. Casson, Lieut[enant] in the Navy, [was] unanimously confirmed.

Robt. H. Foote, Chief Justice of the County of San Augustine, [was] unanimously confirmed.

The Election returns from the County of Bexar declaring Juan N. Seguin duly elected Senator for that District were read, and the doors were opened.

Dec. 11th 1837

The Senate went into secret session and the message from H[is] E[xcellency] the President, nominating Cornelius Van Ness for District Att[orne]y for the Fourth Judicial District, was read and laid on the table.

Executive Department
Republic of Texas

City of Houston
Dec. 11th 1837.¹⁴

To the Hon[orable] Senate of Texas.

Gentlemen,

I take pleasure in submitting for the ratification of your Honourable body, the nomination of Cornelius Van Ness Esqr for District Attorney of the Fourth Judicial district of the Republic of Texas. Mr. Ricord, who lately filled the station has left the Republic, making it the incumbent duty of the Executive to nominate another to supply the vacancy, that nothing prejudicial may arise to the people of that part of the country. I transmit a letter from the Representatives of Bexar, urging the appointment of Mr Van Ness. Your advice and consent to the nomination of this gentleman is most respectfully requested.¹⁵

Sam Houston

Representative Hall Dec 5th 1837

To his Excellency Sam Houston

President of the Republic of Texas.

Sir,

Having learned that John Ricord formerly District Attorney of the Fourth Judicial District, has left the country, thus leaving the office vacant, and having learned also that Vanness has been appointed to fill the vacancy, *pro tem.*, I take the liberty to address this note to your Excellency recommending the said Vanness as a suitable person to fill said office; and at the same time I take pleasure in saying that in my opinion no appointment could be made which would be more acceptable to the people, or more conducive to the interests of the country. I understand that Vanness is now in Bexar, and that he intends to make that place his home.

With the hope that this subject will receive the attention it merits, I have the honor to be, Dear Sir

Your Excellency's Obt Servt

Joseph Baker

¹⁴See note 3 above.

¹⁵The nomination of Mr. Van Ness was confirmed as is shown by a letter from the Secretary of the Senate to the President, December 13, 1837. MS. in Senate Confirmations. Texas State Library.

I take pleasure in stating that I cheerfully concur in the foregoing recommendation, and hope that Mr Vanness will be appointed

Houston Dec 5th 1837

W H Patton

The nomination of J. G. Welschmeyer as Second Auditor was taken up and unanimously confirmed.

Mr Burton, Chairman of the Special Com[mittee] appointed to wait upon the President and enquire the reason of the dismissal of Cap[tain]s Clendenin, Monroe and Chamberlain, reported that the President had promised to give his reasons in writing.

Mr Wharton introduced a Resolution appointing a Com[mittee] of two to wait on the President and enquire his reasons for striking Capt[ain]s Clendenin, Monroe and Chamberlain from the rolls of the army, which was adopted, and Messrs Horton and Wilson were appointed said committee.

Mr Everitt, from the Com[mittee] on Foreign Relations to which was referred the subject of reducing our Representation at Washington City, reported in favour of reducing the representation, and also recommending the appointment of a Commissioner General to negotiate with the different Courts of Europe for a recognition of our Independence.

The Committee on Foreign Relations¹⁵ beg leave to report that in accordance with all International courtesy and custom it becomes our duty to reciprocate the grade of diplomatic agents sent to us by foreign powers And inasmuch as the U[nited] S[tates] of the North have sent us only a Chargé de Affaires they recommend the reduction of our representation at that Court to the same diplomatic grade

The Committee being convinced that the prospect of annexation is remote and doubtful conceive it is our duty and interest to open relations with all European powers who are willing to do so and therefore recommend the appointment of a Commissioner General with letters of Credence to the powers of Europe at whose courts we have now no Representation for the purpose of procuring our Recognition and forming Treaties of Amity and Commerce. Your Committee believe that by this measure much wealth and population might be introduced into this country and the public welfare greatly and suddenly advanced

An Act to Authorize the President to appoint a Commissioner General to the Different Courts of Europe

Sec 1. Be it Enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled That the President is hereby authorized to appoint a Com[missione]r General to those

¹⁵The secret journal has no copy of this report; it has, therefore, been copied from the original in Papers of the Second Congress.

European Courts where we now have no Representation with instructions to solicit our recognition and to form treaties of Commerce and Amity with this Republic, And the said Com[missione]r shall receive the pay and outfit of a Minister Plenipotentiary as his salary for the time he is in service.

The doors were opened.

Executive Department
Republic of Texas

City of Houston
Dec 13th 1837.¹⁴

To the Honorable Senate of Texas.

Gentlemen:

In response to your call on the Executive, I have with regret to state that Mr. Chamberlain obtained a furlough on the 10th day of February 1837, for two months, and was to report for duty at the expiration of his furlough, which he did not do. When the Army was organized, it was not known that he was living. consequently he was not nominated to the Senate at that period. Then all claims on Texas ceased. It has been reported to the Executive, that in New York, he who had never been but a Lieutenant, represented himself as a Major of the Texian Army, and placed a strap on each shoulder, which belongs to no officer under the Grade of Major. Thus making himself an Imposter. Until the expiration of his furlough he will be allowed pay etc. but *no longer*. If pay is allowed to every one who wishes to claim it, no Treasury can meet the demands. I will not sanction it.

As to Capt[ai]n Clendennin, he was not furloughed for *meritorious services*, and the Executive is not particularly partial to him for any services, which he has rendered to Texas or to the Post of Galveston. When the Executive has been assured, that he was never present at Roll Call, or Parade whilst on the Island. He was ordered there, and appointed with the hope that he would establish discipline and maintain subordination. Both of which it is believed he materially injured, and for this reason he was furloughed, and for none other. Recent matters have called the attention of the Executive, from which he is disposed to believe, that he has been an unworthy member of the Army, and ought to be subject to Executive discretion. When on furlough he assumed the command of the Post of Velasco, and left the same without orders, which acts were contrary to all subordination and Military Regulations. The first (L[ieutenant] Chamberlain) has nothing to complain of in being dropped from notice, and the second (Capt[ai]n Clendennin) in being dishonorably dismissed. In all such cases, so long as the Executive loves his country,

¹⁴See note 3 above. The public journal makes note of a secret session held this date; the secret journal does not.

and he has the power he will exercise it, altho[ugh] he has not yet done so, and therefore with the enclosed Documents, he is bound to pronounce the petition unfounded, and such as ought not to claim the serious consideration of the Honorable Senate.

Sam Houston

1.

War Department

Columbia Feby 10/37

It having appeared to the satisfaction of this Department, that Lieut[enant] Horace P. Chamberlin is now laboring under a severe affection of the left eye, and that it is necessary that an operation should be immediately performed by some skilful oculist, he is hereby granted leave of absence for the space of Sixty days, at the expiration of which time, he will report to this Department for orders

Signed

Wm S. Fisher

Sec[retar]y of War

I certify the above to be a true copy of the original now on record in this Office

Charles Mason

Chief Clerk

[Endorsed on back] "Copy Lt. Chamberlins Furlough" [with following autograph note by President Houston,] "He never reported, and for that reason, was not nominated to the Senate in May last. He was *no officer* after the expiration of his furlough. He is not to be paid after that date Sam Houston"

2.

L[ieutenant] Chamberlin reported for duty from furlough of Sixty days, bearing date the 10th of Feb[ruar]y 1837, on the 10th of Oct[ober] 1837. L[ieutenant] C[hamberlin] was not nominated to the Senate by the Hon[orable] Wm S. Fisher, then Sec[retar]y of War in consequence of his furlough having expired, and the Dep[artmen]t not having received any communication from him until his report in person on the 10th Oct[ober] 1837.

Barnard E Bee¹⁷

Sec[retary] of War

[Endorsed on back] "Date of Lt Chamberlins Report for duty" [with following autograph note by President Houston,] "Not in office and not on the Roll of the Army Sam Houston"

"D. S.

3.

War Department
December 1837

I hereby certify that Lieut[enant] Chamberlin reported to this Office for duty on the 10th of October 1837 stating that he had been compelled to outstay his furlough from the tedious and painful operation incident to the loss of his eye, and assuring this Department that he had written requesting an extension of his furlough, but that the vessel was wrecked which bore his letter. Under these circumstances I received him on duty. His Excellency the President is however of opinion that he forfeited his claim as an officer in not returning at the expiration of his furlough and has so ordered

Barnard E Bee¹⁰
Sec[retary] of War

4.

War Department
Houston July 8/37

Capt[ain] A. Clendinin of Co[mpany] A. First Regiment Artillery is hereby furloughed for the space of Sixty days; to take effect after the Court Martial at Velasco

(Signed) J. Snively
Act[in]g Sec[retary] of War

I certify the above to be a true copy of the original now on record in this Office

Charles Mason
Chief Clerk

[Endorsed on back] "Copy Capt. Clendinins Furlough" [with following autograph note by President Houston,] "This suspended all his functions as an officer Sam Houston"

5.

Capt[ain] A. Clendinin reported for duty from furlough of Sixty days bearing date July 8th 1837, on the 10th of the ensuing September 1837.

Barnard E Bee¹⁰
Sec[retary] of War

[Endorsed on back] "Date of Capt. Clendinins Report for duty" [with following autograph note by President Houston,] "This was after the expiration of his furlough. Sam Houston"

"D. S.
"D. S.

6.

Post Velasco July 20/37

To the Hon[orable]

J. Snively

Acting Sec[retar]y of War

Sir,

It becomes my duty as acting commanding officer of this Post to inform your Honor that on the morning of the 18th inst. Lieut[enant] W. Redfield and Dr. A. Lynch met for the purpose of settling an affair of HONOR which resulted in the latter receiving a mortal wound of which he died on the same evening about 10 o'clock, and was yesterday interred with the usual military customs.

I assure your Honor that every thing between the parties was fairly and honorably conducted. I have attended to L[ieutenant] Redfield's case and have done every thing in my power as far as my abilities extend to have him bailed. The sheriff has arrested him on a Civil process for breaking the peace. I think he can procure bail in the course of two or three days and be released from his present confinement in the Fort, and resume his command. At the solicitation of Mr. Humphries and two or three other gentlemen I was urged to act until some person is duly authorized by the Executive. Your Honor will please recollect that I was furloughed for the purpose of going to the States; I got my things all in order, my clothing packed up and was to depart by the first vessel, but was again taken sick here, and rather worse than before I left Galveston. It may appear to your Honor that acting in my present capacity, that it is a relinquishment of my furlough, in which case your Honor will please grant me another for the same length of time.

I have the honor to be

Your Honor's Obt Serv't

A. Clendinin

Actg Commanding 1st Inf[antry] T. A. P. V.

I certify the foregoing to be a true copy of the original now on file in this Department

Charles Mason

Chief Clerk

War Department

Dec. 12 1837

I further certify that no answer to the annexed letter appears on record in this Department

Charles Mason

Chief Clerk

[Endorsed on back] "Copy of letter from Capt. Clendinin Velasco

July 20/37" [with the following autograph note of President Houston,] "He assumed command without *authority* and left without *permission* This is contrary to all Military Rules. Sam Houston"

Executive Department
 Republic of Texas
 To the Hon[orable] Senate of Texas.

City of Houston
 Dec. 13th 1837.²⁰

Gentlemen:

I take pleasure in submitting for the ratification of your Hon[orable] body the nomination of Mr. F. R. Lubbock, as Comptroller of the Treasury of the Republic. The great press of business in that Department, and the vacation of the office, caused by the resignation of the gentleman who recently filled it, induces the Executive to solicit most respectfully the advice and consent of the Honorable Senate to this nomination as soon as practicable.²¹

Sam Houston

Thursday 15th Dec [18]37

The doors being closed the Senate went into secret session and on motion of Mr Wharton the message of his E[xcellency] the President, giving his reasons for dismissing Capt[ain]s Chamb[er]lane and Clendennen from service, was taken [up] and read and after much discussion Mr Everett offered a resolution that their dismissal was a violation of existing laws and that no officer could be dismissed without sentence of Court Martial

Resolved²² that the President in dismissing from the Roll of the Army Capts Clendenin, Chamberlain and Munroe has misconstrued the existing laws and constitution that no officer can be dismissed from service without sentence of Court Martial

Further Resolved that the officers above mentioned shall have the benefit and justice of a trial by Court Martial in accordance with existing laws

The rules being suspended the resolution was laid on the table for the time being, when Mr Burton offered a resolution appointing a committee of two to wait on the Secretary of War and enquire of him certain points in relation to the case of Capt[ain]s Clendennen and Chamberlane

Resolved by the Senate that the Secretary of War inform this house whether or not Capt[ain]s Chamberlain Clendennin and Monroe are

²⁰See note 3 above.

²¹The nomination of Mr. Lubbock was confirmed as is shown by a letter from the Secretary of the Senate to the President, December 13, 1837. MS. in Senate Confirmations. Texas State Library.

²²See note 6 above.

see
 P. 104
 Res. 20/37 ✓

stricken from the Roll of the Army and if so whether by the order of the Executive

Resolution [was] adopted and Messrs. Burton and Horton [were] appointed [the] Committee.

Report of special committee appointed to wait upon the Sec[retar]y of War and enquire whether Capt[ain]s Clendenin Chamberlain and Munroe were stricken from Roll of [the] Army by executive order²²

Monroe is stricken from the rolls

Clindinen is suspended without consulting the President so far as auditing his accounts etc. under promise of the President to send proofs in writing by the secretary by 3 men sufficient to authorize his being stricken off. President thinks he has authority to do so.

Chamberlain—The President says that his commission expired with his furlough

I W Burton
A. C. Horton

The doors being opened the Senate adjourned until 3 o clo[ck] P. M.

Dec 16th 1837

The Report of the Indian Committee made in October was taken up.

Mr Wharton introduced a Res[olution] declaring null and void the treaty made by Gen[era]l Houston and Col[onel] Forbes with certain tribes of Indians, which was read and the rule being suspended it was adopted.

Mr Everitt offered a Res[olution] appointing Gen[era]l Hamilton as Ass[istan]t Commissioner to negotiate the loan of five millions, which was read and adopted.

Executive Department
Republic of Texas
To the Hon[orable] Senate of Texas.

City of Houston
Dec. 16th 1837²³

Gentlemen:

I have the honour of submitting for the ratification of your Hon[orable] body the nomination of Wm R Scott Esqr as Chief Justice for the county of Brazoria. Your advice and consent to this nomination is respectfully requested.

Sam Houston

The doors were opened.

²²The above title is endorsed on back of the report and states that it was received December 15, 1837.

²³See note 3 above.

Executive Department

Republic of Texas

To the Hon[orable] Senate of Texas

Gentlemen :

In reply to an inquiry from your Hon[orable] body, requesting my reasons for continuing Capt. J. D. Boylan in the naval service of the Republic, after the rejection of his nomination by the Hon[orable] Senate, I take great pleasure in stating that it was the result of much reflection, and had not the Executive continued him in command the consequences might have been fraught with some detriment to that arm of our National defense. Sanguine of the ratification of the nomination of Capt[ai]n J D Boylan, he was ordered on board the Brutus, where the news of his rejection was communicated to him, and even then he would have been deprived of his command had not the Executive been aware that he obtained the crew for the Brutus. The Vessels were then prepared for a cruise, and to have taken away the command from him at that time might have been the cause of much discontent and dissatisfaction to those men, whom he had been instrumental in placing on board his vessel; and consequently the desired cruise would have been dilatory in its consummation. For the advancement of the best interests of the Republic, and for that alone, the Executive most respectfully assures the Hon[orable] Senate he continued Capt[ai]n Boylan in command. I have transmitted documents herewith, which will convince the Senate that the Executive was authorized in his nomination. Which documents²⁵ Capt[ai]n Boylan hopes will be returned after perusal.

Sam Houston

Executive Department

Republic of Texas

To the Hon[orable] Senate of Texas.

Gentlemen :

I take pleasure in offering for the ratification of your Hon[orable] body the enclosed Treaty concluded between the Tonkaway Indians and Colonel Karnes on behalf of this Government.

Sam Houston

²⁵See note 3 above. Secret sessions of the senate on this date are noted in the public journal, but not in the secret journal.

²⁶The documents transmitted have not been found.

²⁷See note 3 above.

Treaty with the Tonkaway Indians.

Texas Post of Bexar
Nov. 22nd 1837²⁷

The following treaty of peace and amity was entered into at the Post of Bexar in the Republic of Texas, between the Toncoway Tribe of Indians, thro[ugh] their Head Chiefs, on the one part, and the Republic of Texas, through its authorized Commissioner Col[onel] Henry W. Karnes, of the other part.

Article First.

We, the Chiefs of the Toncoway tribe of Indians, being sensible that war is a great evil and attended with incalculable mischiefs, do this day promise to bury the Tomahawk and live upon terms of Peace and amity with the government of Texas. And in order to secure the blessings of peace, we do bind ourselves to bring to condign punishment such individuals of our tribe as may depradate upon the property or injure the persons of any of the citizens belonging to the Republic of Texas. adopted²⁸

Article Second.

As the desire of gain is an unconquerable passion in the human breast, and when united to bad heart, the source of all the ills which afflict humanity, we do, to avoid the evils resulting from a direct intercourse with unprincipled men and to perpetuate the friendly relation which is this day established, require the Texian Commissioner to appoint a Trading Agent, who shall regulate and have a controlling influence over the trade which may be carried on between the Toncoways and the citizens of Texas. adopted²⁹

Article Third.

Full ingress and egress is allowed to the citizens of Texas for the purposes of trade, subject to the requisitions of the Second Article; that is to say, no trader is to enter our Tribe with an intent to trade, without first obtaining a license or passport from our *Trading Agent*; and for the prevention of future collisions, we bind ourselves and our Tribe not to trade with any persons who are not legally authorized to traffic among us. adopted³⁰

²⁷D. S. in Indian Affairs. Texas State Library.

²⁸The word adopted is written at the end of each of the first five articles; it is perhaps the memorandum of the secretary of the senate.

²⁹*Ibid.*

³⁰*Ibid.*

Article Fourth.

The Government of Texas also agrees to live on terms of peace and amity with the Toncoways; and should the latter fulfill the stipulations mentioned above, it binds itself to punish all agressions which may be committed by any of its citizens upon the Toncoway tribe; provided sufficient evidence of guilt is adduced. adopted²¹

Article Fifth.

In conformity to the Second Article of this treaty, I, H. W. Karnes, the Commissioner appointed by Government to treat with the Frontier Tribes, do this day constitute and appoint Nathaniel Lewis, the Trading Agent, of the Toncoway tribe, the said Lewis to continue in office until removed by the Government. adopted²²

Article Sixth.

This treaty is to take effect and be binding upon the Toncoways, when signed by the Chiefs; and upon the Government of Texas when constitutionally ratified.

In testimony whereof, the Representatives of the two contracting parties have hereunto set their names and affixed their seals this 22nd day of Nov[ember] 1837.

Toncoway Chiefs	{	Ouchcala
		his + mark (Seal)
	{	Hosata
		his + mark (Seal)
	{	Harshokena
		his + mark (Seal)

H. W. Karnes (Seal)

Signed Duplicates.

Dec 19th 1837

The [resolution] relative to the dismissal of Capt[ain]s Clendinin Monroe and Chamberlain was taken up, amended by striking out the name of Chamberlain and the ayes and nays being called on its passage stood as follows

Ayes Messrs Barnett, Burton, Everitt, Robertson, Wharton and Wilson—6.

Nays Messrs Dunn, Ellis, Lester and Somerville—4

and the Res[olution] passed and the injunction of secrecy was removed.

²¹See note 28, p. 103.

²²Ibid.

The treaty with the Toncaway Indians was read section by section and ratified. ✓

The ayes and nays being called on the confirmation of the nomination of Wm. P. Scott as Ch[ief Justice of Brazoria Co[unty] stood as follows—

Ayes Messrs Everitt, Dunn, Ellis, Horton, Lester [and] Robertson—6

Nays Messrs Barnett, Burton, Wharton and Wilson—4, and the nomination was confirmed.

S. H. Everitt,
President pro tem of the Senate.

SECOND CONGRESS

THIRD OR ADJOURNED SESSION

Secret Journal of the Senate of Texas.

April 25th 1838¹

The doors being closed, the President laid before the Senate a message from the President of the Republic, dated April 23rd 1838, communicating a convention entered into on the 11th inst[ant] between the Hon[orable] R. A. Irion, Secretary of State of the Republic of Texas, and the Hon[orable] Alceé La Branche, Chargé d'Affaires from the Government of the United States.

Executive Department
Texas.

City of Houston
23d April 1838²

Gentlemen of the Senate!

The Executive has the pleasure of submitting to your Honorable Body a convention³ entered into on the 11th Inst. between the Honorable R. A. Irion, Sec[retar]y of State of the Republic of Texas, and the Honorable Alceé La Branche Charge d'Affaires from the Government of the United States.

The Executive is satisfied of the fairness of the transaction, and that it is as favorable to the interests of this Republic as it had any right to anticipate. The President therefore requests of his constitutional advisers, the Honorable Senate, an approval and ratification of the same, that the odium which has heretofore attached to this country and its authorities may no longer have reason to exist. Full restitution having been made to the Government of the United States for all just demands, it is to be hoped that our future relations to that Government will be greatly subserved, and matters of vital importance to many of our citizens, as well as the country, be facilitated, which have not heretofore met the cordial cooperation of that Government, which to us were very desirable.

Sam Houston

¹The secret journal of the adjourned session of the second congress is incomplete. The portion extant, covering the period from April 25 to May 3, 1838, embraces five unnumbered folio pages, and is in the handwriting of W. F. Gray, Secretary of the Senate. It is found among the papers of the second congress. The journal for the period from May 4 to 24 is missing.

²The secret journal has no copy of this message; it has, therefore, been supplied from the original.

³The Convention is printed in *Treaties, Conventions . . . between the United States of America and other Powers, 1776-1909*, II 1778-79. (61 Cong., 2 sess., Sen. Doc. No. 357.)

The message and the convention were read the first time. The doors were then opened, and the Senate rose from secret session.

W. F. Gray
Sec[retar]y.

April 28th 1838

The Senate went into secret session.

The President laid before the Senate a message from the President of the Republic dated April 25th 1838, making the following nominations, which were read, viz.*

Executive Department
Texas

City of Houston
April 25, 1838

To The Honorable Senate
Gentlemen,

I have the pleasure of laying before you, the constitutional advisers of the President, the following appointments which have been made during the recess of Congress, and should the list not contain all which have been made, so soon as information can be obtained from the Departments in relation to them, they will be nominated by me with much satisfaction.

Henry H. Williams, Consul for the Port of Baltimore, U. S. A.

John F. Cortes, Consul for the Port of Natchitoches, U. S. A.

John L. Hodge, Consul for the Port of Philadelphia, U. S. A.

James D. Hamilton Jr., Consul for the Port of Charleston, U. S. A.

George Dobson, Consul for the Port of Mobile, U. S. A.

E. O. Le Grand Chief Justice of the County of San Augustine.

John H. Money Chief Justice of the County of Austin.

Napoleon B. Thompson District Attorney for the first Judicial District.

The advice and concurrence in the foregoing nominations by the Honorable Senate is respectfully requested.

Sam Houston

The convention entered into between the Secretary of State and the United States Chargé d'Affaires, on the 11th inst[ant] for indemnification for the Brig Pocket, etc. was read a second time.

On motion of Mr Everitt it was

Resolved, That the President be respectfully requested to lay before the Senate the correspondence and any information he may have in regard to the convention of indemnification between this Government and the United States, entered into April 11th Inst[ant] now before the Senate.

*In place of the brief summary contained in the secret journal, a copy of the message is introduced.

The doors were then opened and the Senate rose from secret session.

W. F. Gray

Sec[retar]y

May 2nd 1838

The doors being closed, the Senate went into secret session.

The convention between the Sec[retar]y of State and the Chargé d'Affaires of the United States, made on the 11th ult[im]o, was read a second time.

The appointments of Chief Justices of Counties and of other officers made by the President of the Republic during the recess and communicated in his Message of the 25th ult[im]o were taken up.

The nomination of E. O. Legrand, as Chief Justice of the County of San Augustine, was considered, and passed over for the present.

The nomination of John H. Money, as Chief Justice of the County of Austin, was considered and confirmed.

The nomination of Henry H. Williams as Consul for the Port of Baltimore, in the U[nited] S[tates] of America, was considered and confirmed.

The nomination of John F. Cortes, as Consul for the Port of Natchitoches in the U[nited] S[tates] of A[merica] was considered and confirmed.

The nomination of John L. Hodge as Consul for the Port of Philadelphia, in the United States of America, was considered and confirmed.

The nomination of James D. Hamilton as Consul for the Port of Charleston, in the U[nited] S[tates] of America, was considered and confirmed.

The nomination of George Dobson as Consul for the Port of Mobile, in the United States of America, was considered and confirmed.

The nomination of Napoleon B. Thompson, as District Attorney for the first Judicial District, was considered and confirmed.

Ordered, That the injunction of secrecy, so far as regards the confirmation of the foregoing appointments, be removed.

W. F. Gray,

Sec[retar]y.

May 3rd 1838.

The Senate went into secret session, and the doors being closed,

The convention between the Government of Texas and the Government of the United States, concluded between the Sec[retar]y of State of Texas, and the Chargé d'Affaires of the U[nited] S[tates]

on the 11th ult{im}o, was taken up and read by sections, whereupon it was

Ordered. That the Senate advise and consent to the ratification of the Convention entered into on the 11th day of April, ult{im}o, between the Hon{orable} R. A. Irion, Secretary of State of the Republic of Texas and the Hon{orable} Alceé La Branche, Chargé d'Affaires of the United States of America, acting on behalf of their respective **Governments to terminate the reclamations of the Government of the United States for the capture, seizure and detention of the Brigs Pocket and Durango, and for injuries suffered by citizens of the United States on board the Pocket.**

Ordered. That the injunction of secrecy in relation to the confirmation of the convention above named be removed.

[Here ends the Secret Journal for this session: the manuscript for the period from May 4 to 24 has been lost. A few messages from the President, which were sent to the Senate for action in secret session, are appended.]

Executive Department
Texas

City of Houston
April 27th 1838*

To the Honorable Senate
Gentlemen,

I have the pleasure of laying before you, the constitutional advisers of the President, the following appointments, which have been made during the recess of Congress, and should the list not contain all which have been made, so soon as information can be obtained from the Departments in relation to them, they will be nominated by me with much satisfaction

A. S. Thruston, Quarter Master General.

C. L. Harrison, Inspector General.

Hillequest Landers, Quarter Master.

The concurrence and advice on the foregoing nominations by the Honorable Senate is respectfully requested.

Sam Houston

*This copy of the message has been taken from the original. An endorsement on the back of this message states that it was received and read May 17, 1838. The public journal notes a secret session on this date.

Executive Department
Texas

City of Houston
21st May 1838^{*}

To the Honorable the Senate.
Gentlemen.

The President has the pleasure of nominating for your consideration Samuel M. Williams and Albert T. Burnley as commissioners of the Five Million Loan, agreeably to the late act of Congress. And respectfully asks the advice and confirmation of the Honorable Senate.

Sam Houston

Executive Department, Houston, May 24th
1838^{*}

To the Senate.

The President has the pleasure of submitting to the Honorable Senate a Convention^o of limits between the United States and Texas, recently entered into by the plenipotentiaries of the two Governments, and respectfully requests the Ratification of the same.

Respectfully

Sam Houston

To the President of the Republic of Texas.

The Secretary of State has the honor herewith to transmit to the President a convention of limits between the United States and Texas entered into at Washington City on fifth [twenty-fifth] day of April 1838, by the plenipotentiaries of the two Governments.

R. A. Irion

Department of State
City of Houston, May 24th 1838¹⁰

^{*}This copy of the message has been taken from the original. The public journal notes a secret session on this date.

^{*}This copy of the message has been taken from the original. The public journal makes note of secret sessions held May 22 and 23, but not May 24.

^{*}This convention is printed in *Treaties, Conventions . . . between the United States of America and other Powers, 1776-1909*, II 1779-1780 (61 Cong., 2 sess., Sen. Doc. No. 357).

¹⁰L. S.

THIRD CONGRESS

Roll of Senators

George W. Barnett, for the District of Washington and Montgomery.

Isaac W. Burton, for the District of Nacogdoches and Houston.

Edward Burleson, for the District of Bastrop, Gonzales and Fayette.

John Dunn, for the District of Goliad, Refugio and San Patricio.

Richard Ellis, for the District of Red River and Fannin.

Stephen H. Everitt, for the District of Jasper and Jefferson.

John A. Greer, for the District of San Augustine.

Oliver Jones, for the District of Austin and Colorado.

Harvey Kendrick, for the District of Matagorda, Jackson and Victoria.

Emory Rains, for the District of Shelby and Sabine.

Juan N. Seguin, for the District of Bexar.

Benoni Stroud, for the District of Milam and Robertson.

William H. Wharton, for the District of Brazoria.

Robert Wilson, for the District of Harrisburg and Liberty.

Officers of the Senate

Mirabeau B. Lamar, Vice-President until December 10, 1838.

David G. Burnet, Vice-President, inaugurated December 10, 1838.

Stephen H. Everitt, President pro tem.

John D. McLeod, Secretary.

THIRD CONGRESS

*Journals of the Senate of the Republic
of Texas, in Secret Session. First Session of the Third Congress 1838.*¹

Senate Hall
13th Novr 1838.

The Senate went into secret session and took up the communication from his Excellency the President.

Executive Department
Texas
City of Houston
13 Nov 1838²

The President has the pleasure of submitting to the Honorable Senate the following appointments which have been made during the recess of Congress, and await the ratification of your Hon[orable] Body.

Anson Jones, Minister Plenipotentiary near the Gov[ernmen]t of the United States.

Geo. W. Hockley, Secretary of War.

C. S. Taylor, Commissioner to run the boundary line between this Republic and the United States.

John Willis, Consul of the Republic for the Dep[artmen]t of the "Bouches du Rhone," to take effect when a commercial treaty shall have been entered into between the Gov[ernmen]t of Texas and France.

A. S. Thruston, Attorney General.

¹The secret journals of the third congress here printed are found in a manuscript volume, containing the secret journals of the third, fourth, fifth and sixth congresses. This volume in some manner not known was lost from the archives of Texas. Fortunately it was recovered by the late C. Arthur Williams, of Washington, D. C., and by him presented to the State Library. The *Houston Post* of June 29, 1906, stated that "this ancient volume was found among some old papers in the archives at Washington and was placed in the hands of Judge Seth Shepard, who decided that the State of Texas was the proper custodian." Letters from Hon. W. J. Clay, commissioner of agriculture, insurance, statistics and history, to Judge Seth Shepard and to Mr. C. Arthur Williams, acknowledging receipt of this valuable gift, show that Mr. Williams was the donor and Judge Shepard the transmitter.

The secret journals of the third congress embrace thirty-two unnumbered folio pages. This journal is a revision of the secretary of the senate's rough minutes; some of the latter are preserved among the papers of the third congress. The task of revising and copying the journals into this volume was performed by the secretary; see the resolution adopted on January 24, 1839; the handwriting, too, indicates this. There is some evidence in the journal that the work was done some time after the adjournment of the third congress, perhaps after the removal of the seat of government to Austin.

²The copy of the message here printed has been compared with and made to conform to the original.

Wm. G. Cooke, Quarter Master General.
Geo. W. Poe, Stock Commissioner.
Thomas Toby, Consul for the port of New Orleans.
George Lane, District Attorney San Augustine
John Hubert, District Attorney Nacogdoches
Alex Horton, Collector Dist[ri]ct of San Augustine
John Sharpe, Notary Public Port of Velasco
E. D. Johnson, Notary Public Port of Galveston
Thomas Hurvey, Notary Public of Matagorda
John Alex Newlands, Notary Public of Houston.
W. Fairfax Gray, Notary Public of Houston.
H. L. Cooke, Chief Justice, County Matagorda.
Lysander Wells, Promoted to Colonel of Cavalry.
Ralph Kellog, Consul for Port of Boston, U. S. A.
Nathaniel Amory, Secretary of Legation near the Gov[ernment]t
of the United States in place of Fairfax Cattlet resigned
Sam Houston

On motion of Mr. Burton they were laid on the table until third Monday of December 1838, which was adopted

Mr. Everitt president pro tem[pore] suggested to the Senate [the need] of the Secretarys notifying the Executive of the same, the Secretary was instructed accordingly

On motion of Mr. Wharton the doors were reopened

[November 19, 1838]

Executive Dep[artmen]t
Texas
To the Honorable Congress.
Gent[lemen]

City of Houston
16 Nov 1838*

The Executive feels it his duty to communicate to your Hon[orable] Body, that since the last session of Congress the Hon[orable] James Collinsworth, Chief Justice of the Republic, deceased, and rendered it necessary for the Executive to make a *pro tem[pore]* appointment, which was conferred upon the Hon[orable] John Bird-sall, and has the honor now to communicate the facts to your Hon[orable] Body that it may adopt such action, as its reason may direct.

Sam Houston

On motion of Mr. Wharton it was likewise laid on the table until the third Monday of Dec[ember] 1838.

Mr. Wilson moved that the injunction of secrecy of the proceed-

*See note 2 above.

ing on a former date in relation to the nominations be removed carried.

The doors were reopened

Senate Hall
5th Dec 1839 [sic]

Secret Session.

The doors being closed, the Senate went into secret session upon a Message⁴ from the president reporting a communication from Sam[ue]l Williams one of the Commissioners of the loan and one of the acting navy agents. Mr. Burton moved that the letters and contract be referred to a special committee of five

On motion of Mr. Burton the Senate appointed the committee viz. Wharton, Burton, Barnet, Jones, and Everitt, who were instructed to report as soon as possible

Mr. Burleson moved the Senate adjourn till 10 o'clock Monday the 10th inst[ant].

Mr. Everitt and Mr. Wharton offered resolutions on the above subject which were lost.⁵

Doors reopened

⁴The message and the communication have not been found. The contract between F. Dawson and Samuel Williams, dated November 13, 1838, for the purchase of six vessels for the Texas navy, is printed in *Appendix to the Journals of the House of Representatives*, 5 Cong., pp. 202-204.

⁵The proceedings, briefly referred to in this sentence, are given in full in "Rough minutes Secret Session 5th Dec 1838." They are as follows:

"Mr Everitt moved at the last session Mr Williams be withdrawn as Commissioner to negotiate the Loan. The President considers it not withdrawn

"Mr Everitt moved,

"Resolved, That the President be respectfully requested to communicate to the Senate the causes that have induced him to withhold from the Senate a nomination of some suitable person to fill the place of Commissioner for negotiating the five million loan, in place of Sam M. Williams who the Senate consented to be withdrawn from nomination at the last session of the senate.

"Col[onel] Wharton's substitute

"Resolved That the senate having learnt not officially but from the public newspapers that Sam[ue]l M Williams who was nominated by the President as commissioner of the loan at the last session and rejected by the Senate has been appointed by the President commissioner in the recess of Senate, the Senate therefore conceive that the subsequent appointment of s[ai]d Williams as commissioner is directly contrary to the constitution and is therefore null and void from the beginning.

"Further Resolved That the Senate conceive that the constitution has been violated by the President inasmuch as he has not within ten days communicated to the Senate his appointment of Sam M Williams as commissioner etc etc

"Judge Ellis moved that a special committee of three be appointed to report relative to the appointment of Sam Williams

"On motion of Mr. Burleson the Senate adjourned until Monday morning 10 o'clock"

[December 10,† 1838]

The Senate resolved itself into secret session on a communication from the Executive viz.

Executive Dep[artmen]t
Texas

City of Houston
10th Dec. 1838*

To the Hon[orable] Senate,
Gent[lemen]

In accordance with a resolution of the Senate of the 21st ult[im]o respecting the foreign relations of the Republic, I transmit a report from the Secretary of State, and the documents which accompany it.⁷

It will be found of the most satisfactory character, and evinces the most conclusive evidence of the labors, as well as the ability and capacity of the Hon[orable] Sec[retar]y of State.

Sam Houston

On motion of Mr. Wharton they were laid on the table for the present.

Mr. Kendrick moved that the doors be reopened. carried.

Senate Hall 11th Dec 1838

Joint session of both Houses of Congress in secret session for [elect-
ing a] Chief Justice

On motion of Col[onel] Cooke John A Wharton was nominated for the same

On motion of Mr. Kaufman Gen[era]l T. J. Rusk was put in nomination.

On motion of Mr. Barnet Judge Birdsall was put in nomination

On motion of Mr. Holmes Judge Franklin was put in nomination

A difference of opinion arose between the Senators and Representatives when Mr. Ellis moved the Senate to withdraw from the House carried unanimously

Secret Session
12th Dec 1838

On motion of Mr. Everitt,

Resolved that the nominations and resignations now before the Senate be submitted to the President⁸ for consideration and to enable him to fill vacancies and make new appointments if necessary.

Carried and the Secretary instructed to leave with the President said documents.

doors reopened.

⁷See note 2 above.

⁸The report and the documents referred to have not been identified.

*M. B. Lamar succeeded Sam Houston as president of the Republic of Texas on December 10, 1838.

[December 13, 1838]

Executive Department
Houston 13th Dec 1838^oTo the Honorable
The Senate
Gentlemen

I take pleasure in nominating the following Gentlemen as my Cabinet Officers—and respectfully request your confirmation of the appointments.

Barnard E Bee, Sec[retary] of State.

Algernon S. Johnson,¹⁰ Sec[retary] of War.

Memucan Hunt, Sec[retary] of Navy.

Richard G. Dunlap Sec[retary] of the Trea[sur]y.

John C Watrous Attorney General.

Yours respectfully,
Mirabeau B. Lamar.

The Senate then took up the nominations individually
Barnard E Bee Sec[retary] of State confirmed unanimously
A S Johnson Sec[retary] of War confirmed unanimously
Mr. Wharton moved to lay on the table the nomination of the Sec[retary] of the Navy until the act then under consideration in the Senate uniting the War and Navy Dep[artmen]ts was dispatched with. Mr. Greer opposed the same.

Mr. Burton moved that the strength of the House be put on laying the nomination on the table which resulted as follows those who voted in the affirmative [were] Messrs Dunn, Jones, Stroud, Wharton, Wilson—5 In the negative Barnet, Burleson, Burton, Ellis, Everitt, Greer, Kendrick, Seguin 8 Motion Lost,

So [the vote on the confirmation of] Memucan Hunt Sec[retary] of the Navy resulted as follows, in the Affirmative [were] Messrs Barnet, Burleson, Burton, Everitt, Ellis, Greer, Jones, Kendrick, Seguin, Stroud, and Wharton 11 in the negative Wilson [and] Dunn 2, Confirmed

Richard Dunlap as Sec[retar]y of the Treasury considerable argument ensued. Mr. Dunn stated some facts relative to Gen[era]l Dunlap upon which Mr. Everitt motioned that the nomination lay on the table for the present at the same time appointing a committee to enquire into the charges alledged

Mr. Burton introduced the following Resolution That a committee of four be appointed to enquire into the nature of the charges preferred against Gen[era]l Dunlap by the Senator from Refugio,

⁹See note 2 above.

¹⁰Albert Sidney Johnston.

and that said committee have power to send for persons and papers
Messrs. Burton, Ellis, Everitt and Dunn were appointed said committee.

Jno C Watrous, Attorney Gen[era]l confirmed unanimously

On motion of Col[onel] Wharton the Secretary was instructed to inform the president of the fate of the foregoing nomination.

Mr. Everitt moved that the injunction of secrecy be removed so far as relates to the nominations confirmed this day Carried.
doors reopened

Senate Hall Secret Session

14th Dec. 1839 [sic]

Mr. Burton chairman of the committee on the investigation of charges against Gen[era]l Dunlap, reported that the committee had performed their duty and find the charges unfounded in fact, and that during the investigation the conduct of General Dunlap was brought to light which evinced traits of a noble character and that General Dunlap is a gentleman well worthy the confidence of the Senate.

The Special Committee⁹ to whom was referred the charges against the conduct and character of Genl. R S Dunlap ask leave to report

That they have in secret session investigated the whole matter and find the charges not founded on facts but that in the progress of the investigation traits of character on the part of Genl. Dunlap were developed highly honorable to him as a man and a gentleman.

Your Committee are of opinion that [the] character of Genl. Dunlap is unimpeachable and that he is worthy of the entire confidence of your honorable body. Accompanying this report is a copy of the evidence elicited in the progress of the investigation¹⁰

Respectfully

I W Burton Ch[airman]

Special Com[mit]tee

Mr. Dunn protested against the report, also against the proceedings of the committee

Report concurred in

On motion of Mr. Ellis the nomination of General Dunlap as Sec[retar]y of the Treasury was confirmed. the ayes and noes standing thus, Affirmative Messrs Barnet, Burleson, Burton, Ellis, Everitt, Greer, Jones, Kendrick, Seguin, Stroud, Wharton, Wilson, 12 Negative Dunn, 1.

Mr. Everitt moved that the injunction of secrecy be removed carried

⁹This report is among the Papers of the Third Congress.

¹⁰The evidence referred to as submitted with this report has not been found.

The Sec[retar]y was instructed to inform the President of the result

Doors reopened.

Senate Hall Secret Session
21st Dec. 1838

Executive Dep[artmen]t
Texas

City of Houston
21st Dec. 1838¹¹

To the Honorable the President and Gentlemen of the Senate,

I have the honor to nominate William T Austin as Collector of the Public Revenue for the Dist[ri]ct of Brazos, at the Port of Velasco.

Mirabeau B. Lamar.

Mr Wharton moved that the nomination be confirmed, carried unanimously

Mr Jones moved that the injunction of secrecy be removed. carried

Doors being reopened

Senate Hall Secret Session
[26th? Dec. 1838.]

Executive Dep[artmen]t
Texas

City of Houston
24th Dec. 1838¹²

To the Honorable, the Senate:

The Executive presents to the Senate the following names for their consideration and action.

James Hamilton, Commissioner of Loans.

Austin Bryan, Secretary of Legation to the United States.

William Bryan, Consul at New Orleans.

Thos. L. Hamilton, Consul at Charleston, So[uth] C[arolina]

With equal pleasure he nominates Doctor Willis Roberts as Collector of the Customs at Port of Galveston. This Gentleman has been intimately known to the President, for twenty five years, as a man of science, literature, and unblemished reputation, and he will be happy to have it in his power to avail himself of the services of one so worthy of public confidence

Mirabeau B. Lamar.

The Senate went into secret session on the nominations made by the Executive.

Mr. Seguin introduced a resolution that the Senate consider Mr.

¹¹See note 2 above.

¹²*Ibid.*

R Wilson arrested until the decision of the Senate is made known, ayes and noes being called for affirmative Mr. President, Barnet, Burleson, Kendrick, Greer, Seguin, Stroud, Wharton, 8. Negative Burton, Dunn 2 carried.

Mr. Everitt moved that the injunction of secrecy be removed

Doors reopened

26th Dec. 1838

3 o'clock

Doors being closed, the orders of the day, the nominations of the President were taken up.

James Hamilton [who] was nominated for the office of Commissioner of Loans [was] confirmed.

Austin Bryan Sec[retary] of Legation to U[nited] S[tates] confirmed

Wm Bryan Consul at N[ew] O[rleans] confirmed

Thos. L. Hamilton Consul at Charleston confirmed

Dr Roberts as Collector at Galveston

Mr. Dunn enquired if Mr. Roberts was a citizen when Dr Everitt asked leave for a few moments when he returned with the following certificate

"It comes within my knowledge that Dr. Willis Roberts arrived in this country, more than six months ago and declared himself a citizen of the Republic

26th Dec. 1838

Signed M B Lamar

Ayes and Noes being called for stood as follows President pro. tem, Barnet, Burleson, Burton, Greer, Jones, Kendrick, Seguin, Stroud, Wharton 10 in the affirmative. Dunn 1 Negative confirmed.

Senate Hall Secret Session

7th January 1839

A Bill to confirm the contract for the purchase of a Steam Vessel, with amendments,

Mr Everitt moved the concurrence of the Senate in the amendment made by the House of Representatives concurred in

Executive Dep[artmen]t

Texas,

City of Houston

January 7th 1839¹⁸

I have the honor to nominate

Silas Dinsmore, Chief Justice Matagorda Co[unty].

P. O. Lumpkin Chief Justice Houston Co[unty].

"See note 2 above.

John Sharp Notary Public Valasco.
 Daniel J Toler Notary Public Washington.
 Wm H Dangerfield Notary Public Bexar.
 J W Byrne Collector of the Customs at Arransas.
 John D. Morris District Attorney Bexar.
O. P. Kelton Notary Public Galveston.

And respectfully request the Senate's confirmation.

Mirabeau B. Lamar

The nominations of the president were taken up
 On motion the Chief Justiceship of Matagorda be laid on the table
 till called up. carried

On motion of Mr Everitt the nominations of the President was
 laid on the table until tomorrow. carried

Senate Hall Secret Session
 8th January 1839

Senate went into secret session

The nominations of the President was taken up

P. O Lumpkin Chief Justice Houston Co{unt}y Laid on the
 table until called up

John Sharp Notary Public Velasco
 Daniel Toler Notary Public Washington
 Wm H Daingerfield Notary Public Bexar
 O. P. Kelton Notary Public Galveston
 John D Morris¹⁴ District Att{orne}y Bexar

All of whom were confirmed

J. W. Byrnes, Collector of the Customs Arransas

after considerable debate as to the eligibility of Mr Byrne, he
 was rejected on account of non residence.

Mr. Greer moved that the injunction of secrecy be removed and
 that the Sec{retar}y be instructed to inform the Executive of the
 same.

adjourned

Executive Dep{artmen}t
 Texas

City of Houston
 Jan[uar]y 10th 1839¹⁵

To the Honorable, the Senate
 and House of Representatives:

The accompanying communication from the Secretary of the Treas-
 ury is submitted to Congress, for such action, as may be deemed ad-
 visable in reference to it, by that Honorable Body. The proposed

¹⁴The name of John D Morris District Attorney for Bexar is an addi-
 tion to the list made with pencil.

¹⁵See note 2 above.

loan, it is true, is upon conditions which under ordinary circumstances would be regarded as too onerous for acceptance, but when the present condition of the Country is considered, the Executive entertains the hope that Congress will perceive benefits that must result from its immediate negociation, which will be more than equivalent to the burthens it imposes, and which at a crisis like this, should not be permitted to pass unimproved. An army of sufficient force to put a speedy, and final end to the savage warfare which is now waging on our border, is imperatively demanded by the sufferings of our Citizens, and must be furnished; but in the present impoverished condition of the Treasury, it is certain that it cannot be supplied, except upon terms which will be much more injurious to the Country, than those now offered.

We have but two modes of raising money for the support of war—the one by loan, and the other by Government issues. The inadequacy of the latter system to meet the exigency of the times, is obvious to the mind of the Executive. A further expansion of our promissory notes cannot fail to reduce them to comparative worthlessness, and seriously to affect the general character and credit of the nation. It remains for us to look to foreign loans, as the only safe and certain method of meeting and sustaining the burthens of our military operations. I therefore advise the acceptance of the present proposed loan, as onerous as the terms may seem to be, as the only means of supplying our immediate necessities, and pressing demands for money.

The importance of keeping the burthensome character of the negociation a secret for the present, will suggest itself to the prudence of the Honorable Congress.

Mirabeau B. Lamar.

Treasury Department
Houston Jan'y 9 1839¹⁸

To his Excellency
The President

Sir

I have the honor to submit to your Excellency the following proposition for a loan. It is proposed to give this Government two hundred and eighty five thousand dollars, in the notes of a specie paying Bank and checks on the North, for the bonds of the Government for five hundred thousand dollars, bearing eight per cent interest per annum payable semiannually, the bonds to fall due ten years from the first of this month.

The bank that issued the notes offered, is one of large capital and of decided character and credit, and its paper and the checks will be

"L. S.

equal to gold and silver. The money is now in the City of Houston ready to be paid to the Government.

The incidents connected with the past and present call for relief without delay, against those high emergencies, that are bearing down and oppressing every interest, and all the relations of the Republic, nothing but a correct knowledge of the actual condition of things is wanting to urge every patriot and statesman to plead the necessity, value and importance of a speedy loan. The sacrifice to be made may be a matter for an honest difference of opinion. But this is a sacrifice, which older and more powerful nations had to make while struggling for the principles of self rule and independence.

Peace, order and the basis of a Nation's prosperity, must first be firmly established before confidence will strengthen and ripen into an unimpaired credit. The Promissory notes of the Government are not worth more than fifty cents on the Dollar. The large issue which for the want of a loan, that the late administration had to make, is beginning to be felt at home and abroad, and is gradually affecting the value of the paper. The audited paper and ten per cent stock of the Government is only worth in market from thirty to thirty three cents on the dollar—what is to raise the value of our paper, our stock, and our credit—protection to the citizens, protection to the emigrant. The Country must be first peopled, and their time must be employed in developing the rich and ample resources of the Republic, before prosperity and its incidental attendant Credit, shall shed abroad over this favored land its genial rays of promise and plenty. While the time of the citizen is occupied in guarding his family and his home, kept on the watch and agitated with daily alarm, emigration will be stayed, and every interest of the Country must wither and decay, every obligation of the Government be violated, ruin and not credit will follow such a timid, suicidal and parsimonious policy.

The indian war which is now raging with great annoyance, must soon assume a broader and larger operation upon the whole frontier,—this will require expenditures for things indispensable, which must be purchased in the United States. The contemplated loan from England cannot be effected within less time than some four or six months.

If an issue of the promissory notes shall be allowed by law to meet the present imperative demands of the Republic, a ruinous depreciation in its value will be the result.

The history of a paper circulation (not based upon gold or silver coin) proves conclusively, that when the amount exceeds the demand required for the productive labor of the Country, that a consequent

depreciation has ever and will continue to occur in proportion to the demand and the excess.

The present attitude and conditions of things, forces conviction upon the reflecting, that the commerce of the Republic for a few years, cannot be based upon productive labor, the source of every nation's wealth. The consequence is irresistible, that this state of things, which can only be remedied by time, population, and improvement, will draw money from the nation and keep it drained and exhausted. This must continue to depress the value of our paper.

A revulsion can only take place when Texas shall become large exporters of the rich products of her own soil.

This view of the subject suggests this question for consideration and decision—Shall the Government submit to the large discount on her bonds as proposed, and relieve its paper from a farther and ruinous depreciation, and obtain the means to satisfy the commanding wants of the country for present defence, or shall she trust longer to hope, leave things to take care of themselves, and waste the blood of her citizens upon a cold calculation and a sure system of economy, which after the lapse of a few months will enable the Government without doubt to make a better bargain.

These hasty remarks made under the influence of that feeling, which has ever taught me to believe that the waste of treasure was but trash, compared with the waste of the property, the life and the liberty of the Citizens of a nation, are respectfully submitted to your Excellency's consideration.

I have the honor to be

Very respectfully
Your obt Servt
R. G. Dunlap
Sec[retar]y of Treasury.

Referred to a special committee Messrs Everitt, Jones and Burleson¹⁷

Senate Chamber Secret Session
12th January 1839

Joint Resolution.

Resolved that the President be and he is hereby authorized to have negotiated One Million of the Five Million loan heretofore authorized on the best terms that can be procured. The bonds for the same to be signed by the president and Sec[retar]y of the Treasury, any thing in the act of the 16th of May 1838 to the contrary notwithstanding.

Read first time—rule suspended on motion Mr Everitt. Read

"Endorsement on original message of the President.

second time and [on] motion of Wm. H Wharton indefinitely postponed

Senate Chamber Secret Session
12th January 1839

On motion of Mr. Burton

Resolved by the Senate that as the constitutional advisers of the Executive they feel it their duty to say to him that their refusal to act upon the proposition for a loan presented to the Senate through the Secretary of the Treasury was predicated upon the belief that such action would have been injurious to our financial credit abroad and productive of but slight benefits at home. That the Senate are not warranted¹⁸ that a crisis has arrived which demands such a¹⁸ sacrifice and that one may arise demanding a still greater and it is with a view of enabling the executive to meet such exigencies that they have consented to the passage of the Resolution of the — inst[ant] fully trusting the *confidence* they have so liberally reposed in the Executive will be as patriotically sustained by that officer

On motion of Mr. Greer laid on the table.

Mr. Everitt from the committee to whom was referred the communication of the President in relation to Loans made a report by bill, to which Mr. Wharton offered a substitute which was also rejected.

Mr Burton moved that the committee to whom was referred the communication of the President made [make?] a Report by recommending the passage of a joint resolution authorizing the President to negotiate One Million of the Five Million loan bill.

Mr. Everitt moved the suspension of the rule at which Mr. Dunn opposed the too hasty passage of bills.

Ayes and nays being called for, those in the affirmative were Burleson, Burton, Barnet, Everitt, Jones, Greer, Kendrick, Seguin and Wharton. In the negative Dunn—*one*—Lost. rule suspended read second time—rule further susp[ende]d. read third time and passed.

Everitt moved that the doors be opened. carried.

Senate Chamber
14th January 1839

Mr. Burton from the committee to whom was referred the communication of the President made a Report by Joint Resolution as follows,

Resolved by the Senate and House of Representatives that the President be and he is hereby authorized to have negotiated not exceeding One Million of dollars of the bonds of this Government on

¹⁸The rough or first draft of Mr. Burton's resolution varies from the copy in the secret journal in two important instances; for the word "warranted" the word "unaware" is used, and for the expression "such a" the word "some" is used.

the best terms that can be procured. Said bonds to be signed by the President and countersigned by the Secretary of the Treasury and made payable at such time and place and in such currency as the contracting parties may agree upon, anything in the loan bill of the 16th May 1838 to the contrary notwithstanding.

Be it further resolved that the President be and he is hereby authorized and required forthwith or as soon as practicable to instruct the commissioners of the loan authorized by Act of Congress dated 16th May 1838 to limit their operations under that law to the sum of Three Millions of Dollars.

Mr. Everitt moved that the rules be susp[ende]d and the Joint Resol[utio]n pass to a second reading, carried The rple was further [suspended, the Joint Resolution] passed to a third reading and passed its final passage unanimously.

On motion of Mr. Kendrick the doors were opened.

Senate Chamber
15th Jan. 1839

City of Houston
Executive Dept 15 Jan 39

To the Hon[ora]ble Senate

The President nominates

Matthew Caldwell as Captain.

James Campbell as First Lieutenant and

C. C. Colly as Second Lieutenant of the Company of Rangers to be raised under a special law for the defense of Goliad, and requests the Senate's confirmation.

Signed Mirabeau B Lamar

[The Senate] resolved itself into secret session on the message of his Excellency nominating officers for the Ranging Service. the nominations were taken up

Capt[ain] M. Caldwell, carried.°

Jas. Campbell First Lieut[enant], carried.°

C. C. Colley Second Lieut[enant], carried.°

Mr. Wharton presented the Petition of Nathaniel Townsend the Consul at New Orleans which was read and on motion of Mr. Greer it was indefinitely postponed

The injunction of secrecy was removed and the doors opened

*That is, confirmed.

Senate Chamber Secret Session

16th Jan'y

City of Houston

16th January 1839¹⁰Executive Department
Texas.

To the Hon[ora]ble Senate

Mr President and Gentlemen

I take much pleasure in making the following nominations and respectfully ask the Senate's confirmation of the same

Asa Brigham, Treasurer

John G. Welshmyer, First Auditor²⁰J. W. Moody, Second Auditor²⁰

James W. Simmons, Comptroller

James Morgan, Navy Agent

Samuel Hughes, Collector of the Revenue for the Port of Arransas.

G. W. Collingsworth, Collector of Revenue for the Port of Matagorda

Mirabeau B. Lamar.

Mr. Wharton moved a suspension of the rule requiring the communications of the Executive to lay on the table one day be suspended and that they go into the confirmation of the nominations—which was carried.

Asa Brigham, Treasurer, Confirmed

J G Welshmyer, Second Auditor,²⁰ ConfirmedJ. W. Moody, First Auditor,²⁰ Confirmed

J. W. Simmons Controller, Confirmed

Jas Morgan Navy Agent, Confirmed

Mr. Wharton moved the nomination of Mr. Hughes as Collector of the Revenues at the Port of Aransas lay on the table until the information be had inquiring as to Mr. Hughes residence in the Republic carried.

Mr. Kendrick moved that Mr. Geo. W. Collinsworth's nomination as Collector of the Revenue at the Port of Matagorda be confirmed—carried, unanimously conf[irme]d

Mr. Wharton offered a Joint Resolution authorizing the President to purchase certain vessels viz.

Résolved by the Senate and House of Representatives in Congress assembled that the President be requested to require of the Minister of this Republic at Washington to open a negotiation with the diplomatic representation of France for the purpose of purchasing the whole or part of the fleet which France has lately captured from Mexico and that the President is hereby authorized to pay for said

¹⁰See note 2 above.

²⁰The discrepancy between the nominations and the confirmation exists in the original documents.

fleet out of any money heretofore appropriated for the purpose of a navy.

On motion of Mr. Everitt the rule was suspended read a second time—rule further suspended read a third time and passed unanimously.

Mr. Wharton moved that the committee on Foreign Relations be required to call on the President and gain information respecting the withdrawal of the proposition for Annexation to the U[nited] S[tates]. Carried

On motion of Mr. Dunn the doors were opened

Senate Chamber Secret Session
17th January 1839

On motion of Mr. Everitt the nomination of Mr. Sam'l Hughes Collector at the Port of Aransas was confirmed.

Owing to the Joint Resolution passed by the Senate on the 14th inst[ant] and rejected by the House of Representatives, the Senate took up the Bill that originated in the House of Representatives.

On the motion of Mr. Everitt the bill authorizing the President to negotiate a One Million loan was read second time and [on] motion of Harvey Kendrick the rule requiring bills to lay on the table one day be suspended, carried and the bill passed to its third and last reading.¹⁹

Senate Chamber (Secret Session)
23rd January 1839

Executive De[partment]
Texas

City of Houston
Jan'y 23rd 1839²⁰

To the Honorable the Senate

Mr. President and Gentlemen

I take pleasure in nominating,

Edward Burleson, for Colonel,

William S. Fisher for Lieut[enant] Colonel,

P. S. Wyatt for Major of Frontier Regiment,

and respectfully request your confirmation of the same.

Mirabeau B. Lamar.

Executive Reaprtment
Texas

City of Houston
23rd January, 1839²¹

To the Senate

The President nominates

¹⁹The act is printed in Gammel, *Laws of Texas*, II 64-66.

²⁰See note 2 above.

²¹*Ibid.*

H. O. Watts, Collector of the Port of La Bacca.
 R. C. Doom, Collector of the Port of Sabine Pass.
 Thos. Harvey Notary Public for Matagorda.
 Wm. Fairfax Gray, and Sam'l A. Roberts Notaries Public for
 Harrisburg County and respectfully asks the Senates confirmation.
 Mirabeau B. Lamar

On motion of Mr. Wharton the nominations of the President were taken up.

Edward Burleson, Colonel—the ayes and nays were called for and which resulted as follows

For the nomination Messrs Barnet, Burton, Ellis, Everitt, Greer, Jones, Kendrick, Stroud. 8. Negative Messrs. Wharton and Wilson 2. So Mr. Burleson's nomination was confirmed.

Wm. S. Fisher, Lieutenant Col[onel]

Ayes and nays being called for resulted as follows in the affirmative Messrs. Barnet, Burton, Ellis, Everitt, Greer, Jones, Kendrick, Wharton and Wilson 9. in the negative Messrs. Dunn and Stroud 2 so the nomination of Wm S Fisher was confirmed.

P. L. Wyatt, as Major, confirmed.

H. O. Watts Collector of Revenue La Bacca confirmed,

R. C. Doom Coll[ecto]r of Revenue of Sabine confirmed

Thos Harvey Notary Public Matagorda confirmed.

Wm. Fairfax Gray Notary Public Harrisburg C[ount]y confirmed.

Sam'l Roberts Notary Public Harrisburg County confirmed

The ayes and nays being called for resulted as follows in the affirmative Barnet, Burton, Dunn, Ellis, Everitt, Greer, Jones, Kendrick and Wharten 9 in the negative Messrs. Seguin, Stroud and Wilson so the Mr. Roberts nomination was confirmed.

Mr. Kendrick moved that the nomination of Silas Dinsmore for Chief Justice of Matagorda and O. P. Lumpkin for Chief Justice of Houston co[unt]y which were laid on the table be taken up and acted on. carried.

Silas Dinsmore Chief Justice of Matagorda C[ount]y confirmed.

O. P. Lumpkin Chief Justice of Houston County confirmed.

On motion of Mr. Wilson the doors were opened.

Senate Chamber

24th January 1839.

Executive Department

24th January 1839²²

To the Hon[ora]ble Senate

The President nominates J. Reily as Commissioner to negociate the

²²See note 2 above.

sale of One Million of the Bonds of the Government, under the Executive instruction in accordance with loan bill of 22nd inst[ant] Mirabeau B. Lamar.

On motion of Mr. Burton Mr. Reily's appoint[ment] was taken up and confirmed same day by the Senate in secret session.

Executive Dep[artmen]t
Texas

City of Houston
24th Jan'y 1839

To the Hon[ora]ble Senate

The President respectfully asks the Senate's confirmation of the following nominations for the frontier Regiment

Wm D Redd Captain
Adam Clendennin Captain
H W Davis Capt[ain]
John Holiday Captain
J. C. P. Kenneymore First Lieutenant
P. J. Pillans First Lieutenant
Wm. Kerley First Lieutenant
——— Goodall First Lieutenant
Geo W Palmer Second Lieutenant²³
W. Hufton Second Lieutenant
J. S. Sutton Second Lieutenant
Wm. Redfield Second Lieutenant
John Brown Second Lieutenant

(Signed) Mirabeau B. Lamar.

The Senate resolved itself into secret session on the nominations for the officers of the Frontier Regiment, viz

W D Redd Captain confirmed
Adam Clendenin Captain confirmed
H W Davis Captain confirmed
John Holiday Captain confirmed
J. C. P. Kenneymore First Lieutenant confirmed
P. J. Pillans First Lieutenant confirmed
Wm Kerley First Lieutenant confirmed
——— Goodall First Lieutenant confirmed
Geo W Palmer First Lieutenant confirmed²³
W Hufton Second Lieutenant confirmed
J. S. Sutton Second Lieutenant confirmed
Wm. Redfield Second Lieutenant confirmed
John Brown Second Lieutenant confirmed

²³See note 20, p. 127.

Mr. Burton offered the following Resolution in relation to the Secretary of the Senate

Resolved that it shall be the duty of the Secretary of the Senate that he shall preserve carefully the papers, documents and other articles belonging to the Senate he shall have the journals legibly and correctly recorded he shall also keep a journal of the secret session to which none shall have access but the members of Congress whose proceedings they are he shall arrange the papers so that they may be easily referred to and shall superintend the printing of the same

Resolved that the said officer shall receive his pay on the certificate from the Sec[retary] of State which shall be sufficient evidence for the auditor to audit the same.

Read first time 24th Jan[uar]y. On motion of Mr. Jones rule suspended Read second time 24th Jan[uar]y Rule further suspended Read third time and passed 24th Jan[uar]y.

The injunction of secrecy was removed

And on motion of Mr. Wharton the doors were opened.

Finale of the Secret Journals for the Third Congress First Session 1838 and 1839

FOURTH CONGRESS

Roll of Senators

George W. Barnett, for District of Washington and Montgomery.

Isaac W. Burton, for District of Nacogdoches and Houston.

John Dunn, for District of Goliad, Refugio and San Patricio.

Richard Ellis, for District of Red River and Fannin.

Stephen H. Everitt, for District of Jasper and Jefferson.

James Gaines, for the District of Shelby, Sabine and Harrison.

John A. Greer, for District of San Augustine.

Anson Jones, for District of Brazoria.

Oliver Jones, for District of Austin, Colorado and Fort Bend.

Harvey Kendrick, for District of Matagorda, Jackson and Victoria.

James S. Lester, for District of Fayette, Bastrop and Gonzales.

Francis Moore, for District of Harris, Liberty and Galveston.

Juan N. Seguin, for District of Bexar.

Benoni Stroud, for District of Milam and Robertson.

Officers of the Senate

David G. Burnet, Vice President.

John D. McLeod, Secretary.

Algernon Thompson, Assistant Secretary.

FOURTH CONGRESS

Secret Journals of; The Fourth Congress First Session 1839-1840

Senate Chamber, Secret Session.

18th Nov. 1839¹

The doors being closed, the following communications from the President were read to the Senate.

Executive Department

18th Nov. 1839²

To the Honorable Senate
Gentlemen

I have the honor herewith to transmit the names of Civil Officers, who have been appointed by the Executive during the recess, subject to confirmation, or rejection by the Senate.

Date of appointment.	Names.	Offices.
1839.		
May 25	James H. Starr.....	Secretary of the Treasury.
May 2	Louis P. Cook.....	Secretary of the Navy.
Mar 30	James Webb.....	Attorney General.
Mar. 13	Rich[ard] G. Dunlap.....	Minister to the United States.
Feb. 29	Barnard E. Bee.....	Commissioner to Mexico.
Mar. 12	Geo. L. Hammeken.....	Secretary to the Commissioner to Mexico.
May 31	Musgrove Evans.....	Second Auditor.
Aug. 22	Charles Mason.....	First Auditor.
July 24	David Sample.....	Commissioner to fix the boundary between this Republic and the United States.
	George W. Smyth.....	Surveyor to run said boundary.
	Hamilton F. Bee.....	Clerk to the same.
Feb. 11	Joseph B. Brown.....	Consul at Key West, U. S.
Feb. 11	Walter Smith.....	Consul at Mobile, U. S.
June 25	Cyrus Joy.....	Consul at Philadelphia, U. S.
June 23	Thos. A. Dexter.....	Consul at Boston, U. S.
Feb. 11	William P. Wyche.....	Chief Justice of Sabine County.
Mar. 1	William P. Miller.....	Chief Justice of Victoria County.
Mar. 8	Willard Wadhams.....	Chief Justice of Colorado County.
Mar. 19	John C. Brooke.....	Chief Justice of San Augustine County.
May 1	William Hart.....	Chief Justice of Nacogdoches County.
May 1	James Campbell.....	Chief Justice of Gonzales County.
June 27	Andrew J. Fowler.....	Chief Justice of Red River County.
June 28	John Collins.....	Chief Justice of Houston County.
Mar. 29	Thos. H. McIntire.....	Chief Justice of Jackson County.
July 10	George B. Atkins.....	Chief Justice of Harrison County.
July 23	Hugh B. Johnson.....	Chief Justice of Liberty County.
July 24	Daniel J. Filer.....	Chief Justice of Washington County.
Aug. 16	Martin Farmer.....	Chief Justice, Jasper County.
Oct. 21	Benjamin P. Buckner.....	Chief Justice, Harrisburg County.
Jan. 23	David Holt.....	Notary public, Brazoria County.
Feb. 1	Timri W. Eddy.....	Notary public, Jefferson County.

¹There are two sources for the secret journals of the fourth congress. First, there is the volume described in Note 1 to the secret journals of the third congress. The secret journals of the fourth congress embrace forty-five pages of this volume. The task of recording them was the work of the secretary of the senate. They abound in abbreviations. This copy will be referred to as copy A. Secondly, there are the secret journals of each session as written by Algernon Thompson, assistant secretary of the senate. These are well preserved; they appear to have been carefully written out from day to day; they were read to and approved by the Senate; and as shown on their face formed the basis for the journals transcribed into the volume referred to above. They form the basis of the journal here printed. They are among the papers of the fourth congress. Reference will be made to this copy of the secret journals as copy B.

The title at the head of this page is from A.

²The copy of the message here printed has been compared with and made to conform to the original.

Date of appointment.	Names.	Offices.
Feb. 1	Geo. A. Pattillo.....	Notary public, Jefferson County.
Feb. 15	Gwynn Morrison.....	Notary public, Montgomery County.
May 13	William Myres.....	Notary public, Jasper County.
	William Byrne.....	Notary public, Redugio County.
July 1	John S. Evans.....	Notary public, Galveston County.
Nov. 13	H. W. Sudduth.....	Notary public, Jasper County.
Mar. 22	Fred[erick] W. Ogden.....	District Attorney for the First Judicial District.
Sept. 5	John E. Reid.....	District Attorney for the Second Judicial District.
	Charles S. Taylor.....	District Attorney for the Fifth Judicial District.
	John D. Swaim.....	Collector of Customs, Sabine.
	K. L. Anderson.....	Collector of Customs, San Augustine.

Mirabeau B. Lamar.

Executive Department.

Austin 18th Nov. 1839.

To the Honorable Senate,
Gentlemen,

I have the honor herewith to transmit the names of Officers of the Army who have been appointed by the Executive during the recess, subject to confirmation, or rejection, by the Senate.

Date of appointment.	Names.	Offices.
1839.		
Jan. 30	Lysander Wells.....	Colonel, First Reg[imen]t, Cavalry.
Jan. 30	Hugh McLeod.....	Adjutant General. Staff.
Oct. 25	Wm. G. Cooke.....	Quar[ter] Master General. Staff.
Jan. 30	P. H. Bell.....	Inspector General. Staff.
Mar. 23	Jacob Snively.....	Pay Master General. Staff.
Oct. 25	Wm. L. Cazeneau.....	Commissary Gen[er]al of Subsistence. Staff.
Jan. 30	P. B. Dexter.....	Lieutenant Colonel. Staff.
Jan. 30	B. H. Johnson.....	Ass[istan]t Adj[utan]t General. Staff.
Mar. 23	W. H. Dangerfeld.....	Commissary of Purchases. Staff.
Jan. 30	B. B. Sturges.....	Pay Master. Staff.
Jan. 30	H. Landers.....	Commissary of Subsistence. Staff.
July 20	Wm. B. Smith.....	Surgeon General. Medical Staff.
July 30	T. P. Anderson.....	Surgeon. Medical Staff.
July 30	Shields Booker.....	Surgeon. Medical Staff.
April 6	Edmund Tucker.....	Surgeon. Medical Staff.
April 6	Rich[ard] Cochran.....	Ass[istan]t Surgeon. Medical Staff.
Jan. 23	G. T. Howard.....	Captain First Reg[imen]t Infantry.
Jan. 30	Ben[amin] Y. Gillon.....	" " "
Jan. 30	M. B. Skerett.....	" " "
Jan. 30	G. F. Lawrence.....	" " "
Jan. 30	G. W. Morgan.....	" " "
Jan. 30	J. P. B. January.....	" " "
Feb. 15	J. C. P. Kenneymore.....	" " "
Mar. 21	P. J. Pillans.....	" " "
Mar. 23	Matthew Caldwell.....	" " "
Jan. 30	Sam B. Carson.....	First Lieutenant "
Jan. 30	D. C. Ogden.....	" " "
Jan. 30	Edw[ar]d Thompson.....	" " "
Jan. 30	U. M. Dunnington.....	" " "
Jan. 30	J. Wahl.....	" " "
Jan. 30	E. S. Neighbors.....	" " "
Jan. 30	Martin Moran.....	" " "
Mar. 23	Wm. D. Houghton.....	" " "
Jan. 30	H. L. Grush.....	Second Lieutenant "
Jan. 30	Daniel Lewis.....	" " "
Jan. 30	O. H. Hornaby.....	" " "
Feb. 20	J. M. Alexander.....	" " "
Mar. 23	A. H. Scott.....	" " "
Nov. 15	Matthew McGovern.....	" " "

(Signed) Mirabeau B. Lamar.

On motion by Mr. Everitt, the foregoing communications were laid on the table for consideration.

The doors were then reopened.

Algernon Thompson^s
Assistant Secretary

Senate Chamber, Secret Session.
20th Nov. 1839.

A communication from the Executive containing the following nominations of Naval Officers appointed during the recess was read a first time and laid on the table for consideration.

Post Captain Edwin W. Moore
Commanders John G. Tod
John T. K. Lothrop
George Wheelright
A. C. Hinton
Lieutenants Francis B. Wright
E. C. Kennedy
W. R. Postell
Thruston M. Taylor
George G. Marion
Edward A. Harrison
George Henderson
William S. Williamson
George W. Estes
James E. Gibbons
Jas O'Shaunessy
Alexander C. Blount
A. Moore
J. D. Johnson
S. S. Shipley
Fabrius Stanley
George C. Bartlett
Fred[eric]k C. Ward
Collins
Bassiers
T. M. Mix
Surgeons Isaac D. Knight
Rich[ard] H. Leech.
J. B. Gardiner
Fletcher Dorey

^sThe proceedings of most sessions in copy B close with the signature of Algernon Thompson, Assistant Secretary. The signature will not be repeated.

Ass[istan]t Surgeon Francis Lambert
 Pursers Norman Hurd
 J. F. Stephens
 Fleming^a T. Wells
 William F. Maury
 A. K. Durker
 David Kerr
 Robert Oliver
 Sailing Masters Daniel Lloyd
 John H Barker
 Charles H. Woodland
 John Appleman
 Midshipmen Charles B. Snow
 Alfred A. Waite
 Cyrus Cummings
 Downing H. Crisp
 William Oliver
 Charles F. Fuller
 Littleton Bennett
 Daniel C. Wilber
 Henry A. Cobb
 Walter A. Nicol^b
 Josiah Hoyle
 Judson A. Rowe
 Zacharia Forrest
 Robert Clements
 John R. Titcomb
 Charles B. Underhill
 Wm. J. D. Pierpont
 Cornelius Cox
 Wm. A. Tennison
 M. H. Dearborn
 James L. Maybry
 Orlando Ware
 Charles J. Archambal^c
 Francis B. Webb
 E. B. Harrington
 W. W. McFarlane
 C. S. Betts
 William E. Glenn
 James M. Brady

^aCopy A has Francis T. Wells.

^bCopy A has Nichol.

^cCopy A has Archambal.

Stoneall

Thos. P. Conway
 J. A. Forrest
 Alfred Walk
 James M. Wheeler
 Jas. J. Lewis
 R. T. Halstead
 J. C. Bronough⁴
 Charles Gould
 John F. Barnard
 Matthew R. Kintzing
 Armstrong J. Lewis
 J. W. C. Parker
 F. B. McNeill
 George H. Bell

Navy Agent Wm. T. Brannum
 Naval Store Keeper Nathan Smith

Signed Mirabeau B. Lamar.

On motion of Mr. Everitt, the Senate then took up the Civil nominations made to the Senate on the 18th November 1839. Of which the following were confirmed and the remainder laid on the table for further consideration.

James Webb Attorney General
 Charles Mason First Auditor
 Joseph P. Brown Consul at Key West
 Walter Smith Consul at Mobile
 T. A. Dexter Consul at Boston
 David Holt Notary Publick Brazoria County
 Geo. A. Patillo Notary Public Jefferson County
 Wm. Myers Notary Publick Jasper County
 J. S. Evans Notary Publick Galveston County
 H. W. Sudduth Notary Publick Jasper County
 F. W. Ogden District Attorney First Judicial District.
 John R. Reid District Attorney Second Judicial District

Of the foregoing confirmations, the vote on that of John S. Evans stood thus: In the affirmative, Messrs. Barnett, Burton, Everitt, Kendrick, Lester and Stroud. Six. In the negative, Messrs. Dunn, Greer, Jones of Austin, Jones of Brazoria, Moore and Seguin. Six. The Vice President voted in the affirmative.

The others were confirmed by a unanimous vote.

⁴Copy A has Broughnan.

The seal of secrecy was taken off, with regard to the confirmations made.

On motion of Mr. Jones of Brazoria, the doors were then reopened.*

Senate Chamber, Secret Session
21st Nov. 1839.

The doors being closed, the nomination of David Sample as Commissioner to run the boundary line between this country and the United States, was taken up, on motion by Mr. Everitt.

Mr. Everitt moved that the nomination of Mr. Sample be confirmed; the question being put those who voted in the affirmative were Messrs. Barnet, Burton, Ellis, Everitt, Kendrick and Stroud. Six. In the negative, Messrs. Dunn, Greer, Jones of Austin, Jones of Brazoria, Lester, Moore and Seguin. Seven. So the nomination was rejected.

The Secretary of the Senate was instructed to inform the President of the Republick of said rejection.

The doors were then reopened.

The doors being again closed, the following communication from the Executive was read a first time and, on motion of Mr. Kendrick, laid on the table for consideration.

Executive Department
20th November 1839*.

To the Honorable Senate
Gentlemen

I have the honor to present the following appointments to the consideration of the Senate—to wit.

George W. Adams, Notary Public, Harrisburg County.

Charles De Morse, Stock Commissioner.

H. B. King, Chief Justice Milam County

Jas. M. Brown, Chief Justice Jackson County.

Robert Johnson, Chief Justice Galveston County.

Mirabeau B. Lamar.

In addition to the above, the President would nominate Henry Wise Farley as Chief Justice of Liberty County in the place of Hugh B Johnson resigned, whose name was presented on the 18th inst[ant] and as yet not acted on by the Senate.

Mirabeau B. Lamar.

20th Nov. 1839.

*See Note 3 above.

*See Note 2 above.

On motion by Mr. Kendrick, the doors were then reopened.⁵

In Senate, Secret Session.

23 Nov. 1839.

The following communication from the Executive was read to the Senate:

Executive Department
23rd November 1839*.

To the Hon[orable]
The Senate
Gentlemen

The Executive nominates P. B. Dexter as a suitable person to run and establish the line between this Republic and the United States, in the place of David Sample rejected by the Senate.

Mirabeau B. Lamar.

Mr. Everitt moved that the nomination be taken up and acted upon at once. But as the vote in favour of this motion was not unanimous, the nomination was ordered to lie on the table till Monday.

The Secretary then read the following Executive message:

Executive Department
Austin 23 November 1839.

To the Hon[ora]ble,
The Senate,
Gentlemen,

Having, some time since, received information, from unofficial sources, that the business of the Custom House at Galveston was conducted in a loose and unsatisfactory manner, I directed the Secretary of the Treasury to appoint an agent, to examine into the affairs of that Office and to report upon its condition. The report of the Agent has just been received, and it appearing that the duties of that office have not been performed with that efficiency and due regard to the publick interest which we have a right to exact in stations so responsible and important, I am constrained by a sense of duty to the country to supercede the collector and place some person in his office who may be more attentive and more vigilant in the discharge of the duties required of him.

I therefore nominate Aldin A. M. Jackson as Collector of customs for the port and district of Galveston in the place of Willis Rob-

*See Note 3 above.

*See Note 2 above.

erts removed, and would respectfully solicit the Senate's early attention to the same, as it is desirable that the contemplated change be effected without delay.

Mirabeau B. Lamar.

Mr. Everitt moved a suspension of the rules, but the vote not being unanimous for the motion, the nomination was ordered to lie upon the table till Monday.

On motion by Mr. Greer, the nomination of K. L. Anderson, Collector of Customs for the District of San Augustine, was taken up and confirmed by a unanimous vote of the Senate.

The doors were then reopened.*

Secret Session
[25th Nov. 1839.]

The nomination of P. B. Dexter as Commissioner to run the Boundary line between the United States and the Republick of Texas.

Mr. Jones of Austin moved that the nomination be laid on the table and that the President be informed of the objections to it. The ayes and noes being called for on the motion, those who voted in the affirmative were Messrs. Barnet, Jones of Austin, Lester and Moore. Four. Messrs. Burton, Dunn, Ellis, Everitt, Greer, Jones of Brazoria, Kendrick, Seguin and Stroud voted in the negative. Nine. So the motion of Mr. Jones was lost.

The question was then put "Does the Senate advise and consent to the nomination?" The ayes and noes stood thus: Ayes, Jones of Brazoria, Lester, Moore and Seguin. Four. Noes, Messrs. Barnet, Burton, Dunn, Ellis, Everitt, Greer, Jones of Austin, Kendrick and Stroud. Nine. So the nomination was rejected.

The nomination of Aldin A. M. Jackson was then taken up, and on motion by Mr. Burton, laid on the table.

The Secretary was instructed to hand to the printer a list of the nominations confirmed.

On motion by Mr. Burton, the nomination of Richard G. Dunlap, as Minister to the United States, was then taken up. On the question "does the Senate advise and consent to the nomination?" being put, those who voted in the affirmative were Messrs. Ellis, Greer, Lester and Stroud. Four. In the negative, Messrs. Barnet, Burton, Dunn, Everitt, Jones of Austin, Kendrick, Moore and Seguin. Eight. So the nomination was rejected.

On motion by Mr. Everitt, the nominations of G. W. Smyth as

*See Note 3 above.

Surveyor to run the Boundary line, and Hamilton P. Bee, Clerk to the Commissioner, were unanimously confirmed.

On motion by Mr. Everitt, the nominations of Timri W. Eddy as Notary Publick of Jasper county and Gwynn Morrison as Notary Publick of Montgomery county, were confirmed by a unanimous vote.

On motion by Mr. Dunn, the nomination of William Byrne as Notary Publick of Refugio county was unanimously confirmed.

On motion by Mr. Moore, the nomination of G. W. Adams as Notary Publick of Harrisburg county was unanimously confirmed.

Mr. Burton moved that Charles S. Taylor be confirmed in the appointment of District Attorney of the fifth Judicial District. Those who voted in the affirmative were Messrs. Burton, Ellis, Jones of Austin, Jones of Brazoria, Kendrick and Seguin. Six. In the negative, Messrs. Barnet, Dunn, Everitt, Greer, Lester, Moore and Stroud. Seven. So the nomination was rejected.

On the question "Does the Senate advise and consent to the nomination of John D. Swaim Collector of Customs of Sabine?" On motion by Mr. Jones of Austin, the nomination was laid on the table.

On motion by Mr. Barnet, the injunction of secrecy was removed so far as regards the confirmations or rejections of appointments.

On motion of Mr. Burton, the doors were then reopened.*

Secret Session.

27th Nov. 1839.

The doors being closed the Secretary read the following communication from the Executive.

Executive Department

27th November 1839†.

To the Hon[orable]
The Senate
Gentlemen

Having understood from Mr. Jackson that he will not accept the appointment of Collector of Galvezton in consequence of his having acted as Agent to investigate the affairs of said office, I must therefore beg leave of the Senate to withdraw the nomination.

I nominate to the Senate Memucan Hunt as Commissioner to run and fix the boundary line between Texas and the United States, in the place of David Sample rejected.

Mirabeau B. Lamar.

*See Note 3 above.

†See Note 2 above.

On motion by Mr. Everitt, the Executive was permitted to withdraw the nomination of Aldin A. M. Jackson.

On motion by Mr. Everitt, the rules were suspended and the nomination of Memucan Hunt taken into consideration. On the question, "does the Senate advise and consent to the nomination?" those who voted in the affirmative were Messrs. Barnet, Burton, Dunn, Everitt, Greer, Jones of Austin, Kendrick, Lester, Moore and Stroud. Ten. In the negative, Messrs Jones of Brazoria and Seguin. Two. So the nomination was confirmed.

On motion of Mr. Everitt, the vote on the nomination of Charles S. Taylor as District Attorney of the Fifth Judicial District, was reconsidered. The question was put "does the Senate advise and consent to the nomination of Charles S. Taylor?" Mr. Everitt was excused from voting on this question. Those who voted in the affirmative were Messrs. Burton, Jones of Austin, Jones of Brazoria, Kendrick and Seguin. Five. In the negative, Messrs. Barnet, Dunn, Greer, Lester, Moore and Stroud. Six. So the nomination was rejected.

On motion by Mr. Moore, the doors were then reopened, the seal of secrecy, as far as the confirmations and rejections made, having been removed.*

In Senate, Secret Session.

29th Nov. 1839

The doors being closed, on motion by Mr. Jones of Brazoria, the Senate proceeded to the election of Judges to fill the vacancies in the First and Second Judicial Districts, occasioned, the former by the death of Shelby Corzine, the latter by the resignation of Benjamin C. Franklin, for the unexpired term for which said Corzine and Franklin were elected.

The nominations made for the First Judicial District were Messrs. Anthony B. Shelby and John M. Hansford. Those who voted for Mr. Shelby were Messrs. Barnet, Dunn, Everitt, Greer, Jones of Austin, Jones of Brazoria, Kendrick, Lester, Moore and Seguin. Ten. Those who voted for Mr. Hansford were Messrs. Burton and Stroud. Two.

The nominations made for the Second Judicial District were Messrs. Wm. Jefferson Jones and John Scott. Those who voted for Mr. Jones were Messrs. Barnet, Burton, Dunn, Everitt, Greer, Kendrick, Lester and Seguin. Eight. Those who voted for Mr. Scott were Messrs. Jones of Austin, Jones of Brazoria, Moore and Stroud. Four.

The doors were then reopened.†

*See Note 3 above.

†Ibid.

In Senate, Secret Session.

2 December 1839.

The doors being closed, the following communication was read to the Senate.

Executive Department

2nd December 1839.*

To the Hon[orable] Senate

The Executive presents to the consideration of the Senate the following nominations, to wit:

J. H. Winchell, Notary Public for the county of Bexar.

John Hayden, and Joseph Moreland Notaries Public for the county of Bastrop.

Mirabeau B. Lamar.

which nominations were laid on the table for consideration.

On motion by Mr. Evritt, the doors were then reopened.⁹

Senate Chamber, Secret Session,

6th Dec. 1839.

The doors being closed, the Senate proceeded to ballot for public printer.

Those who voted for Messrs. Bonnell & Cruger were Messrs. Barnet, Burton, Dunn, Lester and Seguin. Five. For Sam[ue]l Whiting, Messrs. Everitt, Jones of Austin, Kendrick and Stroud. Five.

The doors were then reopened.

3 o'clock P. M.

The doors being closed, The following nominations were made for public printer and transmitted to the House of Representatives.

By Mr. Jones of Brazoria R. L. Weir

By Mr. Jones of Austin R. M. Williamson

By Mr. Stroud J. W. J. Niles

The Senate then proceeded to ballot for public printer

Messrs. Barnet, Burton, Dunn, Lester and Seguin voted for Bonnell & Cruger. Five.

Messrs. Everitt, Greer, Jones of Austin voted for Sam Whiting. Three.

Messrs. Jones of Brazoria and Kendrick voted for R. L. Weir. Two.

Mr. Stroud voted for Niles. One.

On motion by Mr Jones of Austin, the doors were then reopened.¹⁰

*See note 2 above.

*See Note 3 above.

¹⁰Ibid.

In Senate, Secret Session.
7th Dec. 1839.

On motion by Mr. Burton, the nominations of Notaries Publick for the county of Bastrop were taken up, and the Senate unanimously advised and consented to the following nominations:

John Hayden	} Notaries Publick, Bastrop County.
Joseph Moreland	

The civil nominations lying on the table were then taken into consideration.

Jas H. Starr to be Secretary of the Treasury.

On motion by Mr. Burton laid on the table.

On motion by Mr. Seguin, the following nomination was unanimously confirmed.

J. H. Winchell, Notary Publick Bexar County.

The doors were then reopened.⁸

Secret Session.
9th Dec. 1839.

The doors being closed the following communication was read:

Executive Department
10th December 1839.⁹

To the Hon[orable] the Senate
Gentlemen.

I nominate Edwin Waller for the office of Post Master General and respectfully ask the Senate's confirmation.

Mirabeau B. Lamar.

which nomination was laid on the table and, on motion by Mr. Everitt, [was] made the special order of the day for to-morrow

On motion by Mr. Moore, the nominations of Naval officers were then taken into consideration, but before they were acted upon, Mr. Moore obtained leave to withdraw his motion.

Mr. Jones of Brazoria moved that, as no law exists authorizing the appointment of Naval Officers, the several nominations be returned to the President, until Congress shall have taken action on the subject which was read first time and laid on the table.

On motion the doors were then reopened.¹⁰

⁸See note 3 above.

⁹See note 2 above.

¹⁰See Note 3 above.

Secret Session,
10th Dec. 1839.

The Senate received the following communication of the Executive, which was read by the Secretary.

Executive Department
10th December 1839.¹⁰

To the Hon[orable] the Senate
Gentlemen

Anxious to avail myself of the services of a man so eminently qualified for the discharge of the duties of Collector of Customs for the port of Galvezton as Alden A. M. Jackson, I have prevailed upon him to waive the objections which he has heretofore had to accepting the situation; and it is with pleasure I now nominate him to said office and respectfully solicit the Senate's confirmation.

Mirabeau B. Lamar.

On motion by Mr. Kendrick, the rules were suspended, and the nomination acted upon. Those who voted for the nomination were Messrs. Barnet, Burton, Everitt, Greer, Kendrick, Lester, Moore and Stroud. Eight. Those who voted against it were Messrs. Dunn, Jones of Austin, Jones of Brazoria and Seguin. Four. So the Senate advised and consented to the nomination.

The Senate then took into consideration the nomination of Edwin Waller. Those who voted in the affirmative were Messrs. Burton, Everitt, Jones of Brazoria, Kendrick, Lester and Moore. Six. In the negative, Messrs. Barnet, Dunn, Greer, Jones of Austin, Seguin and Stroud. Six. The Vice President voted in the affirmative. So the Senate advised and consented to the nomination.

Mr. Seguin moved that the injunction of secrecy be removed in toto from this days proceedings, which motion was lost.

Mr. Greer moved that the seal of secrecy be removed from the proceedings on the nomination of Post Master General so far as relates to the result and that the ayes and noes be published. Those who voted for the motion were Messrs. Barnet, Dunn, Greer, Jones of Austin, Jones of Brazoria and Stroud. Six. Against it, Messrs. Burton, Everitt, Kendrick, Lester, Moore and Seguin. Six. The Vice-President voted in the affirmative.

On motion by Mr. Moore, each member was permitted to divulge his reasons for his vote.

The doors were then reopened.¹¹

¹⁰See note 2 above.

¹¹See Note 3 above.

In Senate Secret Session
12th¹¹ Dec. 1839

On motion by Dr. Moore the nomination of James H Starr to be Sec[retar]y of the Treasury was taken into consideration and unanimously advised and consented to

On motion by Mr. Everitt the nomination of John D Swain to be Collector of the Customs for the district of Sabine was taken up and unanimously advised and consented to.

On motion by Mr. Moore the nomination of Musgrove Evans was taken into consideration. Those who voted for its confirmation were Messrs. Dunn, Burton, Everitt, Greer, Jones of A[ustin], Jones of B[razori]a, Kendrick, Lester, Moore and Stroud Ten For its rejection Barnet and Seguin 2. So the nomination was advised and consented to

The following communications were read to the Senate and on motion by Mr. Jones of B[razori]a referred to the Committee on Foreign relations

Executive Chamber
December 10th 1839¹²

Gentlemen of the Senate
and House of Representatives,

Believing that no event within the compass of human agency would more directly conduce to the permanent happiness and prosperity of Texas, than an honorable peace with Mexico, our late Mother Country, I have thought it expedient, as is intimated in my annual message, to present to the Mexican Government some formal and tangible overtures by which the dispositions of that Government might be clearly and definitely ascertained.

Fully sensible that Mexico like other nations, and even to an extraordinary degree, was prompted or restrained in all her policy by a pertinacious spirit of national pride, I conceived it not at all incompatible with the true dignity and the chivalrous character of Texas to offer to her acceptance the olive branch while we were sedulously perfecting and concentrating our effective means for the prosecution, should it become necessary, of an active and vigorous war. For this purpose I despatched the Honorable Barnard E. Bee to the Mexican coast in the month of February last. He proceeded to Vera Cruz, but owing as he believed in a great measure to the distracted and unsettled condition of the Mexican Government at the period of his arrival, he was denied access to their chief authorities and constrained to return without at that moment having accomplished any part of his mission;

¹¹The journal of the proceedings of December 12th are missing from copy B.
¹²See note 2 above.

he however received an intimation after his return that the Government would hear his propositions, but as the United States had offered its mediation between the two countries, he then considered it the better policy to renew the subject at Washington instead of again proceeding to Vera Cruz.

Subsequent to this repulse, which was in itself attended with other circumstances well calculated to assuage any feelings of resentment which such a result might otherwise superinduce, I was apprised from secret sources that a similar overture made in greater privacy, would probably be more effectual and receive a more respectful notice. Conscious that a brave and victorious people can never lose character by manifesting a sincere desire for peace, which is the happiest condition of society, I was willing to waive the little ceremonials which surround a factitious dignity, and to repeat to the Mexican authorities, in their own favorite mode, that Texas was desirous of a reconciliation on terms honorable to herself and just toward her enemy.

To this end I was induced in the month of August last to avail myself of the services of a gentleman of high character for intelligence, probity and firmness, and one who is intimately acquainted with Mexico and Mexicans, their institutions, habits and modes of thinking. I deem it prudent to retain that gentleman's name from communication even to the honorable Congress, for the divulging of it might by possibility not only jeopardize the success of his mission, but compromit his personal safety.

The accompanying documents, comprising instructions that have been furnished to Col[onel] Bee and to the *confidential* agent, will convey to the Congress all the additional information necessary to be imparted, and I have only to reiterate that in my apprehension there is no event that can transpire in the prospective concerns of Texas which involves more fully her happiness and prosperity than that of an honorable and just peace with Mexico. The compensation proposed to be made for the relinquishment of all her claims to the territory designated in the instruction is comparatively a trifle, estimating either the intrinsic value of that territory or the incidental advantages that must result to Texas from the speedy restoration of peace, and from the commercial intercourse that will ensue between the two countries. The accession which will result to our revenues from a reciprocal trade with Mexico, will soon remunerate to this Government all the expenses of the treaty; while the accelerated immigration, the more rapid and unembarrassed development of our manifold resources and the coincident increase of our national wealth,

will far transcend any temporary inconvenience to which the financial stipulation in the proposed treaty may subject us.

Mirabeau B. Lamar.

Accompanying the foregoing document are three Documents viz
 Letter of instructions to Agent to Mexico
 Extracts from instructions to the Hon[orable] R G Dunlap Minister to the U[nited] S[tates]¹²
 Instructions to the Hon[orable] B E Bee Minister to Mexico,
 all of which are filed in the Senate's archives.

Instructions to Bee

Department of State
 Houston, 20th Feby 1839¹³

Hon[orable] Barnard E. Bee.

Sir,

The President, anxious to effect a settlement of the existing differences with Mexico, and to restore peace and harmony, has appointed you Minister Plenipotentiary of the Republic of Texas, near the Government of that Country. I have therefore the honor to hand you your Commission and Credentials as such, and to express to you his wish that you will proceed with as little delay as possible, by the most convenient rout to Vera Cruz, or such other point as you may deem best, for making known to that Government, the objects of your Mission.

As this is the first attempt on the part of Texas to establish diplomatic relations with Mexico, it will be necessary to approach the subject with great caution and circumspection. I would suggest the propriety of your stopping in the first instance at Vera Cruz, Tampico, or such other point as you may select, and forwarding thence to the Government, a concise statement of the objects of your Mission, and respectfully ask to be received for the purpose of exhibiting your Authority, and making known more fully the wishes of the President. This however, is a mere suggestion, and not intended to control you in the course to be pursued, should circumstances in your judgment offer a better one.

It is hardly to be expected that you will be formally received as Minister Plenipotentiary of this Republic, untill a treaty of peace has been made, and the Independence of the Country acknowledged. Indeed, such a reception would be in itself an acknowledgement of our

¹²The instructions to R. G. Dunlap are printed in full in Garrison, *Diplomatic Correspondence of the Republic of Texas*, Part I, pp. 368-378.

¹³The copy of the instructions here printed was made from the original draft. A. D. S. in Correspondence Relating to Mexico. Texas State Library.

legitimate existence as a Nation, and a virtual recognition of our Independence; And as that is more than we can look, or even hope for, untill attained by negotiation, you will, in the event of a refusal to receive you as Minister, make your propositions as the Agent of this Government; and to enable you to do so, separate Credentials for this purpose are furnished you. Indeed, it may be better not to make known your higher functions untill you have sounded your way as agent, and ascertained whether or not, they will be disposed to treat with you in either capacity; but in this, as in all other matters preliminary to entering upon your nego[tia]tions, you will be guided by your own judgment and discretion.

Your powers as Agent are plenary, and under them you are fully authorized to negotiate for peace, and to form and sign a treaty securing it, but in making such treaty, you will require the *unconditional* recognition of the Independence of Texas, and will admit no limits less than those prescribed by the Act of Congress, entitled "An Act to define the boundaries of the Republic of Texas" approved 19th December 1836, a copy of which is herewith furnished you.¹⁴

These two last points you will regard as a *sine qua non* to any permanent treaty with Mexico; but if you find that it will aid you in the ultimate accomplishment of your objects, to negotiate a treaty of *peace and recognition* in the first instance, leaving the question of boundary to be subsequently settled in a general treaty of Amity, Limits, Commerce, Navigation and intercourse, you are at liberty to form such a treaty, but in doing so, you must be careful that nothing appears in it which could by any possibility be construed into an intention on the part of this Government, to yield any portion of the Territory claimed by the Act of Congress to which I have already refer[re]d you.

In negotiating a treaty, having for its immediate objects nothing farther than the restoration of peace and the recognition of our Independence, it will be better if it can be done, consistent with the claims of this Government, to define the limits at once; as by doing so, you will avoid much embarrassment and discussion in your future negotiations of a general treaty; you will therefore urge the subject as far as you can, without involving the risk of breaking off your present negotiations, and interrupting your future intercourse with the Government.

Should Mexico express a willingness to establish peace, and recognize the Independence of Texas to the extent of her original boundaries when forming a part of the Mexican Confederacy, but preemp-

¹⁴This act is printed in Gammel, *Laws of Texas*, I 1193-4.

torily refuse to admit our claims to the entire territory embraced within the limits defined by the Act of Congress, you may propose a compromise by negotiating for the purchase of all that portion of it which is not within the original boundaries, at a stipulated price; but the sum to be thus stipulated for it, must not exceed five millions of dollars, and that sum must be made payable in not less than five equal annual instalments; the first instalment to be made payable in one year after the exchange of the ratifications of the treaty.

The five millions will be the ultimatum of your propositions for the purchase, and you will of course commence your negotiations with propositions of a much less sum, and payable at longer periods, but should you succeed in effecting the purchase for a sum not exceeding two millions of dollars, you may, if you find it necessary, stipulate that the whole of that sum shall be paid in one year after the exchange of ratifications.

It is understood that Gen[era]l Santa Anna is again at the head of the Mexican Nation, and if so, this must be a propitious moment for the commencement of your negotiations. By a secret agreement made between him and the Cabinet of this Republic, at Velasco, on the 14[th] of May 1836, he promised that he would not take up arms himself, nor cause them to be taken up against the people of Texas during the War of Independence; that he would prepare the Cabinet of Mexico for the favorable reception of a Minister, through whose negotiations all differences might be settled, and the Independence of the Country acknowledged; and that a treaty of Commerce, Amity, and limits should be established between the two Countries, the limits of Texas not to extend beyond the *Rio Bravo del Norte*.

This agreement stipulates for all that we ask, and as Gen[era]l Santa Anna has once pledged himself to use his influence to carry it into effect, it is believed that it may be rendered very available by you,¹⁵ in the event of your finding him at the head of the Mexican Government. You are therefore furnished with a copy of it.¹⁶

It is true, that the stipulation in this agreement, to send Gen[era]l Santa Anna at once to Vera Cruz, was not literally fulfilled on the part of the Texan Government, at that time; and this may be urged as a reason for absolving him from the moral obligations which it implies; but the causes of the non-fulfilment of that stipu-

¹⁵It will be recalled that Barnard E. Bee accompanied Santa Anna out of Texas to the City of Washington in 1836. See page 28 above.

¹⁶Both the public and secret treaties, entered into by David G. Burnet and Santa Anna, on May 14, 1836, are printed in the *Journals of the House of Representatives of the Republic of Texas*, 1 Cong., 1 sess., pp. 24-26.

lation are well known to you, and to him, and as they involved no want of faith on the part of this Government, but were forced upon it by the uncontrollable circumstances, the moral force of the agreement is left wholly unimpaired; and more especially, as it was complied with and enforced, as soon as it could be done consistently with the personal safety of Gen[era]l Santa Anna. He was subsequently set at liberty, and sent out of the Country, in virtue of this very agreement, and in the only way which was deemed safe to himself, and conducive to the accomplishment of the objects contemplated by it.

It is not contended by this Government that the agreement made with Gen[era]l Santa Anna, while in this Country and a prisoner of war, is *legally* binding on the Mexican Government; but it is a well established principle of the law of Nations that the person who makes promises under circumstances similar to those in which the President of the Mexican Republic was placed while here, is afterwards bound to use his influence in causing those promises to be respected by his Government: and that the Government itself is bound to make many sacrifices rather than permit them to be violated. This principle of the law of Nations may be useful to you in your negotiations, and I therefore refer you in support of it to Vattel and other writers on international law.

Besides, in asking for the fulfilment of the stipulations of this agreement, we do not believe that we are requiring any sacrifices on the part of the Mexican Government which will not be more than made up to that country by the advantages which will result from the establishment of peace and a friendly intercourse between the two nations. Apart from all the obligations which it imposed, there are weighty reasons for the acknowledgment of the independence of Texas by Mexico, and for the forming a general treaty of Amity, Commerce, Navigation and intercourse between the two countries, and these reasons may be urged with peculiar force in your negotiations. Among them are: First, The entire dissimilarity in education, habits, manners, disposition and pursuits of the Inhabitants of the two countries, and the utter impossibility of their ever assimilating and moving harmoniously together, if they were again united.

Secondly, The total incompatibility of ideas entertained by the people of the two Republics as to the peculiar forms of Government best adapted to the wants and rights of Man.

Thirdly, The conflicts which must inevitably grow out, of this incompatibility of sentiment, and the injuries which would result from them if the Anglo Saxon race now inhabiting Texas should

be again commingled under the same form of Government with the Spanish race in Mexico.

Fourthly, The inconvenience and worthlessness of Texas to Mexico on account of its remoteness from her Seat of Government, and the main body of her population; and also on account of its contiguity to the United States of the North, where, in any state of things, most of its intercourse must necessarily tend.

Fifthly, The difficulties which Mexico would always experience, in keeping the Indians bordering on Texas in check at so great a distance from them.

Sixthly, The advantages which would necessarily result to both countries from a friendly intercourse and traffick, conducted in the spirit of reciprocal kindness and harmony, and

Seventhly, The disposition which Texas has manifested since the battle of San Jacinto to rely upon friendly negotiations for the settlement of her differences with Mexico, rather than a further resort to war, and the confidence which she has reposed in the promises of Gen[era]l Santa Anna, made shortly after that battle.

Had Texas been disposed to further hostilities with Mexico, she has had a most inviting opportunity for invading that country during the domestic conflicts by which it has been harrassed on the one side, and the embarrassments produced by the French invasion on the other. This forbearance affords the strongest evidences of her desire for amity—a desire which nothing will destroy but an evident attempt to do her injustice and wrong.

These and other arguments which will suggest themselves to you may possibly be used with much effect in your conferences with the persons who may be selected to negotiate with you.

The President, aware of the great importance it is to the prosperity of this Country, that its differences with Mexico should be adjusted and a permanent peace established as early as possible, and not willing that any opportunity for the accomplishment of so desirable an object should be lost, has also furnished our Minister near the Government of the United States with plenary powers to treat for peace and Independence, with the Mexican Minister at Washington, or with such other person as may be appointed to negotiate with him, should that Government be induced, through the mediation of the United States, to open a negotiation at that City. But the authority and instructions given to Gen[era]l Dunlap on this subject, are not intended in the slightest degree to impair the powers given to you, or to lessen the efforts which you are expected to make in Mexico. On the contrary, it is believed that the

double Mission will have a tendency to accelerate the attainment of this most desired object, and that he, by invoking the mediatorial aid and influence of the United States, may materially benefit you in your negotiations. He is therefore instructed to keep you advised of all important matters which may transpire at Washington, in reference to this subject, after he shall have been informed of your official reception at Mexico.

You will also freely communicate with him respecting the affairs of your Mission, so that either may at all times be apprized of the course pursued by the other; and to prevent the subjects of your respective communications becoming known in the event of the miscarriage of your despatches, you are each furnished with a corresponding Cypher, in which all letters of business will be written. You will also cause your despatches to this Government to be made out in the same Cypher.

Knowing as little as we do of the real disposition of the Mexican Government in regard to this, or of its feelings in respect to the people of this Country, no positive instructions can be given you as to the performance of the various duties which may devolve upon you. The foregoing views are offered more as suggestions to you than as positive mandates. The cardinal points of your Mission are the restoration of peace, the acknowledgment of the Independence of Texas, and the recognition of her limits as defined by the Act of Congress before refer[re]d to. All beyond this is left to your own judgment. You are well acquainted with the condition of this Country, its prospects, wishes, and expectations, and also of its ability to sustain itself in the event of a future conflict; and the President, relying much on your ability to conduct matters of so much delicacy and importance, refers its details to the exercise of your sound discretion, being well assured that the honor, reputation and interests of the nation will be safe in your hands.

Wishing you all prosperity, individually and officially, and that entire success may crown your Mission

I have the honor to be with great respect

Your obedt. servt.

James Webb

Instructions to Secret Agent to Mexico.

Dep[artmen]t of State
Houston 9 Aug[us]t [18]39¹³

To James Treat Esq
Sir

I am instructed by the President to inform you that in conformity with our late verbal understanding, You are hereby constituted and appointed a private and confidential agent for the Government of Texas for the purpose of ascertaining the disposition of the government of Mexico in regard to a negociation of a peace between the two nations, and if practicable, to prepare the initiatory arrangements for such a negociation.

To effect this object it will be necessary for you to repair with all convenient expedition to the City of Mexico. But as great privacy and circumspection are indispensable in all your preparatory movements, it will perhaps be advisable for you to return as far as Pensacola or even to New York and to embark for Vera Cruz from one of those ports.

It is inevitable to the nature of your mission that great latitude should be given to the exercise of your own discretion in the *modus operandi*, and in some minor matters of the negociation. The President is happy in the confidence that that discretion will in all cases, be exercised with great soundness and intelligence and with an un-deviating regard to the interests and the honor of Texas:—that you will not sacrifice the one or compromit the other. There are other points of cardinal importance on which you will rigidly adhere to your instructions. Texas is sincerely desirous of peace, but that desire does not result from any apprehension of her ability to prosecute a vigorous and successful war. The moment she ascertains that this second overture is rejected, she will feel it due to herself to try the efficacy of the utmost energies of the sword, in accomplishing that desirable object. And she cannot doubt that it will eventually be effected at a less cost of treasure than she is now willing to bestow in peaceable negociation and that the incidental expenditure of blood will be richly compensated in her acquisitions of glory.

The principal points in your negociation will be

The boundary to be assigned to Texas and

The consideration to be paid for that boundary.

A full, unequivocal unconditional acknowledgment of the absolute Independence of Texas is a sine qua non, beyond and exclusive of which you will not discuss a single proposition.

¹³The copy of the instructions here printed was made from the original draft. A. D. S. in Correspondence Relating to Mexico. Texas State Library

The Rio Grande, alias Rio bravo del Norte is the *natural* boundary of Texas. It presents an obvious and well defined line of demarcation and is admirably adapted to the prevention of future collisions between the two governments. You will therefore consider it a *sine qua non* in your negociation that the boundary line shall commence at the mouth of the Rio Grande, midway of its channel, and shall pursue the mid channel up that stream to its source, that is to the fountain head of its principal western branch and to run from that point a due north course to the line of the United States as established in the treaty of limits between the United States and Mexico on the day of and to pursue that line to the Pacific Ocean. This boundary and nothing short of it, Texas is willing to accede to.

Before submitting this ultimatum on the subject of a boundary line, You will *feel* the authorities of Mexico in relation to a different division of territory. You may suggest to them a line commencing at the mouth of the Rio Grande, midway its channel—up that stream to the Paso del Norte and from thence a due west line to the Gulf of California and along the Southern Shore of that Gulf to the Pacific Ocean. This boundary will not be strenuously insisted upon but may be intimated as a counterpoise to any extravagant expectations on the part of Mexico, and as a pre-moition to that government of the ultimate destination of that remote territory.

Texas is willing to pay to Mexico a sum not exceeding five millions 5,000,000 of dollars as a compensation for her relinquishment of all her claims public and private to the territory comprehended within the limits first above recited; but you are desired to employ all your means to reduce that maximum sum as much as possible. We consider three millions of dollars an adequate remuneration under the circumstances and we proffer the extra two millions as an evidence of our appreciation of the mutual benefits that must result from the restoration of peace and a free intercourse between the two nations. You will carefully abstain from agreeing to furnish any given amount of Mexican bonds in the English market until it is clearly **ascertained** that those bonds can be purchased at or under the value you may put upon them in making up the aggregate of the consideration as we are not disposed to incur any hazard incident to the stock markets of Great Britain.

Should you therefore find it expedient to swell the *nominal* amount of the consideration by agreeing to pay a proportion of it in Mexican bonds it will not be difficult, as the value of those bonds in the market is well known in Mexico, to stipulate for a sum founded on the known depreciation of those bonds as will assure to Texas no in-

creased expenditure from this branch of the negotiation. In order to your more perfect advisement in this matter it will be proper for you to have early and frequent communications with Gen[era]l Hamilton and Mr. Burnley, our Loan Commissioner in London.

If it shall in your estimation become necessary to employ any considerable amount of funds as secret service money, to forward your operations, you may exercise your own good discretion, but always bearing in mind that millions of dollars is the utmost extent to which Texas is willing to become liable and that any monies so appropriated, must be abated from that sum and in no wise constitute a separate charge. Should it however become necessary for you to employ the Secret Service of particular agents in this affair you will do so to an extent not exceeding one thousand dollars for which this government will be responsible to you. You will recollect in all cases that we rely with great confidence upon your discretion and good judgment

I submit to you for your further government a copy of the instructions given to the Hon[orable] B. E. Bee on his late Mission to Mexico in the prosecution of a similar object to that you have in view. Col[onel] Bee will be informed of your Mission and you are at liberty to communicate to him your progress from time to time. But in all events you will keep this department regularly and fully informed of your proceedings.

With great consideration
I am Your obt Servt
David G Burnet
Act[ing] Sec[retary] of State

Department of State
Houston 19th Aug[us]t [18]39¹⁸

To James Treat Esq
Sir

The instructions hastily communicated to you on the 9th inst[ant] were deficient and I hasten to impart to you the additional wishes of the President in relation to your interesting mission

Should you receive a favorable notice in Mexico and be able to progress so far as to establish a boundary line and the amount of compensation you may stipulate that a treaty of peace amity and commerce between the two nations shall be entered upon as soon as practicable either at the City of Mexico or at the City of Washington or at the Capital of this Republic leaving it to the Mexican authorities to select the location

¹⁸The copy of the instructions here printed was made from a copy (MS.) in Correspondence Relating to Mexico. Texas State Library.

But as the mediatorial interposition of the Government of the United States has been conditionally proffered and will be cordially accepted by this Government, it would probably be conducive to the permanency of the peace to be established to conduct the negotiation at the Capital of that Republic

It is understood that Mr Ellis the Minister from the Government of the United States to that of Mexico has been instructed to signify to that of Mexico the desire of the United States to see the difficulties between Texas and Mexico amicably adjusted

You will therefore feel yourself at liberty with all appropriate delicacy, to confer with Mr Ellis and to make known to him privately, the nature and the progress of your negotiation

Should you meet a decided repulse from the Government of Mexico it is very important that you communicate that fact as early as possible to this department. Indeed we expect you will be an active correspondent under all circumstances

With renewed assurances of great consideration

I am your Obt Servt
David G Burnet
Act[in]g Sec[retar]y of State

In Senate, Secret Session,
14 Dec. 1839.

The following communication from the Executive was read:

Executive Department
14th December 1839¹⁷

To the Hon[orable] Senate
Gentlemen

I nominate John Rice Jones for the office of Post Master General and respectfully ask the Senate's early action.

Mirabeau B. Lamar.

On motion by Mr. Kendrick, the rules were suspended and the nomination taken into consideration. The Senate then unanimously advised and consented to the nomination.

Mr. Moore introduced the following resolution which was read a first time and laid on the table.

Resolved That in no case shall the names of the voters on any question decided in secret session be published, unless with the unanimous consent of the members who may vote on the question.

¹⁷See note 2 above.

The journals of the proceedings of the Senate in secret session since the 11th November 1839 were then read and approved.

The doors were then reopened¹⁸

In Senate, Secret Session,
16 Dec. 1839.

The doors being closed, a message from the House of Representatives was read asking concurrence of the Senate in a Secret Joint Resolution of instructions to the Commissioners to negotiate the loan, which was read a first time. On motion by Mr. Jones of Brazoria the rules were suspended, the Joint Resolution read a second time and referred to the Committee on Finance.

Joint Resolution¹⁷

Of instructions to our Commissioners to negotiate a Loan.

Resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, in secret session, That the Commissioners to negotiate a loan, be and they are hereby instructed, so to contract for the Loan, that one fifth part only, shall be paid at the time of contracting; and the balance at four equal annual or eight semi-annual instalments, none of which shall bear interest until the money is received by the commissioners.

The Secret Journal of the 14th Dec. 1839 was read and approved. The doors were then reopened¹⁸

Senate Chamber, 17th Dec.¹⁹ 1839

In Secret Session.

The following communication from the Executive was read.

Executive Department
17 Dec. 1839.

To the Hon[orable] Senate
Gentlemen

I nominate Barnard E. Bee as Minister Plenipotentiary of this Government to reside near the Government of the United States of

¹⁷The secret journal has no copy of this resolution; it has, therefore, been supplied from the enrolled copy, vetoed by the President on December 23, 1839.

¹⁸See note 3 above.

¹⁹In copy A the proceedings for December 17th are dated December 18th and are inserted after those of the 18th December.

the North; and I also nominate Nathaniel Amory as the Secretary of Legation to that mission.

Mirabeau B. Lamar.

On motion by Mr. Everitt, the foregoing nomination was laid on the table till to-morrow.

The Secret Journal of the 16th instant was then read and approved.

The Committee on Finance reported the Secret Joint Resolution of Instructions to our Commissioners to negotiate a loan, without amendments. The Joint Resolution was then read a second time and laid on the table.

The doors were then opened.¹⁹

Senate Chamber, 18th Dec. 1839

In Secret Session.

The Journal of the 17th instant was read and approved.

On motion by Mr. Greer, the nomination of Barnard E. Bee to be Minister Plenipotentiary to the Government of the United States was laid on the table.

On motion by Mr. Moore, the nomination of Nathaniel Amory to be Secretary of Legation to the Government of the United States was taken up and unanimously advised and consented to.

The Joint Resolutions of instructions to our Commissioners to negotiate a Loan, was then taken up. Mr. Moore proposed an amendment permitting the Commissioners to negotiate for the first payment to be Two Millions of Dollars. Those who voted for this amendment were Five, against it Five, the Vice President voted in the negative. So the amendment was rejected. On motion by Mr. Everitt, the rules were suspended, the Joint Resolution read a third time and passed.

The doors were then opened.²⁰

Same date 3 o'clock

The Committee on Foreign Relations reported by recommending the passage of a series of Joint Resolutions for the establishment of amicable relations with Mexico—which report was read a first time and laid on the table.

¹⁹See note 3 above.

²⁰*Ibid.*

Report of Committee on Foreign Relations²¹

The Committee on Foreign Relations to whom was referred the confidential message of the President presented in secret session; beg leave to report:—

That they have attentively considered a subject so momentous and profoundly interesting as the one this message discloses.

The question of Peace to any country is one of deep and vital importance. Even to those Governments whose claims to their respective territories have been sanctified by the lapse of ages, and are protected by a redundant population, large armies and an accumulation of all the resources and sinews of war, Peace is nevertheless a boon seemingly beyond all price, except the price of national honor and security. But to a country like ours with an almost boundless frontier, with enemies infesting three sides of our territory, with a sparse population and depreciated currency, its value is augmented by all those considerations which enter into a just estimate of the security of life and property and a steady and progressive development of the gigantic natural resources of our country. Notwithstanding therefore the clear title which we have to the territory won by the valor of our people; notwithstanding the justifiable causes of war which led to our revolution, the undisturbed possession we now hold of the country and our unquestionable ability to defend our soil from any and all invasion, yet Peace with our Enemy under the security of a just and honorable treaty is recommended by so many considerations of inestimable value, that it is with the most intense gratification we perceive by the message we are now considering that the subject has engaged the anxious deliberations of the Executive and that his measures for the attainment of this object have been marked by forecast, discretion and wisdom.

Whilst perhaps considerations of national honor might render it unwise, as calling in question the validity of the title to the Territory we have now and actually possess, yet for that beyond our possession, the title to which may be deemed disputed, the scheme of effecting a Peace for the quiet possession of all by paying alone for this portion, seems to be free from all the objections which the most fastidious delicacy of national pride could possibly raise or suggest:—

We therefore concur fully in the view taken by the President, that if for the sum of Five Millions of Dollars, the Disputed Territory lying between the Nueces and the Rio del Norte can be purchased

²¹The Secret Journal has no copy of this report; it has, therefore, been copied from the original in Papers of the Fourth Congress.

and made the means of securing to us a stable boundary, the formal recognition of our Independence, the quiet possession of the Territory we possess and an advantageous Treaty of Amity and Commerce with a Nation destined to sustain relations of such incalculable profit with us, that this amount sinks into utter insignificance in comparison with these invaluable objects. Indeed an offensive war for two years to enforce at the point of the sword the proposed boundary would cost five millions, to say nothing of the loss of human life, the suspension of the industry of the Country, the insecurity of property, the depression in the value of our Lands and the depreciation of our Currency which inflicts a daily tax on the Country, the weight of which almost defies the estimate of the nicest financial calculation. If on the other hand turning to our fertile and magnificent territory extending from the mountains to the seacoast, stretching through almost every variety of climate, soil and surface, we may see what in five years would be the influence of Peace on the prosperity of our people, what the result of the tide of emigration which would bring in its current, the numbers, wealth and industry not alone of the United States of America but of the whole civilized world and what would be the appreciation in the value of our Soil which by the most moderate estimate would be augmented at least fourfold. We think if these considerations are properly weighed that to hesitate on the proposition of Peace is indicating as little regard for our own interests, as it would be an act of the most criminal injustice to our posterity.

With these general reflections we now pass to a consideration of the probable means by which the important object of Peace may be accomplished. We are far from deducing from the refusal of Mexico to receive the public accredited Minister sent by the Executive during the last summer to Vera Cruz, an inference unfavorable to future pacification, because his reception would have been *ipso facto* tantamount to a recognition of the Sovereignty and Independence of our Republic. Nor should we regard even the want of success in the secret Agent our Government has now in Mexico as conclusive of the prospect of an early pacification, as events of a highly interesting character are inviting in concord with the efforts of Peace the participation of a power not less distinguished for the magnanimity of her policy than the extent of her resources.

In the Debates in the British House of Commons during the last summer, we have seen that Lord Palmerston, the Minister for Foreign Affairs, declared in his place that he had tendered the Gov[ernment]t of Mexico the mediation of England in the subsisting dispute with Texas—a declaration which the Commissioner appointed to negotiate

our Loan had confirmed by his Lordship in a subsequent private interview—accompanied by an explicit assurance in case Mexico should not accept this overture for Peace, that the recognition of our Independence by Great Britain would not be long withheld. But there are other causes in active operation, which we think all tend to the probability of our procuring an early and advantageous peace. These causes our Commissioner has likewise fully disclosed in a manner which demonstrated the grounds on which our prospects of Peace now rest.

It is known that Mexico contracted a large public debt which is held by a highly respectable and influential class of British Citizens who are known in Europe as the Mexican Bond holders. These persons have not received for several years a farthing of interest on their Debt. The Stock consequently is seriously depreciated. The Gov[ernmen]t of Mexico by a Convention concluded by her Minister in London on the _____ with the Mexican Bondholders assigned as a security for the ultimate redemption of the Bonds, her public Lands in the "Department of Texas." Although under this Convention the Mexican Bondholders can have no claim against Texas in her Sovereign and Independent capacity growing out of this Convention, yet it gives them as against Mexico a fair claim to the amount of indemnity which Texas may be willing to pay for the disputed Territory between the Nueces and Rio del Norte.

Your Committee therefore are of opinion if both houses of Congress in secret session, should pass a series of resolutions to the following effect that Peace would be likely to result from their adoption.

1. A resolution expressing our intire approval of the efforts of the Executive to establish relations of Peace with Mexico.
2. A resolution authorizing the President to conclude a treaty for this purpose and for the purchase of the disputed Territory.
3. A resolution authorizing the Commissioners to negotiate such Loan as might be necessary to fulfil the stipulations of the Treaty.
4. A reso[lutio]n, expressing an intire willingness on the part of this Gov[ernmen]t, to pay over the amount of the Indemnity in London to such persons as shall be authorized by the Gov[ernmen]t of Mexico to receive it.

We have every reason to believe the passage of these Resolutions in secret session but confidentially communicated to Lord Palmerston, would insure the active co-operation of the Government of Great Britain in effecting a Peace between Mexico and ourselves. Whilst from the communications of our Commissioner made in person to your Committee, we have reason to know that the influential and

active exertions of the Mexican Bondholders will be employed in our behalf not only in our negotiations for Peace but also for Money.

With this view of the subject, we cannot but concur in the policy of invoking the aid of a great and powerful ally who will be urged by every consideration of justice towards her own citizens to interpose, as well as by the sympathies of a common origin, language, religion and laws and by the stupendous commercial relations that are destined to grow up between a people thus related.

With these views and profoundly impressed with the vast augmentation which it will be to the public repute of Texas for Justice, forbearance and moderation, your committee offer for the adoption of both Houses of Congress the following Resolutions:—

Joint Resolution, On the subject of establishing Amicable Relations with Mexico

Section 1. Be it Resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled That Congress views with entire approbation the present policy of the Executive for establishing relations of peace with Mexico.

Section 2 Be it further resolved, That the President be authorized by and with the advice and consent of the Senate to appoint one Commissioner whenever he shall deem the same expedient to enter into amicable negotiations with any person or persons properly accredited by Mexico, for this purpose and to stipulate on the part of Texas for the adjustment of all difficulties the establishment of a permanent peace and settlement of the Boundary as defined by the Act of Congress entitled "An Act to define the Boundaries of the Republic of Texas" Approved December 19th 1836.

Section 3. Be it further resolved, That should such a Treaty be formed between the Commissioner on the part of the Government of Texas and Mexico, and after the same may have been ratified and confirmed by the President and Senate of this Republic, our Commissioners of loans in Europe are authorized to borrow the amount which may be stipulated in said Treaty, at an interest not exceeding Six per cent.

Section 4 Be it further resolved, That the said Commissioner appointed on the part of Texas shall if practicable procure the Guaranty of Great Britain for the faithful performance of the Treaty by both parties.

W Lawrence Chairman
on the part of the House
Anson Jones
Ch[airman]n on the part of the Senate

The doors were then reopened.²⁰

In Senate, Secret Session,
19th Dec. 1839.

The report of the Committee on Foreign Relations recommending the passage of Joint Resolutions on the subject of establishing amicable relations of [with] Mexico was taken into consideration: the Report was read a second time and adopted. The Joint Resolutions were placed on their second reading. Mr. Greer moved that they be laid on the table. Those who voted for this motion were Messrs. Burton, Greer, Jones of Austin and Stroud. Four. Against it, Messrs. Barnet, Dunn, Everitt, Jones of Brazoria, Kendrick, Lester and Moore. Seven. So the motion was lost. The Joint Resolutions were then passed to a third reading. An additional resolution to said Joint Resolutions was then read a second time and passed to a third reading. The resolutions were made the special order of the day for to-morrow.

The doors were then opened.²¹

In Senate, Secret Session,
21 Dec. 1839.

A message from the House of Representatives asked concurrence of the Senate in a Secret Joint Resolution on the subject of establishing amicable relations with Mexico, and in a Secret Additional Joint Resolution relative to the pacification and adjustment of existing difficulties between Texas and Mexico. Both of which Joint Resolutions were read a first time. On motion by Mr. Jones of Brazoria, the rules were suspen[ded], the Joint Resolutions were read a second time. On Motion by Mr. Everitt, the rules were further suspended, and both Joint Resolutions read a third time and passed.¹⁹

On motion of Mr. Jones of Brazoria, the officers of the Senate were authorized to give to General James Hamilton a copy of the Report of the Committee on Foreign Relations on the subject of Peace with Mexico.

The doors were then opened.²²

¹⁹The Secret Joint Resolution and the Secret Additional Joint Resolution here referred to have not been found. The first named was probably similar to the one proposed by the committee on Foreign Relations, and appended to their report above.

²⁰See note 3 above.

²¹*Ibid.*

²²*Ibid.*

In Senate, Secret Session
23 Dec. 1839.

The following communication was read.

Executive Department
23rd December 1839¹⁹

To the Honorable
The Senate

As the negotiations for peace with Mexico in case the same shall be transferred to London may have an important bearing on the negotiation of the Loan for five millions, I beg leave to nominate James Hamilton as a Commissioner under the resolutions passed by both houses of Congress and approved the 21st instant.

As General Hamilton has already opened the negotiation in London with the Mexican bondholders, who, it is supposed will exert some influence in accomplishing our views in this respect, and as he offered to discharge the duties of this Commission without compensation, I take great pleasure in submitting his name to you.

Mirabeau B. Lamar.

The rules were suspended, the nomination taken up and unani-
mously advised and consented to.²⁰

In Senate, Secret Session,
27 Dec. 1839²¹
Executive Department
23rd December 1839²²

To the Hon[orable]
The Senate

I nominate Mr. Edward Peravay as Consul for the Port of Havre, France and request the Senate's confirmation.

Mirabeau B. Lamar.

On motion by Mr. Jones of Brazoria, the nomination of Mr. Edward Peravay to be Consul of the Port of Havre, France, was taken up and confirmed by an unanimous vote.

The doors were then reopened.²³

¹⁹See note 2 above.

²⁰See note 3 above.

²¹This date is omitted in copy A.

²²As the secret journal has no copy of this message, it has been supplied from the original.

²³See note 3 above.

In Senate, Secret Session,
4th January 1840.

Executive Department
4th January 1840.²³

To the Hon[orable] Senate

The following nominations are respectfully presented to the Senate for its action, to wit:

C. M. Gould, District Attorney for the fifth Judicial Circuit.

O. Tarpley Notary Public, Victoria County.

James P. Cole Notary Public, Galveston County.

Kidder Walker, Chief Justice, Colorado County.

Thos. C. Bunker, Notary Public Sabine City Jefferson County.

Mirabeau B. Lamar.

The nominations of C. M. Gould and Thos. C. Bunker were unanimously confirmed. the other nominations were laid on the table for further deliberation.

The secret journal of 27th Dec. 1839 was read and approved.

The doors were then opened.²⁴

The nomination of Louis P. Cooke to be Secretary of the Navy was taken up. Those who voted for its confirmation were Messrs. Burton, Greer, Jones of Brazoria, Lester, Moore and Seguin. Six. Against it, Messrs. Barnet, Dunn, Everitt, Jones of Austin, Kendrick and Stroud. Six. The Vice President voted in the affirmative. So the Senate advised and consented to the nomination.

Mr. Burton moved that the nominations of Naval Officers be taken up. On motion by Mr. Everitt, the subject was laid on the table, and

the doors were opened.²⁵

In Senate, Secret Session,
11th Jan'y 1840

The following communication from the President was read.

Executive Department
10th January 1840.²⁶

To the Hon[ora]ble Senate,

Gentlemen,

I have the pleasure herewith to transmit to you the Treaty of

²³See note 2 above.

²⁴See note 3 above.

²⁵*Ibid.*

Amity, Navigation and Commerce lately negotiated by the Hon-[ora]ble J. Pickney Henderson in behalf of this Republic with the Government of France.²⁵

You will perceive that the Treaty is based upon the just principles of reciprocity, and contains the formal recognition of our Independence by a leading and ancient power of Europe—the same magnanimous Government that was the friend of our native country in its earliest operations for colonial emancipation, and has always been conspicuous for chivalry and disinterestedness. With feelings of due respect to our minister intrusted with the negociation, I commit the Treaty with my entire satisfaction to your consideration.

Mirabeau B. Lamar.

The Treaty was then read and laid on the table.

On motion by Mr. Jones of Brazoria, the nominations by the Executive were taken into consideration.

Military Appointments.

Lysander Wells, Colonel of Cavalry, and P. B. Dexter Lieut[enant] Colonel, were, on motion by Mr. Seguin, laid on the table.

On motion by Mr. Burton, the nomination of Wm. L. Cazneau to be Commissary General of Subsistence, laid on the table.

The nomination of Hugh McLeod to be Adjutant General was confirmed. Those voting for its confirmation were Messrs. Burton, Everitt, Jones of Austin, Jones of Brazoria, Lester, Moore, Seguin and Stroud. Eight. Against it, Messrs. Barnet, Dunn and Greer. Three.

The nomination of Wm. H. Dangerfield to be Commissary of Purchases was confirmed. Those voting for it were Messrs. Barnet, Burton, Everitt, Greer, Jones of Brazoria, Lester, Moore and Stroud. Eight. Against it, Messrs. Dunn, Jones of Austin and Seguin.

The nomination of B. B. Sturges to be Pay Master was confirmed. Those voting for it, were Messrs. Barnet, Greer, Jones of Brazoria, Jones of Austin, Lester and Seguin. Six. Against it, Messrs. Burton, Dunn, Everitt, Moore and Stroud. Five.

The nomination of M. B. Skerett to be Capt[ain] of Infantry was rejected. Those voting for it were Mr. Dunn. Against it, Messrs. Barnet, Burton, Everitt, Greer, Jones of Austin, Lester, Moore, Seguin and Stroud. Nine.

On motion by Mr. Stroud, the vote of confirmation to the appointment of Hugh McLeon to be Adjutant General was reconsidered and

²⁵The treaty is printed in Gammel, *Laws of Texas*, II 655-662.

rejected. Those voting for its confirmation were Messrs. Burton, Everitt, Jones of Brazoria, Lester and Seguin. Five. Against it, Messrs. Barnet, Dunn, Greer, Jones of Austin, Moore and Stroud. Six. Mr. Moore asked and obtained leave to change his vote. So the nomination was confirmed. The vote then standing six for and five against the confirmation.

The following nominations were unanimously advised and consented to:

Wm. G. Cooke to be Quarter Master General.
 P. H. Bell to be Inspector General
 Jacob Snively to be Pay Master General
 B. H. Johnson to be Ass[istan]t Adj[utan]t General
 P. Caldwell to be Quarter Master
 H. Landers to be Commissary of Subsistence.
 Wm. R. Smith to be Surgeon General
 T. P. Anderson to be Surgeon
 Shields Booker to be Surgeon
 Edmund Tucker to be Surgeon
 Rich[ar]d Cochrane to be Ass[istan]t Surgeon
 G. T. Howard to be Captain of Infantry
 B. Y. Gillen to be Captain of Infantry
 The doors were then opened.

On motion by Mr. Burton, the vote rejecting the nomination of M. B. Skerett, to be Captain, was reconsidered, and the nomination unanimously advised and consented to.

Executive Department
 10th January 1840²⁸

To the Hon[ora]ble Senate,
 Gentlemen

Since sending my nominations for Officers in the Navy, circumstances have occurred which, in my mind render it necessary that there should be some change in the appointments then proposed to be made, I therefore respectfully request that the list of nominations may be returned to me to be corrected in conformity with these circumstances.

Mirabeau B. Lamar.

On motion by Mr. Everitt, the foregoing request was complied with and the Secretary instructed to return the list.

²⁸See note 2 above.

In Senate, Secret Session

13th Jan'y 1840

The Treaty of Amity, Commerce and Navigation between France and Texas was taken up and read article by article, and the ratification of each article respectively advised and consented to, as also the additional-articles.

On motion by Mr. Everitt,

Resolved, That the Treaty now under consideration be made the special order of the day for to-morrow, that the injunction of secrecy be and is hereby taken off and that the treaty be acted on in open session.

Mr. Jones of Brazoria introduced the following resolution

Resolved: That the Senate advise and consent to the ratification of the Treaty of Amity, Commerce and Navigation between the President of the Republic of Texas and His Majesty, the King of the French concluded at Paris on the 25 day of September A. D. 1839 by Gen[eral] James Pinckney Henderson and Jean de Dieu Soult, duc de Dalmatia, their respective Plenipotentiaries, and to the additional articles to said treaty concluded as above on the same day.

On motion by Mr. Burton, the nominations were taken up and the following Military Appointments unanimously advised and consented to.

G. F. Lawrence to be Captain of Infantry.

G. W. Morgan to be Captain of Infantry.

J. P. B. January to be Captain of Infantry.

J. C. P. Kennemore to be Captain of Infantry.

P. J. Pillans to be Captain of Infantry.

Matthew Caldwell to be Captain of Infantry.

The nomination of Wm. L. Cazneau to be Commissary General of Subsistence was advised and consented to. Those who voted for its confirmation were Messrs. Barnet, Burton, Dunn, Everitt, Jones of Brazoria, Kendrick, Lester, Moore, Seguin and Stroud. Ten. Against it, Messrs. Greer and Jones of Austin. Two.

The nomination of U. M. Dunnington to be First Lieut[enant] of Infantry was rejected. Those voting for it were Messrs. Jones of Austin and Seguin. Two. Against it, Messrs. Barnet, Dunn, Everitt, Greer, Jones of Brazoria, Kendrick, Lester, Moore and Stroud. Nine.

The following nominations were unanimously advised and consented to:

Sam B. Carson to be First Lieut[enant] of Infantry.

D. C. Ogden to be Do

Edw[ar]d Thompson to be Do

J. Wehl to be Do

R. S. Neighbors to be Do

Wm. D. Houghton to be Do

The nomination of Martin Moran to be First Lieutenant of Infantry was advised and consented to. Those voting for it were Messrs. Barnet, Dunn, Everitt, Greer, Jones of Austin, Kendrick, Lester and Stroud. Eight. Against it, Jones of Brazoria, Moore and Seguin. Three.

The following nominations were advised and consented to:

H. L. Grush to be Second Lieut[enant] of Infantry.

Dan[ie]l Lewis to be Same

C. C. Hornsby to be Do

J. M. Alexander to be Do

A. H. Scott to be Do

Matthew McGovern to be Do

On motion by Mr. Jones of Austin, the vote rejecting the nomination of U. M. Dunnington was reconsidered and laid on the table.

The nomination of Cyrus Joy to be Consul at Philadelphia was rejected. Those who voted for its confirmation were Mr. Stroud. Against it, Messrs. Barnet, Dunn, Everitt, Greer, Jones of Austin, Jones of Brazoria, Kendrick, Lester, Moore and Seguin. Ten.

The nominations of Chief Justices were further laid on the table.

The doors were then opened.²⁷

The nomination of U. M. Dunnington was again taken up and confirmed. Those voting for it were Messrs. Barnet, Burton, Greer, Lester, Kendrick and Stroud. Against it, Messrs. Everitt and Moore. Mr. Dunn was excused from voting.

In Senate, Secret Session
14 Jan'y 1840.

The following communication was read and laid on the table:

Executive Chamber
Jan. 14, 1840²⁸

To the Honorable Senate
Gentlemen

I have the honor to present for your consideration the following nominations.

²⁷See note 3 above.

²⁸See note 2 above.

Geo. W. Miles, Chief Justice for Liberty County.
 The former nomination Dr. Farley being deceased,
 Thomas Dillard, Notary Public Robertson County.

Mirabeau B. Lamar.

In Senate, Secret Session
 18 Jan'y 1840.

Executive Department
 18th January 1840²⁰

To the Honorable Senate
 Gentlemen

I nominate Joseph E. Plummer to the Office of Collector of Customs for the Port and District of Aransas, to fill the vacancy of — — Hews resigned, and respectfully ask the Senate's concurrence.

Mirabeau B. Lamar.

which communication was read and laid on the table.²⁰

In Senate Secret Session.
 20 Jan'y 1840.

Executive Department
 Austin 20th January 1840²⁰

To the Senate
 Gentlemen

In my annual Message to Congress at the commencement of the present Session I informed the Honorable Senate, that I had availed myself of the services of the Honorable David G. Burnet as acting Secretary of State until I could make a selection of some individual to fill the vacancy which had occurred in that Department. This arrangement was intended to be temporary only, but finding it difficult to fill said vacancy with entire satisfaction to myself, I had designed to keep the office open until the arrival of General Henderson from Europe, whose peculiar qualifications seemed to designate him for that station, to which I had intended to invite him in the event of his not desiring to return as Minister to the French Gov-

²⁰See note 2 above.

²⁰See note 3 above.

ernment. I have, however, received this morning a communication from the Vice President in which he expresses a wish that I would, as soon as practicable, relieve him from the further discharge of the duties of that office. It therefore devolves upon me, without further delay, to fill the vacancy in said Department, which I now have the honor to do, by nominating Abner S. Lipscomb as Secretary of State, and respectfully ask the Senate's concurrence

Mirabeau B. Lamar.

which communication was read a first time and laid on the table.²¹

20 Jan'y 1840

The Senate proceeded to an election of District Judge of the Fourth Judicial District.

John Hemphill received eight votes.

Jas. C. Allen received three votes.

Those voting for J. Hemphill were Messrs. Barnet, Burton, Everitt, Jones of Brazoria, Kendrick, Moore, Seguin and Stroud.

Those who voted for J. C. Allen were Messrs. Dunn, Jones of Austin and Lester.

J. W. Henderson received a unanimous vote of the Senate for County Surveyor of Harris county.

The nomination of Joseph E. Plummer to be Collector of Customs for the Port of Aransas, was taken up and advised and consented to. Those voting for it were Messrs. Barnet, Burton, Everitt, Jones of A[ustin], Jones of B[razoria], Lester, Moore, Seguin and Stroud. Nine. Against it, one, Mr. Dunn.

The doors were then opened.

Secret Session, Senate

30th Jan'y 1840.

Richard Scurry received eleven votes for Judge of Sixth District

John G. Love received one vote for Judge of Sixth District

Those who voted for Mr. Scurry were Messrs. Barnet, Dunn, Gaines, Greer, Jones of A[ustin], Jones of B[razoria], Kendrick, Lester, Moore and Stroud and Everitt. Mr. Burton voted for Mr. Love.

John M. Hansford received eleven votes for Judge [of] Seventh District.

²¹See note 3 above.

Wm M Porter received one vote for Judge of Seventh District.

Those who voted for Mr Hansford were Messrs. Barnet, Burton, Dunn, Everitt, Gaines, Jones of A[ustin], Jones of B[razoria], Kendrick, Lester, Moore and Stroud. Eleven. Mr. Greer voted for Mr. Porter.

Wm Hart received 12 votes [for]³¹ Chief Justice [of]³¹ Nacogdoches County

M. B Lewis received 12 votes for Chief Justice of Jasper County

Geo W. Miles received 12 votes for Chief Justice of Liberty County

G. B. Atkins received 12 votes for Chief Justice of Harrison County

A. M. Davis received 12 votes for Chief Justice of San Augustine County

H. Millard received 12 votes for Chief Justice of Jefferson County

D. J. Toler received 12 votes for Chief Justice of Washington County

Silas Dismore received 12 votes for Chief Justice of Matagorda County

Mr. Hartfield received 7 votes for Chief Justice of Fannin County

[Joseph]³² Murphy received 4 votes for Chief Justice of Fannin County

Those who voted for Mr. Hartfield were Messrs. Burton, Dunn, Everitt, Greer, Jones of A[ustin], Jones of B[razoria], Lester. Seven. For Mr. Murphy, Messrs. Barnet, Gaines, Kendrick and Stroud. Four. Mr. Moore was excused from voting.

R. D. Johnson received 12 votes for Chief Justice of Galveston County

A. S. Ainsworth received 12 votes for Chief Justice of Goliad County

I. N. Moreland received 12 votes for Chief Justice of Harris County

J. M. Brown received 12 votes for Chief Justice of Jackson County

Mr. Daniels received 10 votes for Chief Justice of Colorado County

[Kidder]³² Walker received 2 votes for Chief Justice of Colorado County

Those who voted for Mr. Daniels were Messrs. Barnet, Burton, Dunn, Everitt, Gaines, Jones of A[ustin], Kendrick, Lester, Moore

³¹Beginning with this entry, the words "for" and "of" have been interpolated in each of the remaining entries of this day's proceedings.

³²The portion of the names in brackets has been supplied from a certified list of the Chief Justices of counties, dated January 30, 1840. MS. in Elections by Congress. Texas State Library.

and Stroud. Messrs. Greer and Jones of B[razoria] voted for Mr. Walker.

A. J. Fowler received 12 votes for Chief Justice of Red River County

E. Ballinger received 11 votes for Chief Justice of Gonzales County

— Campbell received 1 vote for Chief Justice of Gonzales County

Those who voted for Mr Ballinger were Messrs Barnet, Burton, Dunn, Everitt, Gaines, Greer, Jones of A[ustin], Jones of B[razoria], Lester, Moore and Stroud. Eleven. Mr. Kendrick voted for Mr. Campbell.

H. B. King received 12 votes for Chief Justice of Milam County

[John]²² Collins received 10 votes for Chief Justice of Houston County

Mr. Gossett received 2 votes for Chief Justice of Houston County.

Those who voted for Mr. Gossett were Messrs. Barnet and Greer. For Mr. Collins, Messrs. Burton, Dunn, Everitt, Gaines, Jones of A[ustin], Jones of B[razoria], Kendrick, Lester, Moore and Stroud. Ten.

[David]²² Murphy received 10 votes for Chief Justice of Victoria County

Mr Miller received 1 vote for Chief Justice of Victoria County

Those who voted for Mr. Miller were One. Mr. Dunn. Those who voted for Mr. Murphy were Messrs. Barnet, Burton, Everitt, Gaines, Greer, Jones of A[ustin], Jones of B[razoria], Lester, Moore and Stroud. Mr. Kendrick was excused from voting.

Mr. Moreland received 4 votes for Chief Justice of Travis County

[James W.]²² Smith received 7 votes for Chief Justice of Travis County

Mr. Grayson received 1 vote for Chief Justice of Travis County

Those who voted for Mr. Smith were Messrs. Barnet, Dunn, Gaines, Greer, Jones of A[ustin], Lester and Stroud. For Mr. Moreland, Messrs. Burton, Everitt, Kendrick and Moore. For Mr. Grayson, Mr Jones of Brazoria.

N. W Eastland received 12 votes for Chief Justice of Fayette County

John [S.]²² Simpson received 4 votes for Chief Justice of Bexar County

Erasmus Seguin received 8 votes for Chief Justice of Bexar County

Those who voted for Mr. Seguin were Messrs. Burton, Dunn, Everitt, Gaines, Jones of B[razoria], Kendrick, Moore and Stroud. Eight.

²²See note 32, p. 175.

Messrs. Barnet, Greer, Jones of A[ustin], and Lester voted for Mr. Simpson.

H. McNeill received 12 votes for Surveyor of Montgomery County

J. P. Hudson received 12 votes for Surveyor of Travis County

J. W. Scallorn received 12 votes for Surveyor of Fayette County

The nomination of Abner S. Lipscomb to be Secretary of the State was taken up and unanimously advised and consented to.

The nomination of Thos. Dillard to be Notary Publick for Robertson County was taken up and unanimously advised and consented to.

The doors were then opened.³²

In Senate, Secret Session,

3 Feby 1840.

A message from the House asked concurrence of the Senate in a Joint Resolution authorizing the Sec[retar]y of the Treasury to issue Promissory Notes to cover the appropriations for the year 1840; which was read a first time, the rules were suspended the Joint Resolution read a second and third times and passed.³³

The following communication from the President was received:

Executive Chamber

Feb: 1, 1840³⁴

To the Honorable Senate

The following nominations are respectfully presented for the consideration of the Senate, to wit

Barnard E. Bee, Chargé d'Affaires, U[nited] States.

Augustus W. Radcliff, Consul at New York, U. S.

R. Wallace Burnet Consul [at] Cincinnati, Ohio, U. S.

Mr Graham Consul, Phil[adelphi]a U[nited] States.

District Attorneys.

Patrick C Jack for the First Judicial District.

John R. Reid for the Second Judicial District.

A. A. Anderson for the Third Judicial District.

John D. Morris for the Fourth Judicial District.

James Armstrong for the Sixth Judicial District.

William M. Williams for the Seventh Judicial District.

James Reily for the Fifth Judicial District.

Mirabeau B. Lamar.

³²See note 3 above.

³³For a copy of this resolution see No. 5 of the Appendix.

³⁴See note 2 above.

The nominations of Barnard E. Bee, Augustus W. Radcliffe, R. Wallace Burnet, Patrick C. Jack and John R. Reid were unanimously advised and consented to.

The nomination John D Morris was advised and consented to. Those voting for its confirmation were Messrs. Barnett, Everitt, Gaines, Jones of B[razoria], Kendrick, Lester and Moore. 7. Against it, Messrs. Dunn and Stroud. 2. Mr. Greer was excused.

The nomination of James Riley was rejected. Those voting for its confirmation were Messrs. Everitt. One. Against it, Messrs. Barnet, Dunn, Gaines, Greer, Jones of B[razoria], Kendrick, Lester, Moore and Stroud.

The nomination of A. A. Anderson was rejected. Those who voted for its confirmation were Messrs. Everitt, Kendrick, Lester and Moore. Four. Against it Messrs. Barnet, Dunn, Gaines, Greer, Jones of B[razori]a and Stroud. Six.

The nomination of William M. Williams was advised and consented to. Those voting for its confirmation were Messrs. Barnet, Everitt, Gaines, Kendrick and Lester. Five. Against it, Messrs. Greer and Stroud. Two. Messrs. Dunn, Jones and Moore were excused [from voting?].

The nomination of James Armstrong was rejected. Those who voted for its confirmation [were] Messrs. Everitt, Jones of Brazoria Kendrick and Lester. Four. Against it, Messrs. Barnet, Dunn, Gaines, Greer, Moore and Stroud. Six.

On motion by Mr Moore this vote was reconsidered and the President was requested to withdraw the nomination.

The following is the result of the ballot for officers under the Cherokee Land bill.

For register.

Messrs. Barnet, Dunn, Everitt, Gaines, Jones of B[razoria], Kendrick, Lester, Moore and Stroud. Nine. voted for Mr. Howland. Mr. Greer voted for Mr. Jowers.

For receiver.

Messrs. Barnet, Dunn, Everitt, Kendrick and Lester. Five voted for Dr. Booker. Messrs. Greer, Jones of B[razoria]; Moore and Stroud. Four. voted for Mr. Mabbitt. Mr. Gaines voted for Mr. English.

For surveyor.

Messrs. Barnet, Everitt, Gaines, Greer and Stroud voted for Mr.

Nelson. Messrs. Dunn, Jones of B[razoria], Kendrick, Lester and Moore voted for Mr. Schoolfield.

For receiver.

Messrs. Everitt and Barnet were appointed a Committee of Conference to request the House to withdraw the nominations of Messrs. Mabbitt and Booker. A Committee from the House informed the Senate that the House had postponed the election of receiver till tomorrow ten o'clock which was concurred in by the Senate.

Secret Session.

4th Feby 1840

On motion by Mr. Everitt, the vote rejecting the nomination of James Riley was reconsidered.³⁶

Mr. Everitt moved the confirmation of the nomination of Mr. Armstrong. Those who voted for its confirmation were Messrs. Burton, Everitt, Jones of B[razoria], Kendrick, Lester and Stroud. Six. Against it, Messrs. Barnet, Greer and Gaines. Three. Mr. Moore was excused from voting.

Mr. Everitt moved that a Committee be appointed to inform the House of Representatives that the Senate did not think it expedient to go into an election of Receiver under Cherokee Land Bill, which motion was carried. Messrs. Everitt and Barnet were appointed said committee.

³⁶In copy A the proceedings for this day precede those of February 3rd.

³⁷Copy A omits this entry. In a letter from the Secretary of the Senate to the President, dated February 4, 1840, he says, "The Senate have reconsidered the nomination of James Riley and have laid the nomination upon the table without action under the impression that the nomination will be withdrawn." (MS. in Senate Confirmations. Texas State Library.)

FIFTH CONGRESS

Roll of Senators

George W. Barnett, for the District of Washington and Montgomery.

James W. Byrne, for the District of Goliad, Refugio and San Patricio.

William H. Daingerfield, for the District of Bexar.

Stephen H. Everitt,¹ for the District of Jasper and Jefferson.

James Gaines, for the District of Shelby, Sabine and Harrison.

John A. Greer, for the District of San Augustine.

Anson Jones, for the District of Brazoria.

Harvey Kendrick, for the District of Matagorda, Jackson and Victoria.

James S. Lester, for the District of Fayette, Bastrop and Gonzales.

James B. Miller, for the District of Austin, Colorado and Fort Bend.

Francis Moore, for the District of Harris, Liberty and Galveston.

K. H. Muse, for the District of Nacogdoches and Houston.

Robert Potter, for the District of Red River and Fannin.

Benoni Stroud, for the District of Milam and Robertson.

Officers of the Senate

David G. Burnet, Vice President.

Anson Jones, President pro tempore.

John D. McLeod, Secretary.

¹Mr. Everitt resigned his seat in the Senate, December 9, 1840.

FIFTH CONGRESS

Secret Session
Tuesday Nov 10th 1840

The Vice President in the chair¹

Report of the President's appointments of persons to fill vacancies of office during the recess of the Senate requiring the confirmation or rejection of the same.

Executive Department
Austin Nov 9, 1840.²

To the Hon[orable] Senate,
Gentlemen,

I have the honor to lay before you a list of appointments made to fill vacancies happening during the recess of the Senate, which require your confirmation or rejection.

¹The secret senate journals of the fifth congress are found in the volume described in the first paragraph of note 1 to the secret senate journals of the third congress, and embrace thirteen pages of said volume. For the period from November 10, 1840, to January 21, 1841, the secret journals, as prepared by the secretary of the senate and adopted by that body, are found among the papers of the fifth congress. They have been followed in the copy here printed. For the remainder of the session (January 22 to February 5, 1841), the journals as recorded in the volume referred to above alone have been available.

²The message here printed has been compared with and made to conform to the original.

Date of Appointment.	Name.	Office.
1840		
March	Branch T Archer	Secretary of War.
Sept 30	James W Simmons	Treasurer
Sept 30	James B. Shaw	Comptroller
April 1.	James Hamilton and Albert T Burnley	Commissioners to negotiate with France for a Loan.
April 18	James Hamilton	Com[missioner] to treat with Belgium
May 1st	George W Smyth	Com[missioner] to run Boundary Line
Sept 15th	James Hamilton	Com[missioner] to treat with Holland
June	John P Borden	Com[missioner] Gen[eral] Land Office.
Feb'y 29	Thomas G Gordon	Notary Public Travis County
March 5th	Thomas W. Ward	do do
March 16	Joseph W McClung	do Colorado Co[unty]
March 30	James B Johnson	do San Augustine Co[unty]
March 30	James P Cole	do Galveston Co[unty]
March 30	Cornelius Lane	do Port of Linnville, Victoria Co
Sept 1st	Peter McGreal	do Port of Velasco, Brazoria Co
Sept 8th	Theodore Grabau	do Port of San Luis, Brazoria Co
Aug 21st	W H Watts	Collector of Revenue, LaVaca.
Sept 8	Joseph P Pulfer	do Sabine
May 13	Wm Fenner Henderson	District Attorney 5th Judicial Dist[ri]ct
July 18	H P Brewster	" 1st "
Feb'y 25th	James Norton	" 2d "
Nov. 10th	Henry J. Jewett	Notary Public, Matagorda Co[unty]
March 1st	Hugh McLeod	District Attorney 3d Judicial Dist[ri]ct
Aug 18th	Wm G Cooke	Adj[utant] and Inspector General
Aug 18th	F A Whittaker	Colonel] 1st Reg[imen]t Infantry
Aug 18th	Edw[ar]d Wiedeman	Surgeon
Oct 17th	Charles Aake	Ass[istan]t Surgeon
Jany 30th	Horace Beal	" "
March 19th	J B Martin	First L[ieutenant] First Infantry
May 8th	M. H Chevalle	" "
Aug 18th	James B Ravis	" "
Aug 18th	Theodore Sevey	" "
Aug 18th	James M Gorgin	" "
May 9th	Robert R Scott	" "
May 9th	John O Howard	Second L[ieutenant] First Infantry
May 9th	Reuben Roberts	" "
May 9th	Charles Burgess	" "
May 9th	Thomas Johnson	" "
May 26th	Edward S Ratcliff	" "
May 28th	Nathan E Berry	" "
June 23	Edward S Jones	" "
Sept 3d	Samuel Ellison	" "
Sept 3	Robert Patton	" "
	J. C Morgan	" "
	Charles E Brame	" "
	E. Lawrence Stickney	Commissioner of Revenue

Mirabeau B. Lamar.

Mr Kendric moved that the Senate take up the Report [message] on Monday next Motion adopted

Secret Session
Wednesday Nov 11th [18]40

The Supplementary report^s to the Annual report of the Treasurer was received and read

Mr Potter moved that that portion of the Secret Journals of last Session referring to the acts passed authorizing the employing of a Commissioner to negotiate for a loan be read The Senate not being

^sThe Supplementary Report referred to has not been found.

able to procure such information as desired instructed the Secretary to procure such documents as appertained to the employing and general instructions to the Commissioners on loans.

Secret Session

3 O'clock, P. M. Nov 11th 40

The Secretary reported that he had procured the documents agreeably to instructions

A Resolution of Secret Session on the subject of establishing amicable relations with Mexico was read—

A Joint Resolution relating to the pacification and adjustment of existing difficulties between Texas and Mexico⁴ [was read]

Letters of instructions addressed to Ja[me]s Treat Esq and Gen[eral] Ja[m]es Hamilton⁵ [were read]—also copies of Letters forwarded by Col[onel] Bee written by his Secret Agent in Mexico⁶

Executive Department

To the Hon[orable] Senate,
Gentlemen,

Austin, Nov 12th 1840.⁷

I herewith transmit to you copies of Letters from Hon[orable] Barnard E Bee Chargé of Affaires near the Government of the United States, together with extracts from the Letters of a Secret Agent in Mexico, containing information of an interesting and important character.

I would particularly urge upon your attention, that portion of the Correspondence which relates to the emigration of certain Indian tribes from Arkansas, and the design of the Mexican Government to employ them as allies in prosecuting its national wars.

Respectfully,

Mirabeau B. Lamar.

⁴Copies of the two resolutions referred to above have not been found.

⁵The Letters of Instruction to James Treat are dated August 9 and 19, 1839, and are printed on pages 156-9 above. The instructions to General Hamilton were copies of the letters to Mr. Treat (Burnet to Hamilton, December 23, 1839, printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II.

⁶Colonel Bee's secret agent in Mexico was A. S. Wright. Precisely how many of Wright's letters were laid before the senate at this time cannot be ascertained. It is pretty certain that the following were of the number presented: Wright to Bee, August 29, November 10, 18 and 19, 1839, February 5, and June 25—July 2, 1840. These letters with others are printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II. The subject of the emigration of certain Indian tribes, referred to by President Lamar in his message above, will be found in the letters of June 25 and July 1, 1840.

⁷The secret journal has no copy of this message; it has, therefore, been supplied from the original.

Secret Session
Novr 16th 1840

On motion of Mr Greer the county nominations were taken up

Nominees	Office	Remarks
Thos. G. Gordon	Notary Public Travis County	Nomination Confirmed
Jas. W. Watson	" "	" "
Jas. W. McClung	" " Colorado County	Ordered to lie on the table
Jas. B. Johnson	" " San Augustine County	Rejected
Jas P Oole	" " Galveston County	Ordered to lie on the table
Cornelius Lane	" " Victoria County	Confirmed
Peter McGreal	" " Fort of Velasco, Brazoria County	Ordered to lie on the table
Theo Grabau	" " San Luis, Brazoria County	Confirmed
Wm. Walton	" " Matagorda County	Ordered to lie on the table
Wm. P. Gray	District Atty 5th Judicial Dist	Rejected
H. P. Brewster	" " 1st Judicial Dist	Ordered to lie on the table
H. J. Jewett	" " 2nd Judicial Dist	Confirmed
Geo. W. Smyth	" " 3rd Judicial Dist	" "
Jas Hamilton	Comr to run the boundary line	Ordered to lie on the table until the instructions can be obtained
Jas P. Smith	" " to Treaty with Holland	" "
Jas. B. Shaw	" " Gen. Land Office	Confirmed
Jas. W. Simmons	Treasurer	" "
Jas Hamilton and	Commissioners to effect a Loan	Ordered to lie on the table
A. T. Burnley	" "	Ordered to lie on the table
Jas P. Pulsifer	" "	Confirmed
W. H. Watts	Collector Rev Sabine	" "
J. P. McGee	" " Lavaca	" "
John P. McCall	Notary Public Galveston	" "
H. P. Brewster	" " Victoria	" "
Jas. W. McClung	Dist. Atty 2nd Jud District	" "
Jas Norton	Notary Public Colorado	" "
Branch T. Archer	" " Matagorda	" "
Wm. G. Cooke	Secy of War	Ordered to lie on the table
Hugh McLeod	Cool 1st Regt of Infantry	" "
	Adj and Insp't. General	" "

[19th Nov. 1840]

Secret communication from the President

Executive Department

To the Honorable Senate,
Gentlemen,Austin November 18th 1840⁸

I have the honor to submit the following nominations, which require your confirmation.

Mr Theodore Barbey, Texan Consul at Paris, France.

Mr Craig Texan Consul at Philadelphia, United States

Respectfully,

Mirabeau B. Lamar.

Secret Session Novr 23rd 1840

On motion the following nominations were taken up

James P Pulsifer Collector Revenue Port of Sabine was confirmed

On motion of Mr Greer the message from the President was read also the accompanying documents and referred to the Committee on Foreign Relations [Messrs. Jones, Everitt, and Moore]

Executive Department

To the Senate,
Gentlemen,Austin Nov. 18th 1840.⁹

I have just received the following letter from the Secretary of State,¹⁰ with the accompanying documents, which I beg leave respectfully [to submit] for your consideration.

Mirabeau B Lamar.

⁸See note 7 above.

⁹*Ibid.*

¹⁰The documents transmitted by the president have not been found.

Novr 30th [1840] Secret Session

On motion the Senate took up the following nominations

Nominees	Office	
B T Archer Confirmed	Secy of War	Yeas Byrne, Dangerfield, Everitt, Kendrick, Lester, Miller, Moore, Muse and Potter 9 Nays Barnett, Gaines, Greer, Jones and Stroud 5 Confirmed
Jas. W. Simmons Lafayette Stacey Win. Felice Gray Confirmed	Treasurer Comr Revenue Dist Atty 1 st Jud Dist	Ordered to lie on the table Yeas Dangerfield, Everitt, Greer, Kendrick, Lester, Miller and Jones 7 Nays Barnett, Byrne, Gaines, Muse, Potter and Stroud 6 Confirmed
Theodore Barbey	Texian Consul at Paris, France	

Secret session adjourned

Secret Session Nov 30, P. M.

Mr Kendrick moved a reconsideration of the vote confirming the nomination of Wm Fairfax Gray as Dis[trict] Att[orne]y Motion carried On motion the nomination was ordered to lie on the table Motion lost Question on the nomination Yeas and Nays called for those that voted in the affirmative are Messrs Barnett, Byrne, Dangerfield, Everitt, Gaines, Jones, Lester, Miller, Potter and Stroud 11. Mr Muse voted in the negative Motion carried

On motion the following nominations were laid on the table Mr Craig, Hugh McLeod, Mr Whitman and R. R. Scott

The following were confirmed Wm. G. Cooke, F A Whitaker, Chas. Aake, H Beall, J B Martin, J. V. Chevalier, J. B. Ravis, Theo. Sevey, Jas M Goggin

Doors were then opened.

Secret Session Dec. 1,¹¹ 1840

A message from the President nominating Samuel Hughes Notary Public Refugio

Executive Department
Austin Dec. 1st 1840.¹²

To the Hon[orable] Senate,
Gentlemen,

I have the honor to lay before you the following nomination—viz:

Samuel Hewes, for Notary Public, Refugio County.

Mirabeau B. Lamar.

Secret Session Dec. 1840

Mr Potter moved that the injunctions of secrecy relating to the Treaty of the Cherokee Bill be removed motion carried

Mr Greer moved a reconsideration of the vote confirming the nomination of J B Martin Motion carried then ordered to lie on the table

Doors were then opened

Secret Session Wednesday 4 o'clock

On motion the Senate took up and confirmed the nominations of E L Stiekney and Hugh McLeod,
doors opened

¹¹In the secret journal the entry for December 1st follows the three undated entries next below.

¹²See note 7 above.

Secret Session Friday 1840

Mr Everitt introduced a letter from Messrs Crawford and Shepherd¹⁵ which was ordered to be filed in the archives of the government.

Mr Potter moved that the Secretary call upon the President and get the message announcing the rejection of Wm F Henderson. Motion lost

On motion the nomination of James W Simmons as Treasurer was taken up and confirmed¹⁶

Secret Session Decr 23rd 1840

A message from the President nominating the Hon Wm Menefee as Sec[retar]y of the Treasury [was] read doors opened

Executive Departm[en]t
Dec. 1840¹⁷

To the Senate

I take great pleasure in nominating the Hon[ora]ble William Menefee as Secretary of the Treasury, and respectfully ask, if the nomination be acceptable to the Senate, that it may be confirmed without delay, as it is of some importance that the Head of that Department should forthwith enter upon his duties.

Yours etc
Mirabeau B. Lamar¹⁸

Secret Session Decr 23rd 1840

A message from the President nominating Thos W Ward as Com-[missione]r of the General Land Office [was] read

Executive Department
December 23rd 1840¹⁷

To the Senate

Gentlemen

I take pleasure in presenting to your consideration the following nomination, and to request your concurrence in it

Thomas W Ward Commissioner of the General Land Office

The resignation of Mr. Borden was received some days ago.

David G Burnet.

doors opened

¹⁵The letter from Crawford and Shepherd has not been found.

¹⁶A letter from the President's Private Secretary to the Secretary of State, dated December 9, 1840, states that James W. Simmons was confirmed on December 8th. (MS. in Senate Confirmations. Texas State Library.)

¹⁷See note 7 above.

¹⁸President Lamar asked for leave of absence from the Republic on December 12th. A joint resolution granting the leave of absence requested was passed and approved same date. Vice president Burnet sent in his first message December 16th.

¹⁹See note 7 above.

Secret Session Decr 24th 1840

On motion the Senate took up and confirmed the nomination of W. H. Watts as Collector of Revenue of the Port [of] Lavacca

Secret Session Decr 28th 1840

On motion the nomination of T. Ward Com[missione]r of the General Land Office was taken up Yeas and Nays on the confirmation Those that voted in [the] affirmative are Messrs Byrne Dangerfield Jones Kendric Moore Muse and Potter 7 Those in the negative are Messrs Barnett Greer Gaines Lester Miller and Stroud 6 Nomination confirmed.

On motion the vote confirming the nomination of T Ward was reconsidered and the nomination laid on the table

Secret Session Decr 29th 1840

A communication from the President was rec[eive]d and read announcing a desire to withdraw the nominations of Edward S Jones Second Lieut[enant] First Reg[iment] of Infantry also Charles Brame for the same office which request was granted.

Executive Department

Austin 28 December 1840¹⁸

To the Hon[ora]ble
The Senate

Gentlemen

I am induced by representations from the War Department to request the withdrawal of the following names submitted to you by President Lamar—to wit

Edward S Jones, Second Lieutenant First Regiment Infantry

Charles Brame

Ditto

Ditto

both of whom are charged with unofficer like conduct.

David G Burnet

On motion of Mr Muse a committee of three was appointed to send for papers and persons etc Com[mittee] Messrs Muse Greer and Barnett

Senate Chamber, January 4th, 1841

In Secret Session, 4 o'clock P. M.

On motion of Mr Moore the Senate took up the nomination of Thomas Wm Ward for Commissioner of the General Land Office

Mr Kendrick moved that the nomination be confirmed. The Ayes and Noes being called for stood as follows Those who voted in the affirmative were Messrs. Byrne Dangerfield Kendrick Jones

¹⁸See note 7 above.

Moore Muse Potter 7 Those who voted in the negative were Messrs Barnett Gaines Greer Lester and Stroud 5. Nomination confirmed.

Mr Greer moved to take up the nomination of William Menefee for Secretary of the Treasury. Motion lost, and the nomination was laid on the table.

On motion of Mr Kendrick the injunction of secrecy was removed from the Journal of the 29th November 1839.

On motion of Mr Greer the injunction of secrecy was removed from to-day's Journal so far as relates to the confirmation of T. W Ward.

Secret Session Jan'y 12th 1841

A message from the President announcing the following nominations

Executive Department,
Austin, January 12th, 1841.¹⁹

To the Hon[orable] Senate,
Gentlemen,

I have the honor to submit to your consideration the following nominations, and to solicit your concurrence:

John H. Brower, Consul at New York. U. S., vice A. W. Radcliff, removed.

Moses Patten, Consul at Bangor, Maine, U. S.

Benjamin Drake, Consul at Cincinnati Ohio U. S. vice R. W. Burnet, declined.

Francis Guernsey Smith, Consul, Philadelphia, Penn. U. S.

Calvin C. Jackson, Consul at Detroit, Michigan, U. S.

Thomas Harvey, Notary Public for Matagorda, to take effect at and from the 23d inst[ant] when his time will expire.

David G Burnet

A Bill to be entitled an act to repeal the two Joint Resolutions of Congress in Secret Session etc

Or[dered] to lie on the table

A Bill²⁰

To be entitled an act to repeal the two Joint Resolutions passed at the last Session of Congress in Secret Session on the subject of establishing amicable relations with Mexico and for other purposes.

¹⁹See note 7 above.

²⁰This copy of the bill was made from the original in the Papers of the Fifth Congress. The endorsements on the bill show that it passed the House on November 25, 1840, but was tabled after its first reading in the Senate.

Sec 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the following Joint Resolutions, to wit. A Joint Resolution on the subject of establishing amicable relations with Mexico approved 21st of December 1839, and also an additional Joint Resolution relative to the pacification and adjustment of existing difficulties between Texas and Mexico, approved 21st of December 1839, and passed in secret session, be and the same are hereby repealed.

Sec 2. Be it further enacted, That all laws heretofore passed authorizing the obtaining of a loan or loans be and the same are hereby repealed.

Sec 3. Be it further enacted, That the President be and he is hereby authorized and required to recall forthwith our Loan Commissioners Messrs. Hamilton and Burnley, and that he instruct them to cease any further negotiation to obtain any loan or loans.

Sec 4. Be it further enacted that this act shall take effect from and after its passage.

Secret Session Jan'y 18th 1841

Mr Potter moved that the injunction of secrecy be entirely removed from the proceedings of Col[onel] W F Grays confirmation etc Motion carried

On motion the nominations from the Executive was taken up

Sam Hews Notary Public Refugio C[oun]ty Mr Byrne moved [that] it lie on the table as Mr Hews had refused to act Motion carried

The following nominations were taken up and confirmed

John H Brower Consul at New York U S

Moses Patten Consul at Bangor Maine U S

Benj Drake Consul at Cincinatti Ohio U S

Francis Gurney Smith Consul at Philadelphia Penn U S

Calvin C Jackson Consul at Detroit Michigan U S

Thos Harvey Notary Public Matagorda

The nomination of Wm S Menefee. Motion to lay it on the table Yeas and Nays called for. Yeas Messrs Byrne Dangerfield Kendrick Lester Moore 5 Nays Messrs Barnett Gaines Greer Jones Muse Potter and Stroud 7 Motion lost. Question on the confirmation Yeas and Nays called for Yeas Byrne Dangerfield Kendrick Lester and Potter 5 Nays Messrs Barnett Gaines Greer Jones Moore Muse and Stroud 7. refused to confirm

The nomination of Craig was laid upon the table

The following nominations was taken up and confirmed

Edward Weightman Ass[istan]t Surgeon

Robt Scott First Lieut[enant] First Reg[imen]t Infantry refused to confirm

Jno C Howard [Second] Lieutenant First Regiment Inf[antr]y confirmed

Reuben Roberts [Second] Lieutenant First Regiment Inf[antr]y confirmed

Chas Burgess [Second] Lieutenant First Regiment Inf[antr]y confirmed

Thos Johnson [Second] Lieutenant First Regiment Inf[antr]y confirmed

E S Ratcliff [Second] Lieutenant First Regiment Inf[antr]y refused to confirm

N. E. Berry [Second] Lieutenant First Regiment Inf[antr]y confirmed

Saml Ellison [Second] Lieutenant First Regiment Inf[antr]y confirmed

Robt Patton [Second] Lieutenant First Regiment Inf[antr]y confirmed

J C Morgan [Second] Lieutenant First Regiment Inf[antr]y confirmed

Doors opened

Secret Session July 19th 1841

Mr Moore moved a reconsideration of the vote upon Wm S Menefees nomination Yeas and Nays called for Yeas Messrs Byrne Dangerfield Kendrick Lester Moore and Potter 6 Nays Messrs Barnett Gaines Greer Jones and Muse 5. Motion carried. On motion the nomination was laid upon the table until half past three o'clock P. M. Thursday.

Mr Dangerfield offered the following Resolution

[Resolved,] that when an Executive nomination has been definitely acted upon by the Senate in secret session that the secrecy of the session as far as the result of such definite action is in every case removed, unless the Senate is notified that the vote will be reconsidered Adopted

Secret Session. July 21st [18]41

A message²¹ from the President withdrawing the nomination of Wm. S. Menefee for Sec[retar]y [of the] Treasury. leave granted.

²¹A copy of this message has not been found.

To the Hon[orable] Senate.
Gentlemen,

Executive Department,
Austin, Jan[uar]y 22d 1841.²²

The following gentlemen are presented to your consideration in the hope that you will confirm them in the respective appointments attached to their names.

Robert M. Forbes, Notary Public at Columbia, Brazoria county.

Willard Richardson, Notary Public for Refugio Co[unty].

Wellington Donaldson, Notary Public at the Town of Calhoun Matagorda County

George M. Collingsworth, Collector of Customs at Port Calhoun.

David G Burnet

Secret Session Jan'y 25th 1841

A communication from the President was received and read also a treaty of commerce and navigation, accompanying documents

To the Honorable
The Senate,
Gentlemen

Executive Department
Austin 25th January 1841²²

I have great gratification in submitting to your inspection the accompanying "treaty of Commerce and Navigation between the Republic of Texas and Great Britain", which has been recently negotiated on our part by our distinguished fellow citizen, Gen[era]l James Hamilton.

The stipulations of the treaty with this ancient and distinguished power of Europe, are such as might be expected from the Mother of the Anglo-Saxon race. They are based on the most liberal principles of reciprocal rights and benefits to the high contracting parties. And I cannot [refrain?] from congratulating the Senate and the people of Texas, on the reception of a treaty which introduces the Single Star into the Ports of Great Britain on the same terms with the most favored nations.

There are reasons of some moment why the constitutional action of the Senate in relation to this important document should not be unnecessarily delayed.

David G Burnet

On motion a committee was appointed to wait upon the President and get the Treaty between Great Britain and Texas

²²See note 7 above.

Com[mit]tee Messrs. Potter, Kendric and Dangerfield the committee repaired to returned and reported a discharge of their duties.

The said treaty²³ was then read first time.

On motion the doors were opened

Secret Session Jan'y 26th 1841

A communication from the President was received and read, also copies of letters addressed to and from Gen[era]l James Hamilton²³ also a copy of a convention relative to debt.²⁴

Executive Department

Austin January 26th 1841.²⁴

To the Honorable

The Senate,

Gentlemen

I have the honor to present to your consideration copy of a Convention recently entered into by our Commissioner, Gen[era]l James Hamilton, with the government of Her Britannick Majesty.

The grand purpose of this agreement is to bring about an early pacification between Texas and Mexico;—And it is certainly in accordance with every impulse of humanity and every suggestion of sound policy, to desire the consummation, on principles of wisdom and justice, of such a purpose. It will be recollected by the Honorable Senate, that at the last Session of Congress, sundry Secret Joint Resolutions (a copy of which is herewith transmitted) were adopted, conferring upon the Executive discretionary power to do all things which have been done by the Commissioner on our part. This Convention therefore assumes an aspect more solemn, and its obligations are more sacred and conclusive than ordinary compacts between diplomatic agents of governments.

The principal stipulations of the Convention are, the acceptance by Texas of the mediation of Her Britannick Majesty, and the agreement to assume One Million pounds Sterling of the Mexican Foreign Debt, in the event of a permanent peace being made and ratified between Texas and Mexico. By reference to a letter (copy of which is enclosed) from Gen[era]l Hamilton, dated London Dec 3d 1840,

²³This treaty is printed in Gammel, *Laws of Texas*, II 880-885.

²⁴See note 7 above.

²⁵Since the letters to and from General Hamilton are not enumerated, it is impossible to identify them now. The letter referred to by the President in his message is printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II.

²⁶The convention is printed in Gammel, *Laws of Texas*, II 886-7

it will be observed that the English Creditors of Mexico, are desirous to commute the million pounds, for lands situated between the river Nueces and the Rio Grande. Population being one of the principal wants of the Country, it would seem to me that such a commutation, judiciously arranged and carried out, would convert the assumption to pay One Million of pounds, into an agreement to receive its full equivalent in benefits.

I have recently suggested to the Congress the probability, that Mexico, in the plenitude of her national vanity, would venture to *reject* this mediatorial agreement. Should such prove to be the fact, how pre-eminently advantageous would be the position of Texas? And with what hopes of eventual success, founded on the universal sympathy of nations, and the righteousness of her cause, may she turn her utmost energies, to the last resort of an injured people? But if on the contrary, Mexico shall accede to the friendly proposition of Her Britannick Majesty, and a speedy pacification shall ensue, who can estimate the manifold benefits that will result to our young Republic?

I would respectfully suggest to the Senate the propriety of appending to the ratification of this Convention a declaration, *a priori*, that no treaty shall be made with Mexico prescribing any limit to Texas, within or short of the boundary as defined by an Act of Congress approved December 19th 1836.

David G Burnet

Mr. Greer moved that the Sec[retar]y have leave of absence to call on the President and get the original document relating to the convention of debt. Motion carried. The Sec[retary] repaired to, returned, and reported the document referred to which was read first time.

The treaty between Great Britain and Texas was read second time Mr Greer offered the following resolution,

That the Senate advise and consent to the ratification of the treaty of commerce and navigation between the Republic of Texas and Great Britain concluded at London by Gen[era]l James Hamilton and Lord Viscount Palmerston their Plenipotentiaries. Yeas and Nays called for on the ratification. Those that voted in the affirmative are Messrs. Barnett, Byrne, Dangerfield, Gaines, Greer, Jones, Kendric, Lester, Moore, Muse, Potter and stroud, 12—a unanimous vote

Mr. Greer moved that the injunction of secrecy be removed as regards the ratification of the Treaty between Great Britain and Texas. Motion carried. The doors were then ordered to be opened

Secret Session Jan'y 27, 1841

Joint Resolution past in secret session last session authorizing James Hamilton to form a treaty with Mexico was read. Also the Convention relative to debt was read section by section Yeas and Nays were called for on each section Those that voted in the affirmative on each section were Messrs. Barnett, Byrne, Dangerfield, Gains, Greer, Jones, Kendric, Lester, Moore, Muse and Stroud. 11. Mr Potter voted in the negative

Mr Greer moved that the proceedings lie on the table until tomorrow Motion carried The doors were opened

Secret Session Jan'y 28th 1841

The convention relative to debt was read third time A Resolution that the Senate advise and consent to the ratification of the convention between the President of the Republic of Texas and her Majesty the Queen of Great Britain concluded at London on the 14th day of Nov. 1840 by Gen[era]l James Hamilton and Lord Viscount Palmerston their respective Plenipotentiaries read first time rules suspended read second time Yeas and Nays called for on the adoption of the Resolution Yeas Messrs. Barnett, Byrne, Dangerfield, Gains, Greer, Jones, Lester, Moore, Miller and Stroud. 10. Mr Potter voted in the negative

Mr Dangerfield offered a Resolution, That the honor, dignity and interest of the Republic of Texas demand that a strict adherence to the boundaries of this Republic as defined by a law passed and approved Dec[embe]r 19th 1836 should be inviolably maintained Read first time

A message²⁷ from the President was read, also a treaty between Texas and the Netherlands was read first time

The doors were then opened

Secret Session Jan'y 29th 1841

The treaty between Texas and the Netherlands was read second time²⁸

A Resolution that the Senate advise and consent to the ratification of the Treaty of Friendship commerce and navigation between the President of the Republic of Texas and His Majesty the King of the Netherlands, concluded at the Hague on the 18th day of Sept[ember] 1840 by Gen[era]l James Hamilton, and the Baron Verstolk de Soelen their respective Plenipotentiaries, read first time, rules suspended read second time and adopted unanimously

²⁷A copy of this message has not been found.

²⁸This treaty is printed in Gammel, *Laws of Texas*, II 905-912

On motion the injunction of secrecy was taken off of the ratification of the treaty of Netherlands.

A message from the President announcing the nomination of Gen[era]l James Hamilton as Minister Plenipotentiary and Envoy Extraordinary to the Court of St. James, read

Executive Department
Austin 28th Jan'y, 1841.²⁹

To the Hon[orable] Senate,
Gentlemen,

I have the honor to present to your consideration the name of General James Hamilton as Minister Plenipotentiary and Envoy Extraordinary to the Court of St. James.

In order to present to the Senate the peculiar reasons why this nomination is made, I enclose an extract from a letter recently received from Gen[era]l Hamilton, which I trust will satisfy the Senate of the propriety of this measure. The law regulating the grades of Ministers to foreign governments is inapplicable to the present case, inasmuch as the government of Great Britain has not yet affixed the grade of their diplomatic representative to this Republic.

David G Burnet

Extract of a letter from James Hamilton bearing date, London, Dec. 3d, 1840.

“With a view to have the Gov[ernmen]t introduced to the Court of her Majesty, I would respectfully ask you to have me nominated as Minister Plenipotentiary and Envoy Extraordinary to the Gov[ernmen]t of her Britannic Majesty. I do not wish a Sec[retar]y of Legation, and as soon as the Exchange of the Ratification is made in London, I will come home and you can appoint a *Chargé* which I suppose will be the grade the British Gov[ernmen]t will send. But until the Ratifications are exchanged in London I think it best to remain with my present rank. It will be necessary *now* to have my name sent in.”

The doors were ordered to be opened

Secret Session Jan'y 30th 1841

The Journals were read and adopted

Mr Potter moved that the injunction of secrecy be removed from the transactions on the treaty relative to debt. Motion lost.

Mr Moore moved that the injunction of secrecy be removed so far as to the ratification of the convention relative to debt, precluding the terms thereof Motion carried

²⁹See note 7 above.

The Resolution by Mr Dangerfield That the honor dignity and interest of the Republic of Texas demand that a strict adherence to the boundaries of this Republic as defined by a law passed and approved Decr. 19th 1836 should be inviolably maintained adopted, to which Mr Potter offered an amendment, That the convention between Great Britain and the Republic of Texas relative to debt is ratified by the Senate subject to the provisions of this Resolution. Amendment rejected

On motion the Senate took up the nomination of James Hamilton as Minister etc, to the Court of St. James Yeas and Nays on the confirmation. Yeas, Messrs. Barnett. Byrne, Dangerfield, Gaines, Jones, Kendric, Lester, Miller and Stroud 9 Nays Messrs. Greer and Potter 2. Nomination confirmed

A message from the President announcing the Nomination of G. W. Terrell for Sec[retar]y of State and J. G. Chalmers Sec[retar]y of the Treasury

To the Honorable
The Senate,
Gentlemen

Executive Department
Austin, January 30th, 1841.³⁰

I have the honor to submit the following nominations and to request your concurrence.

G. W. Terrell, for Secretary of State.

J. G. Chalmers, for Secretary of the Treasury.

David G Burnet

Secret Session 5 o'clock Jany 30th [1841]

A message³¹ from the President announcing the following nominations

John Holland Dist[ri]ct Att[orne]y for the Fifth Jud[icial] Dist[ri]ct

John Hamilton Notary Public for Jasper County

Henry Fisher Notary Public Houston Harris County

On motion the following nominations were taken up
G W Terrell for Sec[retar]y of State Yeas and Nays called for on the nomination Yeas, Messrs. Barnett, Byrne, Dangerfield, Gains, Greer, Jones, Kendric, Lester, Miller, Moore and Potter 11. Noes Messrs. Muse and Stroud 2. nomination confirmed

John G Chalmers for Sec[retar]y of the Treasury Yeas and Nays called for on the confirmation. Yeas Messrs Barnett, Byrne Dan-

³⁰See note 7 above.

³¹A copy of this message has not been found.

gerfield, Gains Greer, Jones, Kendric, Moore, Muse, Potter and Stroud
 11. Nays, Messrs Lester and Miller 2. Nomination confirmed.
 Doors were then Opened

Secret Session Feby 3rd 1841

A message from the Executive wishing to withdraw the nomination of John Holland as District Att[orne]y for the Fifth Jud[icial] Dist[ri]ct.] read and ord[er]ed to lie on the table

Executive Department

Austin Feby 2d 1841^s

To the honorable
 The Senate

Gentlemen

In consequence of information very recently received, I am constrained to request the withdrawal of the nomination of John Holland as District Attorney for the fifth Judicial District.

David G Burnet

Mr Potter offered a Resolution that the President be and he is hereby requested in the event of a loan being effected by our Commissioner Gen[eral] James Hamilton and A. T. Burnley, Esq., to hold said loan and every part thereof subject to the future disposition of Congress Read first time

Mr. Potter moved to remove the injunction of secrecy entire as regards the transactions of the Senate in relation to the convention relative to debt. Yeas and Nays called for Yeas, Messrs. Dangerfield, Jones, Miller and Potter 4. Noes Messrs Barnett, Byrne, Gains, Greer, Kendric, Lester, Moore, Muse and Stroud 9. Motion lost.

Doors opened

Secret Session Feby 4th 1841

A Resolution that the President be and he is hereby requested in the event of a loan being effected by our Commiss[ioner]s Gen[era]l James Hamilton and A. T. Burnley Esq, to hold said loan and every part thereof subject to the future disposition of Congress read second time and adopted

On motion of Mr Potter a copy was sent to the Executive

A message from the President announcing the nomination of Jonathan Ikin as Consul at London Engl[an]d

*See note 7 above.

To the Honorable
The Senate
Gentlemen

Executive Department
Austin Feby 4 1841**

I take pleasure in submitting to you, the nomination of Arthur Ikin as Consul at the City of London, England.

David G Burnet

On motion the rule was suspended, the nomination taken up and confirmed.

Also the nominations following were taken up and acted upon
John Hamilton Notary Public Jasper County confirmed.

Henry Fisher Notary Public Houston Harris Co[un]ty, confirmed.

James Hamilton Minister to treat with Belgium also Holland confirmed

James Hamilton to negotiate with France for a loan laid upon the table

On motion the doors were opened

Secret Session Feby 5th 1841

A message³⁴ from the President announcing the nomination of Wm B Scurry as Att[orne]y for the Fifth Judicial Dis[trict] read
rules suspended the nomination taken up and confirmed

The doors ord[ere]d opened

³⁴See note 7 above.

³⁵A copy of this message has not been found.

SIXTH CONGRESS

Roll of Senators

George W. Barnett, for the District of Washington and Montgomery.

James W. Byrne, for the District of Goliad, Refugio and San Patricio.

William H. Daingerfield¹, }
Ludovic Colquhoun¹, } for the District of Bexar.

James Gaines², }
L. Randall², } for the District of Shelby, Sabine and Harrison.

John A. Greer, for the District of San Augustine.

Thomas McFarland, for the District of Jasper and Jefferson.

Wyly Martin³, }
Oliver Jones³, } for the District of Austin, Colorado and Fort Bend.

Francis Moore, for the District of Harris, Liberty and Galveston.

K. H. Muse, for the District of Nacogdoches and Houston.

Clark L. Owen, for the District of Matagorda, Jackson and Victoria.

Timothy Pillsbury⁴, }
William H. Jack⁴, } for the District of Brazoria.

Robert Potter⁵, }
James Titus⁵, } for the District of Red River and Fannin.

James Shaw, for the District of Robertson and Milam.

James Webb, for the District of Bastrop, Fayette, Gonzales and Travis.

Officers of the Senate⁶

David G. Burnet, Vice President until December 13, 1841.

Edward Burleson, Vice President inaugurated December 13, 1841.

John A. Greer, President pro tempore.

Alexander C. Macfarlane, Secretary.

¹W. H. Daingerfield resigned his seat in the Senate about February 5, 1842, to become Secretary of the Treasury; L. Colquhoun was elected his successor in the Senate.

²James Gaines resigned after the close of the regular session; L. Randall was elected his successor.

³Wyly Martin died April 26, 1842; Oliver Jones was elected to fill the vacancy.

⁴T. Pillsbury resigned after the close of the regular session; W. H. Jack was elected his successor.

⁵Robert Potter was murdered about April 1, 1842; J. Titus was elected to fill the vacancy.

⁶The officers of the Senate for the Called Session were the same as those for the regular session.

SIXTH CONGRESS
FIRST OR REGULAR SESSION

Secret Session

Senate Chamber Novr 10th, 1841.¹

Wednesday Morning, ½ past 10 O'Clock A. M.

The message from His Excellency the President informing the Senate of the following appointments made since the adjournment of the last congress was taken up.

Executive Department

To the Hon[ora]ble Senate
Gentlemen,

Austin Novr 10th 1841²

The enclosed document from the State Department contains the appointments made since the adjournment of the last Congress, which I respectfully lay before the Senate for its confirmation or rejection.

Respectfully
Mirabeau B. Lamar.

List of appointments by the President since the adjournment of the fifth Congress, as per Register of the State Department.

1841	Names	Office.
Sept. 7	Samuel A. Roberts.....	Secretary of State.
April 24	Alexander McGuffey.....	Consul at Cincinnati, Ohio.
Aug. 23	Samuel G. Taylor.....	Consul at Norfolk, Va.
Mar. 6	Ira M. Freeman.....	Notary Public Houston County.
Mar. 15	William H. Austin.....	Notary Public, Port San Louis, Brazoria County.
May 11	Charles B. Stewart.....	Notary Public, Montgomery County.
June 8	Rob't Ross.....	Notary Public, Galveston County.
June 11	John W. Smith.....	Notary Public, Bexar County.
July 12	William O'Connell.....	Notary Public, Bastrop County.
Aug. 26	William F. Johnson.....	Notary Public, Matagorda County.
Mar. 15	Thomas M. Duke.....	Collector of Customs, Port of Velasco.
Oct. 6	Reuben M. Potter.....	Collector of Customs, Port of Oalhouc.
Mar. 15	Patrick O. Jack.....	District Judge, Sixth Judicial District.
Sept. 18	Richard Morris.....	District Judge, First Judicial District.
April 24	Peter W. Gray.....	District Attorney, First Judicial District.
Feb. 10	Elijah Gossett.....	Chief Justice, Houston County.
Feb. 10	Joseph Lee.....	Chief Justice, Travis County.
Mar. 31	James Cooper.....	Chief Justice, Spring Creek County.
April 24	George W. Browning.....	Chief Justice, Burnett County.
May 11	Samuel McHenry.....	Chief Justice, Harrison County.
July 12	A. S. McDonald.....	Chief Justice, Victoria County.
Oct. 6	W. B. Goodman.....	Chief Justice, San Patricio County.
July 21	Wm. H. Ewing.....	Chief Justice, Washington County.
Oct. 26	Alexander P Orittenden.....	Chief Justice, Brazoria County.

¹There are two sources for the secret senate journals of the sixth congress. First, there is the volume described in the first paragraph of note 1 to the secret journals of the third congress. The journals of the regular session embrace fifteen pages of said volume. Secondly, the Secretary of the Senate's draft of the secret journals is preserved among the papers of the Sixth Congress. The journals as printed here follow in the main the volume referred to; it adheres closer to the ordinary style of capitalization, punctuation and paraphrasing; however, careful comparisons have been made throughout with the secretary of the senate's draft of the journals.

²The message here printed has been compared with and made to conform to the original.

The office of Chief Justice of Goliad County is vacant by the resignation of Wm. L. Hunter Esqr, also of the County of Fort Bend by the election of Wyley Martin Esqr to the Senate.

To His Excellency
Mirabeau B Lamar.

Department of State
Austin 28th October 1841

Sir,

I have the honor to transmit to you the above list of appointments made since the adjournment of the last Congress, as per Register of this Department, together with vacancies in the office of Chief Justice in several counties.

I have the honor to be

Your Obt Servant
Samuel A Roberts
Secretary of State

To the Honorable Senate
Gentlemen

Executive Department
Austin November 10th 1841³

I hereby nominate Gen[era]l George S. McIntosh as Chargé d'Affaires to the Government of the King of the French, and also Thomas Gales Forster as Secretary of Legation to the same place, and respectfully request your confirmation

Respectfully

Your Obdt Servt
Mirabeau B. Lamar.

To the Hon[ora]ble Senate
Gentlemen

Executive Department
Austin Novr 10th 1841⁴

I hereby nominate Peter McGreal as District Attorney for the Second Judicial District of this Republic, and request your confirmation

Respectfully

Mirabeau B. Lamar.

To the Hon[ora]ble Senate
Gentlemen

Executive Department
Austin Novr 10th 1841⁵

I hereby nominate Benjamin F Johnson as Treasurer of the Republic, in place of James W. Simmons, left for the United States, and request your confirmation

Respectfully

Mirabeau B. Lamar.

³See note 2 above.

⁴*Ibid.*

⁵*Ibid.*

Executive Department
10th November 1841⁶

To the Hon[ora]ble Senate
Gentlemen

The enclosed list of Naval appointments made during the recess of Congress is respectfully laid before the Senate for rejection or confirmation.

Respectfully
Mirabeau B. Lamar.

Department of War
Naval Bureau 9th Nov 1841

To His Excellency M. B. Lamar
Sir

In compliance with your request of this date, I have the honor to present a List of the officers attached to the Navy: Of whom the following have been retained in accordance with an act of Congress, entitled An Act to abolish certain offices, etc. Approved the 18th of January 1841; to wit.

Edwin W. Moore, Post Capt[ain].
J. T. K. Lothrop, Commander.
T. M. Taylor, Lieutenant.
E. P. Kennady, Lieutenant.
D. H. Crisp, Lieutenant.
William Oliver, Lieutenant.
William Seeger, Lieutenant.
William C. Brashear, Lieutenant.
Alfred G. Gray, Lieutenant.
A. J. Lewis, Lieutenant.
J. B. Gardiner, Surgeon.
R. M. Clark, Ass't Surgeon.
Norman Hurd, Purser.
F. T. Wells, Purser.

In addition to the officers above mentioned it was found imperatively necessary to retain four more Lieutenants; two of whom were placed upon the Coast Survey, for the making of which, An act was approved on the 26th of January 1839. And the remaining two performed duty on board the Schooner San Bernard, (the vessel ordered to Vera-Cruz with the Hon. James Webb, the Minister from this Government to that of Mexico). The names of these four officers are as follows; to wit:

J. P. Lansing, Lieutenant.
Wm. A. Tennison, Lieutenant.
A. A. Waite, Lieutenant.
Cyrus Cummings, Lieutenant.

⁶See note 2 above.

After making the arrangements with the Gov[ernmen]t of Yucatan, it was found necessary to make a few more appointments. The names of the Gentlemen thus appointed are

Powhatan Archer, First Lieut[enant] of Marines.

J. M. Swisher, First Lieut[enant] of Marines.

Reuben M. Roberts, First Lieut[enant] of Marines.

J. F. Stephens, Purser.

Wm. F. Maury, Purser.

The rank of Lieutenant has been ordered to be fixed by a Court of Examination, which has not as yet reported a performance of its duties. Their names are consequently placed on the above List, without regard to rank. The three Lieutenants of Marines, recently appointed, possessing equal qualifications, have been given equal rank. All other appointments rank by date, as written above.

Very Respectfully

Your Obt Servt

B. T. Archer

Sec[retary] of War and Navy

P. S. Since making the foregoing List, it has been deemed proper to inform Your Excellency of the names and rank of the warrant officers now in the Naval Service, which are as follows, to wit:

Daniel C. Wilber Master

Charles B. Shaw Master

Robert Clements Midshipman

J. R. Creecy Midshipman

J. N. Postell Midshipman

Alex'r G. Peyton Midshipman

John R. Wooldridge Midshipman.

Fenwick Smith Midshipman

G. H. Parker, Midshipman.

H. S. Garlick, Midshipman.

Edward Johns, Midshipman.

S. L. Miller, Midshipman.

A. G. Goodall, Midshipman.

Duke L. Falkner, Midshipman.

On motion of Mr. Moore, the doors were opened.

Senate Chamber,

Thursday Morning Nov 11th 1841 $\frac{1}{2}$ past 11 O'Clock A. M.

Secret Session

A message from the President informing the Senate of the appointment of F. A. Morris Attorney General.

Department of State
Austin Novr 11th 1841⁷

To the Hon[ora]ble David G Burnet
President of the Senate.

Sir,

In the list of appointments by the President, since the adjournment of the last Congress, made out from the Register of this Department addressed to him, and which was sent to the Senate on yesterday, the name of F. A. Morris, Attorney General, was accidentally omitted, his appointment bears date 10th May 1841.

I am requested by the President to inform the Hon[ora]ble Senate of this omission.

I have the honor to be

Your Obedt Servant
Joseph Waples
Ch[ie]f Cl[er]k Dep[artmen]t of State

On motion of Mr. Moore, the nomination of Peter McGreal as District Attorney for the Second Judicial District was taken up and confirmed.

On motion of Mr. Moore, the doors were opened.

Senate Chamber Friday Morning Nov 12th 1841
Secret Session $\frac{1}{2}$ 10 O'Clock A. M.

On motion of Mr. Moore, the nomination of Benjamin F. Johnson, as Treasurer of the Republic, was taken up.

On motion of Mr. Webb, said nomination was confirmed.

On motion of Mr. Greer, the various nominations were laid on the table until Monday.

On motion of Mr. Moore, the doors were opened.

Secret Session.

Saturday Nov 20th 1841
 $\frac{1}{2}$ Past 12 O'Clock P. M.

On motion of Mr. Potter, the nominations of the Civil List were taken up, and the following nominations were confirmed.

F. A. Morris, Attorney General, Republic of Texas.

Alexander McGuffey, Consul, Cincinnati Ohio.

Samuel G Taylor, Consul, Norfolk Virginia

Ira M Freeman, Notary Public, Houston County.

Charles B. Stewart, Notary Public Montgomery County.

John W. Smith, Notary Public, Bexar County.

⁷See note 2 above.

Thomas M Duke, Collector of Customs, Port Calhoun.
On motion of Mr. Moore, the doors were opened.

Executive Department
Austin December 2d 1841*

To the Hon[ora]ble Senate,

I hereby nominate John Hamilton and Samuel P. McFarlane as Notaries Public for the County of Jasper to fill vacancies occasioned by the expiration of the term of office of Wm. Myers and H. W. Sudduth. I also nominate Joseph Waples a Notary Public for Travis County, and respectfully request your confirmation.

Mirabeau B. Lamar.

Senate Chamber.
Friday Decemr 3rd 1841
12 O'Clock M.

On motion of Mr. Potter, the injunction of secrecy, relative to the convention with Great Britain, at the last Congress, was withdrawn.

On motion of Mr. Potter, the nomination of Samuel A. Roberts, Secretary of the State of the Republic, was taken up. The ayes and noes being called for on the confirmation of the nomination of Mr. Roberts, and stood as follows:

Ayes—Messrs. Daingerfield, Greer, Martin, McFarland, Owen, Pilsbury, Potter, Shaw and Webb. 9.

Noes—Messrs. Barnett, Gains and Muse. 3. Carried

Mr. Moore was excused from voting.

On motion of Mr. Owen, the nomination of William F. Johnson, as Notary Public, Matagorda County, was taken up and confirmed.

On motion of Mr. Pilsbury, the nomination of Reuben M. Potter, as Collector of Port of Velasco, was taken up and confirmed.

On motion of Mr. Moore, the nomination of Robert Rose, as Notary Public at Galveston, was taken up and confirmed.

On motion of Mr. Greer, the doors were opened.

Monday December 6th 1841
12 O'clock M.

Mr. Muse moved the nomination of Peter W Gray District Attorney First Judicial District be taken up, and confirmed. Carried unanimously.

On motion of Mr. Webb, the nomination of Gen[era]l Geo. S. Mc-

*The secret journal has no copy of this message; it has, therefore, been supplied from the original.

Intosh, Charge d'Affaires to the King of the French, was taken up and confirmed.

On motion of Mr. Barnett, the nomination of Thomas Gales Forster, as Secretary of Legation, was laid on the table.

On motion of Mr. Barnett, the doors were opened.

Tuesday December 21st 1841
12 O'clock M.

Mr. Moore informed the Senate that the life of one of the Hon[orable] Senators had been threatened, and moved that the Committee on Military Affairs be authorized to send for persons and papers relative to the same.

Mr. Moore withdrew the motion.

On motion of Mr. Potter, the doors were opened.

Thursday December 23rd 1841.
4 O'clock P. M.

A communication from his Excellency the President was read, containing the following nominations, to wit:

Executive Department
City of Austin, Dec 23d, 1841.*

Gentlemen of the Senate:

The Executive respectfully submits for your consideration and advisement, the following nominations,

Anson Jones, Secretary of State,

George W. Hockley, Secretary of War,

George W. Terrell, Attorney General,

James Reily, Minister Plenipotentiary to the United States of America,

Asa Brigham, Treasurer,

Francis R. Lubbock, Comptroller, and

Gail Borden, Jr., Collector of the Port of Galveston,

and respectfully solicits their confirmation by your honorable body.

Sam Houston

On motion of Mr. Muse, the nominations were laid on the table until tomorrow 11 O'clock A. M.

On motion of Mr. Moore, the doors were opened.

*See note 2 above.

In Secret Session

Friday December 24th 1841.

1 O'clock P. M.

The following nominations were taken up and confirmed, to wit:

Anson Jones, Secretary of State, on motion of Mr. Moore, was unanimously confirmed.

Geo. W. Hockley, Secretary of War. Mr. Moore moved the confirmation. The ayes and noes being called for on said motion, stood as follows, to wit:

Ayes—Messrs. Barnett, Byrne, Daingerfield, Gaines, Greer, Martin, McFarland, Moore, Owen, Pilsbury, Potter, Shaw and Webb. 13.

Noes—Mr. Muse. 1. Carried, and nomination confirmed.

George W. Terrell, Attorney General. Mr Daingerfield moved the confirmation. The ayes and noes being called for on the motion, and stood as follows:

Ayes—Messrs. Barnett, Byrne, Daingerfield, Gaines, Greer, Martin, McFarland, Moore, Owen, Pilsbury, Potter, Shaw and Webb. 13.

No—Mr. Muse. 1. Carried.

James Reily, Minister Plenipotentiary to the United States of America. On motion of Mr. Barnett, was laid on the table

On motion of Mr. Barnett, a committee was appointed to wait on the President

The Chair appointed Messrs. Barnett, Potter and Greer.

Asa Brigham, Treasurer of the Republic, was unanimously confirmed.

Francis R. Lubbock, Comptroller. Mr. Byrne moved the nomination be laid on the table. Lost.

Mr. Greer moved the doors be opened. Lost.

Question on the confirmation of Mr. Lubbock was put. The Ayes and Noes being called for, stood as follows:

Ayes—Messrs. Barnett, Daingerfield, Gaines, Greer, Martin, McFarland, Moore, Owen, and Pilsbury. 9.

Noes—Messrs. Byrne, Muse, Potter, Shaw and Webb. 5. Carried.

Mr. Muse moved the doors be opened. Lost.

Messrs. Muse and Webb obtained leave of absence.

Gail Borden, Jr., Collector of the Port of Galveston, was unanimously confirmed.

On motion of Mr. Martin, the doors were opened.

In Secret Session.

Tuesday December 28th 1841

11 O'Clock A. M.

A communication from his Excellency the President was received and read, requesting the return of the nomination of James Reily as Minister Plenipotentiary to the United States of America.

Executive Department

Dec. 27th, 1841.¹⁰

I am directed by his Excellency, the President, to request of the honorable, the Senate, a return to him of the nomination of James Reily, as Minister Plenipotentiary to the United States of America.

W. D. Miller,

Private Sec[retar]y

On motion of Mr. Moore, the nomination was returned.

On motion of Mr. Greer, the doors were opened.

In Secret Session

December 28th 1841

1/2 past 3 O'Clock P. M.

A communication from His Excellency the President was read, containing the nomination of James Reily, as Minister Chargé d' Affaires to the United States of America.

Executive Department,

City of Austin, Dec. 28th, 1841.¹¹

Gentlemen of the Senate:

I respectfully submit for the advisement and consent of the Senate, the following nomination, viz:

James Reily, Minister Chargé d' Affaires to the United States of America,

the confirmation of which is respectfully requested.

Sam Houston

On motion of Mr. Byrne, the nomination of James Reily was unanimously confirmed.

On motion of Mr. Daingerfield, the doors were opened.

In Secret Session

Monday Jan[uar]y 10th 1842

5 O'Clock P. M.

A communication from his Excellency the President was received

¹⁰See note 8 above.

¹¹*Ibid.*

and read, containing the nomination of David Ross as Captain of Ordinance

Executive Department
City of Austin, January 10th, 1842.¹³

To the honorable, the Senate.

I respectfully submit for the consent and advisement of your honorable body, the nomination of David Ross, as Captain of Ordinance, in accordance with an act of Congress approved 11th Dec[embe]r, 1841.

Sam Houston

On motion of Mr. Greer, the doors were opened.

In Secret Session

Thursday Jan[uar]y 13th 1842
11 o'clock A. M.

Mr. Potter moved to take up the Resolution from the House, requesting permission of the Senate to withdraw the Articles of Impeachment against the Hon. John M. Hansford. Carried. the resolution read.

Resolved that the Managers of the impeachment against John M Hansford Judge of the 7th Judicial District be directed to withdraw the articles of impeachment against the said Hansford, *the senate consenting thereto*¹⁴

Mr. Potter introduced the following resolution, to wit:

Resolved by the Senate, That it is held to be altogether at the option of the House to withdraw the impeachment against John M. Hansford, Judge of the Seventh Judicial District.

The ayes and noes being called for on the adoption of the resolution, stood as follows, to wit:

Ayes—Messrs. Muse, Owen and Potter. 3.

Noes—Messrs. Barnett, Byrne, Daingerfield, Gaines, Greer, Martin, McFarland, Pilsbury and Shaw. 9. Lost.

On motion of Mr. Barnett, the doors were opened.¹⁵

In Secret Session

Thursday Jan[uar]y 13th 1842
1/2 past 5 O'Clock P. M.
Executive Department,

City of Austin, January 12th, 1842.¹⁴

To the honorable, the Senate.

I herewith submit for the appropriate action of your honorable

¹³See note 8 above.

¹⁴The Secret Journal has no copy of this resolution; it has, therefore, been supplied from the original in Papers of the Sixth Congress.

¹⁵Judge John M. Hansford resigned January 19, 1842.

body, the Treaty for the suppression of the African Slave Trade,¹⁵ concluded with the government of Great Britain, at London, on the sixteenth day of November, in the year 1840; with a protocol of conference between the plenipotentiaries of the two contracting powers, for the extension of the time for the exchange of ratifications; and, also, the letters of Gen[eral] Hamilton explanatory of the objects of the Treaty.¹⁶

I make no recommendation to your honorable body, being satisfied that all the examination and reflection necessary to judicious action will be given a subject of such great delicacy and importance.

Sam Houston

Protocol of conference held at the Foreign Office May 19th 1841 between the Plenipotentiaries of Great Britain and Texas.¹⁷

Whereas, there was concluded between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Republic of Texas on the 13th Nov[embe]r 1840 a Treaty of Commerce and Navigation and on the 14th Nov[embe]r 1840 a Convention containing certain arrangements relative to the public debt and on the 16th Nov[embe]r 1840 a Treaty for the suppression of the African Slave Trade, and it was stipulated that the ratifications of all these Treaties should be exchanged at London within nine months from the time they were respectively signed, and

Whereas, unforeseen delays retarded the journey of Mr. Burnley, the gentleman by whom the original of the last of these Treaties was forwarded by the Texan Plenipotentiary to his Government, and

Whereas, the Congress of Texas separated this year earlier than was expected and was not longer sitting when Mr. Burnley arrived at Galveston, and

Whereas, in consequence of these circumstances the Texan Senate have not [*sic*] as yet advised and consented to the ratification of only two out of the three Treaties, and

Whereas, it is agreed between the British and Texan Plenipotentiaries that the ratification of all of the three above mentioned Treaties should be exchanged simultaneously, and

Whereas, the Texan Congress will not meet again until the month of October next—The Plenipotentiaries of Great Britain and Texas,

¹⁵The treaty is printed in Gammel, *Laws of Texas*, II 889-904.

¹⁶The letters referred to doubtless included the following: Hamilton to Palmerston, October 1, 1840; Palmerston to Hamilton, October 18, 1840; Hamilton to Lipscomb, January 4, 1841; and, perhaps, Hamilton to Mayfield, May 13, 1841. They are printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II.

¹⁷Letter Book No. 41, p. 508. Department of State.

who signed the three Treaties aforesaid having now met together have agreed and do hereby agree and declare that the time for the exchange of the ratifications of said Treaties will be extended to the first day of June 1842.

Mr. Greer moved to take up the message of his Excellency the President, with the Treaty on the African Slave Trade with England. Carried.

Several explanatory letters from Gen[era]l James Hamilton were read, and also the Treaty in part.

On motion of Mr. Owen, the reading of the Treaty was dispensed with, and the doors opened.

In Secret Session

Friday Jan[uar]y 14th 1842

1/2 past 11 O'Clock A. M.

The reading of the Treaty between England and Texas was completed, and laid on the table.

On motion of Mr. Greer, the nomination of David Ross as Captain of Ordnance was taken up and Confirmed.

On motion of Mr. Greer, the doors were opened.

Executive Department,
City of Austin, January 15, 1842.¹⁸

To the honorable, the Senate,

I respectfully submit, for the advice and consent of your honorable body, the following nominations, viz:

Peter W. Gray, District Attorney for first Judicial District.

Peter McGreal, District Attorney for second Judicial District.

J. M. Ogden, District Attorney for third Judicial District.

C. W. Peterson, District Attorney for fourth Judicial District.

R. T. Wheeler, District Attorney for fifth Judicial District.

Henry W. Sublett, District Attorney for sixth Judicial District.

Jesse Benton, District Attorney for seventh Judicial District.

Thompson H. McMahan, Notary Public, Fort Bend County.

George W. Scott, Notary Public, Shelby County.

Ammon Underwood, Notary Public, Brazoria County, (vice R. M. Forbes, elected Representative in Congress.)

B. F. Clement, Notary Public, Velasco (vice Peter McGreal appointed District Attorney).

John Barnes, Consul at London, (vice Arthur Ikin, removed).

Edward Hutawa, Consul at St. Louis, United States of America.

Sam Houston

¹⁸See note 8 above.

In Secret Session

January 18th 1842

4 O'Clock, P. M.

A communication from his Excellency the President was read, requesting the return of the nomination of Ammon Underwood, and submitted in lieu thereof J. W. Brooks, as Notary Public for Brazoria County.

Executive Department,
City of Austin, January 18, 1842.¹⁹

To the honorable, the Senate.

I have to request of your honorable body the withdrawal of the nomination of Ammon Underwood; and in lieu thereof, I would respectfully submit for your advice and consent, the nomination of J. W. Brooks, as Notary Public for the County of Brazoria, vice R. M. Forbes, elected Representative in Congress.

Sam Houston

On motion of Mr. Byrne, the following nominations of the President were taken up and confirmed.

Peter W. Gray, District Attorney for the 1st Judicial District

Peter McGreal " " " 2nd " "

J M Ogden " " " 3rd " "

C W Peterson " " " 4th " "

R T Wheeler " " " 5th " "

Jesse Benton " " " 7th " "

T H [Mc]Mahan Notary Public for Fort Bend County.

J W Brooks Notary Public for Brazoria County.

B F Clements Notary Public for Velasco County [*sic*]

John Barnes Consul at London.

Edward Hutawa, [Consul at] St. Louis, United States, N. A.

The nominations of H. W. Sublett, District Attorney for the sixth Judicial District, and George W. Scott, Notary Public of Shelby County, were laid on the table.

On motion of Mr. Byrne, the doors were opened.

In Secret Session

Friday Jan[uar]y 21st 1842

On motion of Mr. Greer, the Senate took up the Treaty for the suppression of the African Slave Trade between England and Texas, and read second time.

On motion of Mr. Greer, the doors were opened.

¹⁹See note 8 above.

In Secret Session

Saturday January 22nd 1842

The Treaty for the suppression of the African Slave trade was taken up, and read third time.

Mr. Greer introduced the following resolution, to wit:

Resolved, That the Senate consent and advise to the ratification of the Treaty for the "suppression of the African Slave Trade" between the President of the Republic of Texas and Her Majesty the Queen of Great Britain, etc., concluded on the 16th day of November 1840, at London, by Genl. James Hamilton and Lord Viscount Palmerston, their respective Plenipotentiaries. Read and adopted.

On motion of Mr. Greer, the doors were opened.

In Secret Session

Monday Jan[uar]y 24th 1842

Mr. Muse introduced a Joint Resolution authorizing the Secretary of the Treasury to perform certain duties. Read first time.

Resolved¹⁹ by the Senate and House of Representatives in Congress assembled (in secret session) that the Secretary of the Treasury be and he is hereby authorized and required to pay the amount of discount which may actually exist at the expiration of six months from the date of this resolution upon Exchequer bills which may then be held by John Harrison provided that at the time the said discount is demanded, the said Jno W Harrison shall make oath that he received the said bills in fair mercantile operations at their par value, or that he received them in exchange for gold and silver or other money of equivalent value at par, and provided further, that said John W Harrison shall also swear, that he has at no time refused to take said bills at par, and provided also, that the amount upon which he demands the discount shall not exceed \$15,000.

On motion of Mr. Muse, the doors were opened.

In Secret Session

January 29th 1842

A communication from the President was read, containing the nominations of P. Edmonds, Consul of the Republic, at New Orleans, United States of America; and, William Henry Daingerfield, Secretary of the Treasury of the Republic.

¹⁹The Secret Journal has no copy of this Joint Resolution; it has, therefore, been supplied from the original in Papers of the Sixth Congress. The measure passed the Senate, but failed in the House.

Executive Department,
City of Austin, January 29, 1842.²⁹

To the honorable, the Senate.

I respectfully submit for the advice and consent of your honorable body, the nominations of William Henry Daingerfield, for Secretary of the Treasury of the Republic, and of P. Edmonds, for Consul of the Republic at New Orleans, United States of America

Sam Houston

Mr Gaines moved to take up the nomination of George W Scott, as Notary Public of Shelby County. Carried, and was unanimously confirmed.

Mr. Potter moved to take up the nomination of H W Sublett, District Attorney of the sixth Judicial District. Carried. The ayes and noes being called for on its confirmation stood as follows:

Ayes—Messrs. Gaines, Greer, Martin, Pilsbury, Potter and Shaw. 6.

Noes—Messrs. Barnett, Byrne, McFarland, Owen and Webb. 5. Carried, and nomination confirmed.

On motion of Mr Potter, the doors were opened.

In Secret Session

February 1st 1842.

Mr Potter moved to take up the nomination of William Henry Daingerfield. Carried.

Mr Greer moved that the nomination be laid on the table for the present. Carried.

Mr Webb moved to take up the nomination of P. Edmonds, Consul of the Republic, at New Orleans, United States of America. Carried.

Ayes and noes being called for on the confirmation of the nomination, stood as follows:

Ayes—Messrs. Barnett, Gaines, Greer, Martin, McFarland, Muse, Potter and Webb. 8.

Noes—Messrs. Byrne, Owen, Pilsbury and Shaw. 4. Carried.

Mr. Muse moved to take up the Joint Resolution relative to the Exchequer bills, etc. Carried. Read second time.

Mr. Muse offered a substitute.

On motion of Mr. Greer, the bill and substitute were laid on the table.

On motion of Mr. Potter, the doors were opened.

*See note 8 above.

In Secret Session

February 3rd 1842.

The following nominations were received from his Excellency the President

Executive Department,
City of Austin, February 3d, 1842.²¹

To the honorable, the Senate.

I have the honor to submit for the advice and consent of your honorable body, the following nominations, viz:

Ashbel Smith, Minister Chargé d'Affaires to France.
John G. Berry, Collector for the District of San Augustine.
Niles F. Smith, Collector for the District of Sabine.
Nathaniel D. Ellis, Collector for the District of Red River.
Henri Castro, Consul General of Texas for France.
William Kennedy, Consul General of Texas for Great Britain.
S. P. McFarlane, Notary Public for Jasper County.
D. Laughlin, Notary Public for Travis County.
Wm. Herring, Notary Public for Jefferson County.
Amos Morrill, Notary Public for Red River County.
Thomas Crutcher, Notary Public for Bowie County.
W. D. Shelton, Notary Public for Harrison County.
John S. Menefee, Notary Public for Jackson County.
George Lane, Notary Public for Panola County.
James S. Sullivan, Notary Public for Ward County.

Sam Houston

All of the above nominations were unanimously confirmed but W. D. Ellis, which nomination was laid on the table.

Mr Muse moved to take up the Joint Resolution relative to Exchange Bills. Carried. Read second time.

Mr Webb offered a substitute, which was read and adopted.

Mr Muse moved the rule be suspended. Carried. Read third time.

The ayes and noes being called for on the final passage stood as follows:

Ayes—Messrs. Barnett, Greer, McFarland, Muse, Potter and Webb. 6.

Noes—Messrs. Gaines, Martin, Pilsbury and Shaw. 4. Carried.

On motion the doors were opened.

In Secret Session

February 4th 1842

A message was received from His Excellency the President requesting the withdrawal of the nomination of W. D. Ellis Collector of Red

²¹See note 2 above.

River, and nominating in lieu thereof James Bourland, also the following nominations.

Executive Department,
City of Austin, February 3d, 1842.²²

To the honorable, the Senate.

I have to request of your honorable body, the withdrawal of the nomination of Nathaniel D. Ellis, as Collector for the District of Red River, and in lieu thereof to nominate James Bourland, for said office.

Sam Houston

Executive Department,
City of Austin, February 4, 1842.²³

To the honorable, the Senate.

I herewith submit for the advice and consent of your honorable body, the nominations of Francis M. Weatherhead, Jr., as Notary Public for Sabine County, and of Alexander E. McClure, as Notary Public for Burnet County.

Sam Houston

On motion of Mr. Greer, the above nominations were unanimously confirmed.

A message from his Excellency was read, with a project for commercial regulations to be formed between the government of his Majesty the King of the Belgians and the Republic of Texas.

Executive Department,
City of Austin, February 2d, 1842.²⁴

To the honorable, the Senate and House of Representatives.

General Hamilton has returned from Europe and reports to me a correspondence between His Majesty, the King of the Belgians, and himself, for procuring the guarantee of that Government on a public loan for this Republic, as an equivalent for certain commercial privileges according to the *project* of a legislative compact, of which the enclosed is a copy. I invite the serious attention of Congress to this scheme for establishing the public credit of the country and obtaining the means for its security and defence.

General Hamilton has, also, brought with him a plan for the sale and settlement of the public lands of the Republic, and supplying laborers from Europe for their cultivation, which, together with a scheme for raising money for the country by bonds commutable and terminable by life annuities, will likewise be presented for your consideration.

²²See note 8 above.

²³*Ibid.*

²⁴*Ibid.*

The various duties now claiming the attention of the President and the situation of the different Departments nearly destitute of Clerks, have rendered it impossible for the Executive to enter into such an investigation of the plans of General Hamilton, as would enable him to recommend any course in regard to them. He, therefore, submits the matter to the wisdom and mature investigation and deliberation of the honorable Congress.

Sam Houston

Project of a Commercial Legislative Compact between the Government of his Majesty the King of the Belgians and the Republic of Texas.

1st. Texas shall admit at one half the rate of duty the cotton, woollen, iron and linen manufactures of Belgium whilst the imposts on similar articles the manufacture and product of other nations shall pay a duty of 50 pr. cent ad valorem.

2d. That this rate of duty shall continue for five years from the date of the ratification of the Treaty when Texas shall have the right if she pleases of reducing the latter duty one fourth and in ten years another fourth maintaining the same relative discriminations in favor of the above enumerated imports from Belgium.

3d. That Belgian vessels shall be admitted into the privileges of the coastwise trade of Texas as the national vessels of Texas.

4th. Belgian vessels shall be admitted at the same rate of tonnage duty and port charges into the ports of Texas as Texian vessels.

5th. That arms and munitions of war of every description the manufacture of Belgium shall be admitted free of duty whilst those the manufacture of other nations shall pay a duty of 100 pr. cent ad valorem.

6th. That these privileges and concessions shall continue as long as Belgium is under any pecuniary responsibility for Texas whatsoever, and whilst such responsibility continues she will stipulate should hostilities be renewed between Mexico and herself to confine herself to a war strictly defensive or to such measures as may belong to a war of this character.

For these advantages to Belgium it is proposed that as an equivalent she should guarantee a public loan for Texas of 37 millions of francs or 7 millions of dollars by a specific endorsement of the bonds of the Republic, bearing an interest of six pr. cent redeemable by the operation of a sinking fund not to exceed 20 years. For which Texas is to pledge the following securities.

1st. A pledge of the public faith, taxes and revenues of the country.

2d. A pledge generally of the proceeds of the sales of the public lands which amount to 150 millions of acres.

3d. A pledge of the proceeds specially of 5 millions of acres to be surveyed, laid off and sold by emigration and land boards in the course of organization in Great Britain and on the continent of Europe.

4th. A pledge of any indemnity which the United States of America may pay for a part of the State of Louisiana which by the recent running of the boundary line between the U. S. and Texas is found to fall within the limits of the latter.

5th. That on the negotiation of the loan one half or fifty per cent of the nett proceeds of the same shall be deposited in the Treasury of Belgium at an interest of 4 pr. cent with an understanding however that it is to be considered as a safety fund to cover any default in the payment of the interest or supply of the sinking fund of the loan, until Texas shall have paid off one half the loan to her credit, when the deposit in the Treasury of Belgium shall be at the disposal of Texas.

It is proposed between the respective parties that the Govt. of Belgium should send out a commissioner to Texas to examine and report on the following points:

1st. Of the entire security of Texas from a successful invasion of her territory.

2d. Of the stability of her institutions.

3d. Of her abundant resources to meet her public debt and to save Belgium entirely harmless from all and every responsibility under her guarantee.

4th. Of the present and probable future trade of Texas.

5th. Of the advantages present and future of the above treaty to the people of Belgium.

6th. Of the good faith with which the treaty is likely to be maintained by the Government and People of Texas.

The undersigned submits the above as the basis of the project of the law which he will propose to the Congress of Texas.

(Signed) J. Hamilton

Brussels, Oct. 20th, 1841

Mr Potter moved that a committee be appointed to act with such Committee as the House may appoint on the project of commerce, etc., submitted by Genl. Hamilton. Carried.

The chair appointed Messrs. Potter, Webb and Greer said committee.

On motion of Mr Potter, the doors were opened.

In Secret Session.

February 5th 1842

Mr Potter, Chairman of the Select Committee, appointed to act on

the Commercial project of Genl. Hamilton, reported unfavorably. Report adopted.

Committee Room
Feb[rua]ry 4th 1842²⁸

To Ed[ward] Burleson

Pres[ident] of the Senate

K. L. Anderson

Speaker of the House of Rep[resentatives]

The Joint Select Committee of both houses of Congress to whom was referred the Executive Communication of the 2d Inst[ant] enclosing the *project* of a legislative compact submitted by Genl. James Hamilton, Minister and Loan Com[missione]r in Europe to the King of Belgium, as a basis of a loan of seven millions of dollars to the Republic of Texas, under the guarantee of the Government of Belgium for the same, have considered the subject as fully as the limited time allowed the Committee would permit.

The subject being one covering vast ground, and of important political and commercial interest would necessarily call for considerable time as well on the part of the Committee as of the House, to give to it that reflection and deliberation required for a satisfactory conclusion, or action of either. Moreover the late and protracted period of the session precludes the passage of such legislative enactments as would be necessary to carry out the objects embraced in the *project*, should the same in whole or in part upon mature investigation meet the views either of the Committee or of the Congress.

Connected also with the loan were submitted to the Committee by Genl. Hamilton two drafts of Bills, drawn up with great care, and well matured having for their object the encouragement of immigration and the introduction of labourers to the country; also for the sale and settlement of the public domain of Texas, which the Committee for the reasons assigned are unable to embody in a detailed report.

Although your Committee are aware that the *project* of a legislative compact, as also the bills would receive such modifications, and be accepted and rendered conformable to our institution and laws, yet the short period which Congress will likely remain in session constrains the Committee to submit to the consideration of Congress, and to recommend that it is impracticable at this time further to take the subject under consideration, and that the Committee be discharged therefrom.

²⁸The secret journal has no copy of this report; it has, therefore, been supplied from the original.

All of which is respectfully submitted

J. S. Mayfield

Chairman Special Com[mittee] on part of House

Rob. Potter,

Chairman of Committee of the Senate.

Mr. Potter moved to take up the nomination of William Henry
Daingerfield. Carried.

Unanimously confirmed.

SIXTH CONGRESS

SECOND OR CALLED SESSION

Journals of the Senate in Secret Extra Session

City of Houston,

July 20th 1842, 11 O'Clock A M¹

A communication from the President transmitting the following nominations of Naval officers, for the confirmation or rejection of the Senate, viz:

Executive Department,
City of Houston, July 19, 1842.²

To the honorable, the Senate:

I have the honor herewith to submit for the advice and consent of the Senate, the following nominations in the Naval Service of the Republic, viz:

E. W. Moore,	Post Captain Commanding.
J. T. K. Lothrop,	Commander.
D. H. Crisp,	Lieutenant.
W. C. Brashear,	Lieutenant.
William Seeger,	“
A. G. Gray,	“
A. J. Lewis,	“
J. P. Lansing,	“
A. A. Waite,	“
Geo. C. Bunner,	“
William A. Tennison,	“
Wm. Oliver,	“
Cyrus Cummings,	“
C. B. Snow,	“
D. C. Wilber,	“
M. H. Dearborn,	“
Thomas P. Anderson,	Surgeon.
R. M. Clarke,	“
J. B. Gardiner,	“
Morman Hurd,	Purser.
F. T. Wells,	“
J. F. Stephens,	“
W. T. Brannun,	“

¹Concerning the sources for the secret journal of the called session of the Sixth Congress, the same explanation is in order that was given above in note 1 to the regular session.

²The message here printed has been compared with and made to conform to the original.

The consent and confirmation of your honorable body are respectfully requested to the foregoing nominations, because of the necessity frequently arising in the prosecution of the duties of the service, for an exhibition of the commissions of the various officers, both upon the high seas, and in courts of justice, as recently happened in the demand of this Government for the mutineers of the Schooner San Antonio.

Sam Houston

On motion of Mr Muse, the above nominations were unanimously confirmed.

On motion, doors opened.

In Secret Session

July 20th 1842
5 o'clock P. M.

A communication from the President, transmitting the nomination of Isaac Van Zandt, as Minister Chargé d' Affaires from Texas to the United States.

Executive Department,
City of Houston July 20 1842^s
To the Honorable
The Senate.

I have the honor to submit for the advice and consent of your Honorable body the nomination of Isaac Van Zandt as Minister Chargé d'Affaires from Texas to the Government of the United States, vice James Reily whose resignation will take effect from and after the first day of August next, or before that period if his successor can reach Washington City

The Honorable Senate will therefore perceive the importance of early action. The business of the Legation at this time is of the highest interest to Texas.

Sam Houston

In Secret Session

July 22nd 1842

Mr Jack moved to take up the nomination of I Van Zandt, Chargé d'Affaires to the Government of the United States. Carried.

Mr. Owen moved the confirmation

The ayes and noes were called for on the confirmation and stood as follows:

Ayes—Messrs. Barnett, Byrne, Colquhoun, Greer, Jack, Owen, Shaw and Webb. 8.

*The secret journal has no copy of this message; it has been supplied from the original.

Noes—Messrs. Muse and Moore. 2. Carried

Mr Moore objected to the confirmation on the ground that the nominee was a member of Congress.

SEVENTH CONGRESS

Roll of Senators

George W. Barnett, for the District of Washington, Montgomery and Brazos.

James W. Byrne, for the District of Goliad, Refugio and San Patricio.

John A. Greer, for the District of San Augustine.

William H. Jack, for the District of Brazoria.

Oliver Jones, for the District of Austin, Colorado and Fort Bend.

William Lawrence, for the District of Harris, Galveston and Liberty.

K. H. Muse, for the District of Nacogdoches and Houston.

George A. Pattillo, for the District of Jasper and Jefferson.

L. Randall, for the District of Shelby, Sabine and Harrison.

John Rugely,¹ for the District of Matagorda, Jackson and Victoria.

James Shaw, for the District of Robertson and Milam.

John W. Smith, for the District of Bexar.

James Titus, for the District of Red River, Fannin, Bowie and Lamar.

James Webb,² for the District of Bastrop, Fayette, Gonzales and Travis.

Officers of the Senate

Edward Burleson, Vice President and President of the Senate.

John A. Greer, President pro tempore.

Stephen Z. Hoyle, Secretary.

¹John Rugely was elected to fill the unexpired term of Clark L. Owen; he took his seat January 7, 1843.

²James Webb resigned his seat in the Senate about December 5, but was re-elected and took his seat December 31, 1842.

SEVENTH CONGRESS

FIRST OR CALLED SESSION

[The Senate does not appear to have met in secret session during the brief first or called session of the Seventh Congress, November 14 to December 5, 1842.]

SECOND OR REGULAR SESSION

Secret Journal²

Be it remembered that on this, the thirteenth day of December, in the year of 1842, the Senate of the Republic of Texas met in secret session, with closed doors, at the town of Washington on the Brazos.

The following message from the President of the Republic was opened and read, to wit:

Executive Department,
Washington, December 13, 1842.³

To the Honorable, the Senate:

I respectfully submit for the advice and consent of your Honorable body the following nominations, in which a concurrence is respectfully requested:

James B. Shaw,	Comptroller;
Alexander Somervell,	Collector of Customs for the Port of Calhoun;
Sanford Holman,	Collector of Customs for the Port of San Augustine;
K. L. Anderson,	District Attorney for the fifth Judicial District;
Paul H. Earle,	Surgeon, Texas Navy;
B. Owen Payn,	Captain of Ordnance;

²There are three sources for the secret journals of the senate of the Seventh Congress:

1. The Secretary of the Senate's rough drafts of each daily session are preserved among the papers of the Seventh Congress.
2. The secret journals have been written out in full, covering twenty-three folio pages. This copy is also preserved among the papers of the Seventh Congress. It is presumed that this work was done under the resolution adopted in secret session on January 13, 1843.
3. Under the provisions of "An Act concerning the Archives of the Legislature," approved February 16, 1852, W. D. Miller, Secretary of the Senate of the Fourth Legislature, copied the journals of the senate of the Seventh Congress—both public and secret—into a large record volume, now preserved in the office of the Secretary of State. In general this last named source has been followed in the copy here printed; the secret journal is found on pages 143 to 175 of said volume.

³The message here printed has been compared with and made to conform to the original.

Charles H. Raymond,	Secretary of Legation to the United States;
Lachlan McIntosh Rate,	Consul-General of Texas for Great Britain;
Lewis J. Herekenrath,	Consul at Amsterdam, Netherlands;
William Bryan,	Consul at New Orleans, United States;
Nathaniel Amory,	Consul at Boston, United States;
William B. Hamilton,	Consul at Richmond, Virginia, United States;
Thomas H. Airey,	Consul at Natchitoches, Louisiana, United States;
Wyatt McGaffey,	Notary Public for Jefferson County;
Daniel Montague,	Notary Public for Fannin County;
Nathan Cordra,	Notary Public for Jefferson County.
	Sam Houston

On motion, the doors were reopened.

Wednesday, December 14, 1842.

The Senate met in secret session.

The nominations submitted in the message of the Executive of the 13th instant, were taken up and acted on as follows:

James B. Shaw, Comptroller, on motion, was unanimously confirmed.

A. Somervell, Collector of Customs for the Port of Calhoun, on motion, was unanimously confirmed.

Sanford Holman, Collector of Customs for the Port of San Augustine, on motion, was unanimously confirmed.

K. L. Anderson, District Attorney for the 5th Judicial District, on motion, was unanimously confirmed.

Paul H. Earle, Surgeon Texas Navy, on motion, was unanimously confirmed.

B. Owen Payn, Captain of Ordnance, on motion, was unanimously confirmed.

Charles H. Raymond, Secretary of Legation to the United States, on motion, was laid on the table.

Lachlan McIntosh Rate, Consul General of Texas for Great Britain, on motion, was laid on the table.

Lewis J. Herekenrath, Consul at Amsterdam, Netherlands, on motion, was unanimously confirmed.

William Bryan, Consul at New Orleans, United States, on motion, was unanimously confirmed.

Nathaniel Amory, Consul at Boston, United States, on motion, was unanimously confirmed.

William B. Hamilton, Consul at Richmond, Va., United States, on motion, was unanimously confirmed.

Thomas H. Airey, Consul at Natchitoches, La., United States, on motion, was unanimously confirmed.

Wyatt McGaffey, Notary Public, Jefferson County, was, on motion, unanimously confirmed.

Daniel Montague, Notary Public, Fannin County, was, on motion, unanimously confirmed.

Nathan Cordra, Notary Public for Jefferson County, was, on motion, unanimously confirmed.

On motion, the doors were reopened.

Monday, December 19, 1842.

The Senate went into secret session.

The following message from the President of the Republic was opened and read, to-wit:

Executive Department,
Washington, December 19, 1842.*

To the Honorable the Senate:

I have the honor to transmit herewith the Treaty of Amity, Commerce and Navigation, between the Republic of Texas and the United States of America, concluded at the City of Washington, on the 30th July last, by their respective plenipotentiaries, for your consideration and constitutional advice in reference to its final ratification.

The stipulations of this treaty, it is believed, are as favorable to Texas, as, under existing circumstances, could be expected; and I respectfully recommend it to your favorable regard.

By Article V an important concession is made to the United States in the privilege granted, of importing a large class of goods into this country for exportation free from any duty or charges whatever. This opens to those goods the trade of Northern Mexico. On the other hand, the raw cotton of Texas is permitted to be imported into the United States free of duty for five years, and a corresponding class of goods to that above referred to are permitted to be imported into the United States for exportation, free from any duties or charges, during the continuance of the Treaty. The privilege of repacking goods destined for retransportation to a foreign country, is also mutually conceded.

These concessions made in favor of goods, the growth, produce and manufacture of the United States, it might be contended, from the language of the Article, are free and gratuitous, and would therefore, according to the terms of our treaties with France, England and Holland, become immediately common to all of those nations.

*See note 3 above.

Since the instructions under which Mr. Reily, our able Chargé d'Affaires, negotiated this treaty, were given him, information has been received that France is anxious to obtain from this Government the same privileges which are by this Article extended to the United States, and that she would be willing to grant some important equivalent in consideration therefor. It is fairly to be inferred that England and Holland would do the same. In order, therefore, to prevent any cavil in relation to the construction of this Article, and to secure to Texas the important advantages which might hereafter result from withholding, without an adequate compensation, the privileges and immunities granted the United States in this Article, from other nations, I would most respectfully but earnestly recommend the Honorable, the Senate, so to modify or amend the 5th Article as clearly to express the fact that the concessions made therein were for a valuable consideration, and not, as might now be contended, gratuitous and free, and therefore common to all those powers with which we already have or might hereafter form commercial treaties. A very slight alteration in the language of the article would effect this desirable object, and as it would render the treaty more acceptable to the United States, it is presumed that no additional delay would result in its ratification by that government.

Sam Houston

On motion, the said treaty was read first time; and then on further motion, the doors were opened.

Tuesday, December 20, 1842.

The senate met in secret session.

The journal of the preceding days was read and adopted.

Mr. Muse moved the reconsideration of the vote confirming the nomination of Mr. Somervell; but afterwards withdrew his motion.

Mr. Jack moved that the advice and consent of the Senate upon any matters laid before them by the Executive, shall not be transmitted to the President until after the expiration of two days, unless otherwise directed. Adopted.

The treaty between the Republic of Texas and the United States came up on its second reading, and was read as follows:

Treaty of Ammity, Commerce and Navigation between the Republic of Texas and the United States of America.

The Republic of Texas and the United States of America equally animated with the desire of maintaining the relations of good understanding, which have hitherto so happily subsisted between the two countries, and of extending and consolidating the commercial inter-

course between them, have agreed to enter into negotiations for the conclusion of a treaty of Amity, Navigation and Commerce: For which purpose the President of Texas has conferred full powers on James Reily, accredited to the Government of the United States as Chargé d'Affaires of that Republic, and the President of the United States has conferred like powers on Daniel Webster, their Secretary of State; and the said Plenipotentiaries having exchanged their full powers, found in good and due form, have concluded and signed the following articles.

Article I.

There shall exist throughout the territory of the Republic of Texas and the United States, and between the people and citizens of both, a lasting peace and friendship.

Article II.

There shall be between the territory of the Republic of Texas and the territory of the United States, a reciprocal liberty of commerce. The inhabitants of the two countries, respectively, shall have liberty freely and securely to come with their ships and cargoes, to all such places, ports and rivers in the territories aforesaid, to which other foreigners are permitted to come, to enter into the same and to remain and reside in any parts of the said territories respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and generally, the merchants and traders of each nation respectively, shall enjoy the most complete protection and security for their commerce, but subject always to the laws of the two countries respectively. This article, however, shall not be understood to authorize the coasting trade, which is permitted to national vessels only.

Article III.

No other or higher duties shall be imposed on the importation into Texas of any articles, the growth, produce or manufacture of the United States; and no other or higher duties shall be imposed on the importation into the United States of any articles the growth, produce or manufacture of Texas, than are or shall be payable on the like articles, being the growth, produce or manufacture of any other foreign country; nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to Texas or to the United States, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles, the growth, produce or manufacture of

Texas or of the United States, to or from the United States or to or from Texas, which shall not equally extend to all other nations.

No higher or other duties or charges shall be imposed in any of the ports of Texas on vessels of the United States than those payable in the same ports by Texan vessels, nor in the ports of the United States on Texan vessels, than shall be payable in the same ports on vessels of the United States.

The same duties shall be paid on the importation into Texas of any articles, the growth, produce or manufacture of the United States, whether such importation shall be in Texan vessels or in vessels of the United States; and the same duties shall be paid on the importation into the ports of the United States of any article, the growth, produce or manufacture of Texas, whether such importation shall be in vessels of the United States or in Texan vessels.

The same duties shall be paid and the same bounties allowed on the exportation of any articles, the growth, produce or manufacture of the United States, to Texas, whether such exportation shall be in Texan vessels or in vessels of the United States; and the same duties shall be paid and the same bounties allowed on the exportation of any articles, the growth, produce or manufacture of Texas, to the United States, whether such exportation shall be in vessels of the United States or in Texan vessels.

It is further agreed that, in all cases where drawbacks are or may be allowed upon the re-exportation of any goods, the growth, produce or manufacture of either country, respectively, the amount of the said drawbacks shall be the same, whether the said goods shall have been originally imported in a vessel of the United States or in a Texan vessel; but when such re-exportation shall take place from Texas in a vessel of the United States, or from the United States in a Texan vessel, to any other foreign nation, the two contracting parties reserve to themselves, respectively, the right of regulating or diminishing, in such case, the amount of the said drawback.

Article IV.

The two contracting parties agree that the Sabine from its source to the sea, the Red River, and all rivers having their sources or origin in the territory of Texas, running in part of their course through that territory, or forming the boundary between the United States and Texas and emptying into the Mississippi itself, from and including the mouth or mouths of said rivers, to the sea, shall be free to be navigated and common to both nations; and that no duty shall be levied or collected upon any articles, the growth, produce or manufacture of Texas, originally transported down the above named

rivers, or transported for the purpose of descent and exportation, to any ports or places situated thereon: Provided, however, that it shall be lawful for the President of the United States to establish such rules and regulations as may be necessary for the proper observance within the United States of the stipulations contained in this and the next succeeding article.

Article V.

The two contracting parties agree that on all articles, the growth, produce or manufacture of either country, sent from one country to the other by land, river or sea, and exported to a foreign country, no duties or charges shall be required to be paid to the power within and from out of whose limits such articles arrive and depart—that they may be repacked for exportation, under the inspection of the proper authorities and at the expense of the party interested; and that raw cotton, the produce of either country may be imported into the other, free of duty, for five years from the exchange of the ratifications of this treaty.

Article VI.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded or invested, it is agreed that every vessel so situated may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated: unless, after warning of such blockade or investment from the commanding officer of the blockading force, she should again attempt to enter the blockaded port: but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either of the contracting parties that may have entered such port before the same was actually besieged, blockaded or invested by the other, be restrained from quitting such place with her cargo, if not contraband; nor if found therein after the surrender, shall such vessel or her cargo, if not contraband, be liable to confiscation, but she shall be restored to the owner thereof.

Article VII.

To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the ships and vessels belonging to citizens of the other must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship,

and also the name and place of habitation of the master or commander of said vessel, in order that it may hereby appear that the ship really and truly belongs to citizens of one of the contracting parties; they have likewise agreed that such vessels being laden, the said sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo and the place whence the vessel sailed, so that it may be known whether any forbidden or contraband goods be on board the same,—which certificates shall be made out by the officers of the place whence the vessel sailed, in the accustomed form; without which requisites, the said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent.

Article VIII.

To prevent all kinds of disorder and irregularity in the visiting and examining of the ships and cargoes of both the contracting parties on the high seas, they have mutually agreed that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain at the greatest distance compatible with the possibility and safety of making the visit, under the circumstances of wind and sea, and the degree of suspicion attending the vessel to be visited, and shall send one of her small boats with no more men than necessary to man it, for the purpose of executing the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence or ill treatment, in respect of which the commanders of said armed vessels shall be responsible with their persons and property.

Article IX.

It is moreover agreed that in all cases, the established courts for prize causes in the country to which the prize may be conducted, shall alone take cognizance of them; and whenever such tribunal or court shall pass judgment against any vessel, goods or property claimed by citizens of the other party, the sentence or decree shall mention the reasons or motives in which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel or property, without any excuse or delay, he paying the legal fees for same.

Article X.

The liberty of commerce and navigation shall extend to all kinds of merchandize, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended: first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fusees, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms; secondly, bucklers, helmets, breastplates, infantry belts and clothes made up in a military form and for a military use; thirdly, cavalry belts and horses with their furniture; fourthly and generally, all kinds of arms and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

Articles XI.

All other merchandize and things not comprehended in the articles of contraband expressly enumerated and classified as above, and belonging to citizens of either of the contracting parties, or to citizens or subjects of other countries with which both Texas and the United States are at peace, shall be held and considered as free and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and to avoid all doubt in that particular, it is declared that those places only are besieged or blockaded, which are actually besieged or blockaded by a belligerent force capable of preventing the entry of the neutral.

Article XII.

Articles of contraband which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo, if the property of citizens of the contracting parties or of citizens or subjects of countries with which Texas and the United States are at peace, and also leaving the vessel free, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas, on account of having on board articles of contraband whenever the master, captain or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk, that they cannot be received on board the capturing vessel without great inconvenience;

but in this and all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

Article XIII.

The citizens of each of the contracting parties shall have power to dispose of their personal effects within the jurisdiction of the other, by sale, donation, testament or otherwise; and their representatives, being citizens of the other party, shall succeed to the said personal effects, whether by testament or ab intestato, and may take possession thereof either themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein such effects are, shall be subject to pay in like cases.

Article XIV.

Both the contracting parties solemnly promise and engage to give their special protection to the persons and property of the citizens of each other of all classes and occupations, who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, and to leave open and free to their respective citizens of all denominations the tribunals of justice for their judicial recourse, on the same terms as are usual and customary with the natives and citizens of either country and not incompatible with the existing laws.

Article XV.

To make more effectual the protection which the contracting parties shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit consuls and vice consuls in all the ports open to foreign commerce, who shall enjoy within their respective consular districts, all the rights, prerogatives and immunities of the consuls and vice consuls of the most favored nations, each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such functionaries may not seem convenient.

Article XVI.

It is likewise agreed that the consuls, vice consuls, their secretaries, and persons attached to their service, (they not being citizens of the country where the consul or vice consul resides,) shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce or their property, and from which the

citizens of their respective countries, resident in the other, are not exempt in virtue of the stipulations contained in this treaty, they being in everything besides subject to the laws of the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate or other person, seize or in any way interfere with them.

Article XVII.

In order that the consuls and vice consuls of the two contracting parties may enjoy the rights, prerogatives and immunities which belong to them by their public character, they shall, before entering upon the exercise of their functions, exhibit their commission or patent in due form, to the government to which they are accredited; and having received their exequatur, they shall be held and considered as such consuls and vice consuls by all the authorities, magistrates and inhabitants in the consular district in which they reside.

Article XVIII.

The said consuls and vice consuls shall have power to require the assistance of the authorities of the country for the arrest, detention and custody of deserters from the public and private vessels of their country; and for this purpose they shall address themselves to the courts, judges or officers competent, and shall demand the said deserters in writing, proving by an exhibition of the ship's roll or other public document, that the men so demanded are part of the crew of the vessel from which it is alleged they have deserted; and on this demand so proved, (saving, however, where the contrary is more conclusively proved,) the delivery shall not be refused; such deserters, when arrested shall be put at the disposal of the said consuls or vice consuls, and may be put in the public prisons at the request and expense of those who claim them, to be sent to the ships to which they belong or to others of the same nation; but if they should not be sent within two months, to be counted from the day of their arrest, they shall be set at liberty and shall be no more arrested for the same cause.

Article XIX.

It is likewise agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian tribes who inhabit the lands adjacent to the lines and rivers which form the boundaries of the two countries; and the better to attain this object, both parties bind themselves ex-

pressly to restrain by force, all hostilities and incursions on the part of Indians residing within their respective boundaries; so that Texas will not permit the Indians residing within her territory to attack the citizens of the United States, or the Indians residing within the limits of the United States; nor will the United States suffer their Indians to attack the citizens of Texas nor the Indians inhabiting her territory, in any manner whatever.

Article XX.

In the event of any person or persons captured by the Indians who inhabit the territory of either of the contracting parties, being or having been carried into the territory of the other, both governments engage and bind themselves in the most solemn manner to return them to their country so soon as they know of their being within their respective territories, or to deliver them up to the agent or representative of the government that claims them, giving to each other, reciprocally, timely notice, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the meantime, shall be treated with the utmost hospitality by the local authorities of the place where they may be.

Article XXI.

It is agreed that the Government of Texas and the Government of the United States shall, upon mutual requisitions by them or their ministers, officers or authorities, respectively made, deliver up to justice all persons, who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, or any crime amounting to felony or grand larceny, shall seek an asylum, or shall be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed. And the respective judges and other magistrates of the two governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the

proper Executive authority, that a warrant may issue for the delivery of such fugitive.

ARTICLE XXII.

Except as otherwise provided by the fifth article, this treaty shall be in force for ten years from the day of the exchange of the ratifications thereof; and further until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same, each of them reserving to itself the right of giving such notice to the other at the end of the said term of ten years. And it is agreed that on the expiration of one year after such notice shall have been received by either of them from the other, as above mentioned, this treaty shall, in all the parts relating to commerce and navigation, altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be perpetually binding on both parties.

This treaty shall be ratified by the President of Texas, by and with the advice and consent of the Senate of that Republic, and by the President, by and with the advice and consent of the Senate of the United States; and the ratifications shall be exchanged at Washington within ten months from its date, or sooner if practicable.

In faith whereof, we, the plenipotentiaries of the Republic of Texas and of the United States, have signed and sealed these presents.

Done at Washington on the thirtieth day of July, in the year of our Lord one thousand eight hundred and forty-two, in the seventh year of the Independence of the Republic of Texas, and the sixty-seventh of that of the United States.

James Reily.

Danl. Webster.

(L. S.)

(L. S.)

Mr. Jack offered a modification of the fifth article of said treaty.

Mr. Jack then moved that the treaty, together with the modification or amendment proposed of the fifth article, be referred to the committee on Foreign Relations [Messrs. Lawrence, Pattilló, and Smith]. Carried.

On motion of Mr. Lawrence, Messrs. Jack and Greer were added to said committee.

On motion, the doors were reopened.

Thursday, December 22, 1842.

The Senate met in secret session.

Mr. Jack, Chairman of the Committee on Foreign Relations, to whom was referred the treaty between the Republic of Texas and

the United States, with the President's message thereon, reported that they had examined the same with the deepest interest, which the importance of the subject demanded, and recommended that the Senate do advise and consent to the treaty as it now stands, without any modification.

Report received, and the treaty taken up and read article by article.

On motion of Mr. Greer, the rule was suspended and the treaty read a third time.

Mr. Greer offered the following resolution:

Resolved, That the Senate advise and consent to the ratification of the treaty of Amity, Commerce and Navigation between the Republic of Texas and the United States of America, concluded at Washington the 30th day of July, A. D. 1842.

The question being taken on the passage of said resolution, the ayes and noes stood thereon thus:

Ayes—Messrs. Barnett, Greer, Jack, Jones, Lawrence, Muse, Patisillo, Randall, Shaw, Smith and Titus. 11.

There being no dissenting voice, the resolution was unanimously adopted.

On motion, the Secretary was instructed to report the action of the Senate on said Treaty to the President forthwith.

On motion, the doors were reopened.

Tuesday, December 27, 1842.

The Senate went into secret session.

The following message from the President of the Republic was opened and read, to wit:

Secret.

Executive Department,
Washington, Dec[embe]r 22nd, 1842.*

To the Honorable, the Senate and House of Representatives.

The Executive regrets that ill health and a press of indispensable duties have combined to prevent his laying before the honorable Congress, as he was anxious to do at an earlier period of the session, information touching the Navy of Texas. He has to regret, also, that he has not been able to procure such information on the subject as would be in every respect entirely satisfactory. Such as is in possession of the Department, however, he freely submits. No reference was made to the Navy in the annual message, for the reason that it was deemed unwise to present to the world the deplorable

*See note 3 above.

condition of that branch of the public service; and hence, with other subjects of absorbing interest, it was reserved for a separate and secret communication.

When the present administration commenced, the Navy was absent in the service of Yucatan. It returned early in May last off Galveston, and was forthwith ordered to New Orleans and Mobile for the purpose of refitting for the enforcement of the blockade then proclaimed by Texas against Mexico; in the confident belief, as expressed by its Commander, that, with the aid of the friends of Texas in the United States, he would be prepared for sea in a very few weeks. The government was induced from time to time, by his reports and representations, to expect it soon to be in a state for efficient service on the Gulf. Every assistance which the Government thought advisable under the circumstances in which it was placed, had been afforded in accordance with the views of its Commander. Nothing, however, was effected of any useful character.

In the month of July last, Commodore Moore arrived at Houston, and represented that if the balance of the naval appropriation, amounting to eighteen thousand eight hundred and twelve dollars and seventy-four cents, was placed at his disposition, by hypothecating the money as collateral security to his own paper, he would be enabled to get at least four vessels to sea. When the money was advanced to him, it being the whole amount of the appropriation for the present year, he was expressly required, in the event of its hypothecation, so to provide that no portion of it whatever should be thrown into circulation under ninety days from the time at which he might enter into contract. A portion of the money nevertheless, as reported to the Government, returned by the same steam packet that transported him to New Orleans; and had a powerful tendency to depreciate our currency, by creating the belief that though the issues were restricted at the seat of Government, yet that large sums had been thrown into circulation at other points, in anticipation of the restriction upon home issues. From some cause, also, he failed from time to time to keep the Government apprised, with as much particularity as would have been desirable, of his true situation.

It will be perceived, by the report from the Department of War and Marine, of the 15th ultimo,⁶ that the Commander of the Navy finally made known his total inability to get to sea without further means, owing, as alleged, to the worthlessness of Texas funds. The Government had no additional means to afford—all the available appropriation having been exhausted; and hence the only course left

⁶See Document A appended to this message.

to the Executive was to order the Commander with his vessels to report at Galveston for further orders. This was accordingly done.

It appears that on the 19th of August the Schooner *San Antonio* was ordered to Sisal, without the knowledge of the Government, for the purpose of obtaining the balance of the sum due from the Government of Yucatan under a contract with the former administration. Since then the vessel has not returned; and it is the universal opinion and belief that she, with her crew, has perished in a gale. This unfortunate event cannot be too deeply deplored; for while it has diminished our naval force, it has deprived the country of the lives and services of the many gallant officers and men who composed her crew.

During the time that the Navy was thus inactive, the Governments of Great Britain and the United States, complained to this Government of the continuance of the proclamation of blockade of Mexican ports, when this Government could not maintain a single vessel upon the Gulf. From which fact, the President felt it to be his duty to proclaim a revocation of blockade.

It will be perceived, by the estimates furnished by the proper Department, that the amount required to keep the navy in service for one year will amount to no less than two hundred thousand six hundred and sixty seven dollars twenty cents.⁷ The Executive, however, is inclined to believe that to include the contingencies and resulting repairs, a sum not less than three hundred thousand dollars would be demanded. It is for the honorable Congress to determine the question whether Texas is in a situation to accomplish the object of keeping our Navy longer afloat, or whether good policy does not require us to abandon that arm of defence, and make sale or such other disposition of the vessels as will relieve the nation from a burthen which it is so utterly unable to sustain.

It is believed that the individual of whom the vessels were purchased would be willing to receive them back, if returned, on such terms as would exonerate the country from a considerable portion of its debt contracted in their purchase, and relieve us of much of the odium and reproach which have attached to us in consequence of the nonperformance of the contract on the part of the Government. The attention of the Government has been impressively called to the situation of this individual owing to his being a foreigner, and having extensive commercial connexions.

When we advert to the history of our Navy from its first establishment to the present moment, we cannot perceive a single instance

⁷This estimate is printed in *Appendix to the Journal of the House of Representatives, Seventh Congress, p. 29.*

wherein any important benefit has been conferred upon the country from its action. No advantage has been achieved by it. This remark is not made from any disposition to reflect disparagement upon the officers composing the naval corps, but is founded upon facts which are to be deplored, because they have encumbered us with debt without producing any beneficial return. Had the one-twentieth part of what has been expended for the purchase and support of the Navy, been employed in constructing fortifications for the defence of our harbors, the debt of Texas would have been at this day millions less, and our coast and harbors in a much more favorable attitude of defence. A clamor induced the creation of the Navy. Experience has taught us the impolicy of the measure; and now necessity propounds the question, whether it is true policy longer to crush the energies of the Government and depress the nation by attempting to maintain an establishment which experience tells us is utterly beyond our means. So long as we continue to present the semblance of naval power, so long will the hopes of the country be tantalized and at last disappointed.

To give efficiency to our Government it is proper that we should not permit any diversion of our energies. To economise our means and concentrate all our resources upon objects of unquestionable importance and utility should be our first purpose. If we, as a nation, had means sufficient, or if it were even barely possible for us to maintain a navy, the Executive might incline to the opinion that, though it might not be the wisest policy, yet, if the fatal experiment had not been made, that we might be excusable for a trial of the measure. But in our present destitute condition, it is so manifest that we have not means to maintain the establishment, that I do not hesitate in pronouncing a further experiment as deeply injurious to the public interests. If Texas cannot preserve the vessels from wreck and ruin, for the want of a few hundred dollars, when they have cost hundreds of thousands, how can she maintain the establishment, even in its present dilapidated condition, when hundreds of thousands yearly must be provided for its support.

For a naval power, shipyards, docks, mechanics, sailors, are all required. Texas has none of these facilities—not even for repairing a single vessel. She originates no seamen; and is dependent on foreign ports and foreign countries for everything connected with her navy. If her vessels go into foreign ports for repairs, she has no means to pay for such repairs, to ship her seamen, or provision them for even the shortest cruise. The result must, therefore, for a great while be, as it is now, that after having exhausted the whole amount of the appropriations of an impoverished Government, in-

stead of being in an efficient state to encounter the enemy, the Commander declares himself unable to extricate himself, or the vessels under his command, and repair to our own ports in obedience to orders. As remarked above, this is now actually the case. He avers that without additional means, for the payment of the officers and men, he will be left in a situation unable to navigate his vessels from the harbor in which they are now anchored.

Facts have been communicated to the Government of such a character as would seem to show that many of the officers of the Navy have been and yet are without pay, clothing or the common necessities of life—notwithstanding the sixty one thousand nine hundred and seventy-one dollars which have been placed at the disposition of the Commander, viz: forty one thousand nine hundred and seventy one dollars received, in specie, from Yucatan, within the last twelve months, according to the memorandum of the Commander himself, embraced in the report of the Acting Secretary of War and Marine herewith transmitted⁶; and the twenty thousand dollars appropriated by the last Congress. They seem, too, to be under the apprehension that the Government has withheld means intended for their support, and ascribe great credit to Commodore Moore for his individual exertions in their behalf—apparently ignorant of the sums which have been placed under his control and at his disposition; and suggest that the Government had received one-half of the twenty-five thousand dollars received for services in aiding in the reduction of Tabasco in 1840.

The Commander as well as the officers seem to consider it as a matter of right that they should have had the additional appropriation of the extra session of the sum of fifty-seven thousand four hundred and twenty eight dollars and fifty cents, besides twenty five thousand dollars for outfit and provisions, though it was well known that the appropriation was contingent in its character, and that the Government had not had it in its power to advance any portion—no money having been received under the appropriation to enable it to do so.

Such was the solicitude of the Executive that the Navy should proceed to sea in the enforcement of the blockade that he, in addition to the entire appropriation furnished Commodore [Moore] for that purpose, incurred an individual liability amounting to ten thousand dollars, by drawing on himself, payable provided the Steam Ship Zavala could be fitted for service. The liability placed in the hands of Commodore Moore, with instructions to be used for the intended purpose, has not been returned, nor does the Executive know how

⁶See Document A appended to this message.

far he is exonerated from its application. The Commodore in his last communication, herewith submitted⁹, seems to be at a loss to know what has become of it.

The Honorable Congress will perceive from the foregoing facts, that every exertion, individual as well as official, on his part, has been made with a view to render the services of our Navy advantageous to the country. If in this he has failed, he feels fully acquitted of all reprehension.

Another subject to which I would invite the attention of the honorable Congress, is that of our relations with Mexico. On the 15th day of October last, a representation and protest was addressed by this Government to the Governments of Great Britain, France and the United States. In that paper, herewith sent,¹⁰ a view of the hostile conduct of our enemy, such as this Government thought just and proper, was presented to those courts. It was believed at the time that to invoke the intervention of those powers on this subject, was a right possessed by Texas under the law of nations. No injury to Texas can result from the course, and it is confidently believed that the facts as represented by the Secretary of State, will not be disregarded by those enlightened Governments. If it should fail in the attainment of the object sought, Texas certainly cannot be prejudiced, or placed in a situation less desirable than that she would have occupied had the protest not been preferred.

The views and policy of this Government, in relation to Mexico, have not been based upon or influenced by the supposition that we should fold our arms and remain in our present attitude, relying alone upon this interpositon in our behalf. How far we may expect the interference of those powers, in reference to our affairs, we can only infer from the friendly disposition which they have manifested toward us. It was the duty of England, under a solemn treaty, to offer her mediation, which has so far been rejected, and the fact announced to this Government. The United States have manifested a disposition to interfere as far as consistent with her amicable relations with Mexico; and by extracts from *private* notes addressed by the Chargé d'Affaires of Her Britannic Majesty, to the Executive, which are herewith submitted,¹¹ it will be perceived that France has also manifested a readiness and willingness to become, as far as she can, a party to the mediation. How far the united or

⁹See Document B appended to this message.

¹⁰This letter is printed in C. Edwards Lester, *Sam Houston and His Republic*, p. 163-167.

¹¹The extracts from private notes referred to have not been found.

separate efforts of those powers may influence the action of Mexico, it is not possible to divine; but they certainly present the ground for a reasonable hope that they will have a beneficial influence upon our affairs with that country.

In reply to the desire expressed by one branch of the honorable Congress, for all the information in possession of the Executive, in relation to the probability of invasion, he can only say that from the general tenor of the information (if such it can be termed) which he has received, he is left to make his reflections without such data as would enable him to arrive at satisfactory conclusions. His opinion is, that Mexico is, at this time, in a revolutionary condition; and should the present dictator and congress disagree as to the form of government now or lately under discussion, the consequence will be an attempt to rivet the chains of his power upon the Mexican people by military force; and in that event, a revolution will most probably ensue. Should this be the case, it is not probable that Mexico would be in a situation to invade Texas with a formidable army; nor can I yet believe that she will attempt the establishment of a permanent force within our limits. Her superiority by sea may enable her to harrass our seaboard, and thereby inflict upon us occasional embarrassments. To this end, therefore, we ought to direct some precaution.

That she will attempt an incursion into our borders with an inconsiderable regular force, united with rancheros and a few Indians as auxiliaries, may reasonably be expected. If this should be the case we should be prepared for them by the first of March, at farthest. The Executive hopes, with the aid of Congress, to have it in his power to meet this possible emergency. Alone and unaided by means, he can achieve nothing. With the assistance of Congress much may be done. He anticipates confidently a treaty of peace and amity with all the Indians upon our borders; and should adequate means be placed at his disposition he can render them efficient friends in preventing the successful inroads of the Mexicans; as they would have it in their power and be ready, with small encouragement, to deprive the enemy of their cavalry and pack-mules.

The adoption of this course of policy would not be at variance with the principles of civilized warfare; for to embarrass our enemy by every means in our power, not at war with the dictates of humanity, is universally conceded to be justifiable. And whilst the Indians would be thus employed, they would not be permitted to violate any principle or law of humanity. Mexico has employed exasperated savages against us in the field of battle and has sought

to stimulate them throughout our borders to outrage and blood[shed].

The happiest results are to be expected from a pacification with the Indians; and we shall have the strongest guaranty for their fidelity to our cause, in the fact that they have been engaged for years in hostility against us; for they will naturally feel solicitous to confirm our friendship by evincing a zeal in our service. They may be made as valuable for their friendship as they have been injurious by their hostility.

The several papers, No. 22, 23, 24 and 25, being *original despatches*¹² from the Hon[orable] Ashbel Smith, our Chargé d'Affaires in Europe, are herewith submitted for the examination of the honorable Congress. It is requested, that after they shall have been read, an order may be made for their return to the Department of State. It is also requested that this message with all the accompanying documents be transmitted, under injunctions of secrecy, to the honorable the Senate, for their perusal.

Sam Houston

Document A.

Department of War and Marine,
Washington, 15th Nov, 1842.

To His Excellency, Sam Houston,

President of the Republic of Texas:

Sir: In reply to Your Excellency's enquiry, whether special reports have been made to the Department by the Officer Commanding the Navy, touching the condition of the Vessels under his command, and of the disbursement, or disposition made of the funds received by him from the authorities of Yucatan under the agreement made with that Government for the use of our Squadron, and also of the amount recently placed in his hands to complete the outfit of the Vessels then lying in the Port of New Orleans, I have to inform you that full and formal reports have not been received touching any of these subjects, and none at all with regard to the last.

Of the Vessels, reports of their fitness or unfitness for service, have from time to time been made, with the repairs necessary, and the extent and cost of such repairs. These, together with that lately made by Lt. D. H. Crisp of the condition of those now in Galveston Harbor give a pretty correct knowledge of the condition of all our Vessels of War. With respect to which, with the funds above referred to, I have the honor to submit the following brief statement:

The whole amount of money received from Yucatan by Commodore Moore, as acknowledged by letter in July last, was \$41,971.00;

¹²The despatches from Ashbel Smith referred to above are printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II.

for the disbursement of which sum, the Department has been furnished with the following memorandum:

Expended in New Orleans and Galveston previous to sailing, for shipping men, provisions, clothing, munitions of war, rigging and ship chandlery.....	\$28,648.78
Expended on coast of Yucatan for provisions and for Officers from Decr. 1841 to 28th April 1842.....	4,960.00
Paid to officers, and men discharged in Galveston, New Orleans and Mobile	6,868.00
For provisions, awnings and shipping men since return of Vessels to New Orleans and Mobile	4,265.64
	<hr/>
Amounting altogether to	\$44,742.42

which shows a balance in his favor of \$2,771.42. There still remained a balance due from Yucatan for which the Sch[oone]r San Antonio had been sent, but whether any part of it was received, is not known certainly. If so it will be accounted for hereafter.

The sum estimated for to complete the outfits of the two Vessels—Ship Austin and Brig Wharton—then lying in New Orleans, (9th July) was \$10,800, which amount, it was represented, could be raised in the City of New Orleans by Comm[odore] Moore, upon his own paper, by using as collateral security the unexpended balance of the appropriation for the support of the Navy for the current year, amounting to \$18,812.74, in Echequer Bills. This amount was accordingly drawn by him on the 23rd of July or about that time, and was to be employed for the purpose above mentioned exclusively, under the following instructions from the Department of that date, viz: That the Bills were to be hypothicated or pledged as collateral security, on the most advantageous terms that could be obtained, and not on time shorter than ninety days, but as much longer as could be obtained; that if a negotiation was found impracticable, without a forfeiture in case of non-redemption at the expiration of the time agreed upon, then to hold them liable to that forfeiture.

No intimation has been received from him as yet, whether the above sum or any portion of it, has been used. He has reported his progress from time to time, and the difficulties experienced in negotiating for funds, the worthlessness of Texas securities in New Orleans, etc., and finally his inability to get to sea without funds, but does not state the sum required. Upon receipt of this intelligence, he was directed, in accordance with Your Excellency's instructions, to report at Galveston immediately with the Vessels un-

der his command, provided he could not, with the means at his command, prepare them forthwith for sea.

The Ship and Brig have received such repairs as they required, and are now in good condition; but the Ship will require new copper entire in a very short time. They have been provisioned, but seamen are yet wanting and clothing for them. The San Antonio sailed again for Sisal, Yucatan, on the 19th August since then not a word has been received respecting her. She had not sufficient time to make the run, unless favourable winds prevailed, prior to the great gale in Sept in which I fear she was lost with those on board. It is difficult to account for his absence or the silence of her Commander in any other way. The Schooner San Bernard and Steam Ship Zavala are both aground at Galveston, as before reported. The former in about two feet of water, and but slightly damaged; but she will have to be lifted into blocks, repaired and then launched. This can soon be done, and will require a sum not less than two thousand dollars. The former cannot be repaired—she is a wreck, and had she been so considered months ago, fifteen thousand dollars might have been saved to the Government. Her engines alone were worth twenty-five thousand, whereas they will not now sell for ten.

I would recommend that the boilers, engines and such other parts of her as may be worth anything, be sold as soon as notice can be given in the United States, as it is not presumed that they could be sold to advantage without such notice. I would also recommend that some provision be made to get the San Bernard afloat without delay as she must sustain additional injuries every day, and will require an amount to repair her in a short time equal to her value.

Whether any blame should attach to the Officer commanding her or not, the Department cannot determine. He reported that every precaution possible had been taken to guard against such an occurrence, but that her anchors were too light, which were dragged ashore with her. Her provisions being exhausted, the most of her crew have been discharged; the remainder, with the Officers are on board the Brig Archer. This last Vessel is securely moored, and doing well. She is however stripped of her guns, rigging and sails, and indeed almost everything that could be removed. Ten thousand dollars at least will be required to equip her as a vessel of war.

I have the honor to inform Your Excellency that in accordance with the provisions of the sixth section of the Joint Resolution "making appropriations for the support of the Navy," approved the 23rd July, 1842, Charles Rassignol Esq. was appointed Navy Agent.

Commodore Moore has been instructed upon his arrival at Gal-

veston, to make full reports of the condition of all the Vessels, the number of officers, seamen and marines together with the disbursements of all monies received by him, and all other information which it may be necessary for the Department to possess. So soon as such reports shall have been received, their contents will be laid before Your Excellency immediately.

I have the honor to be

Very respectfully

Your Obt. Servt

M. C. Hamilton,
Actg. Sec. War and Marine¹⁸

Document B.

Department of War and Marine
Washington, 13th Decr, 1842¹⁴

To His Excellency, Sam Houston,
President of the Republic.

Sir: Herewith enclosed I transmit a copy of a communication from Post Capt. E. W. Moore, Commanding Texas Navy, dated "New Orleans, 2nd Decr. 1842."

I have the honor to be

Very respectfully

Your Obt. servt.

M. C. Hamilton,
Actg. Sec. of War and Marine

Copy.

Texas Sloop of War Austin,
New Orleans, Dec. 2nd, 1842.

Sir: Your communications of the 29th Octr. and the 5th November, enclosing duplicate of the 29th October have been received since I last wrote, 7th Inst. [sic] and your communication of the 16th November was received yesterday, but one Steamer has left since the receipt of the former, which I was unavoidably prevented writing by as I intended.

No one regrets more than I the fact that I have not been able to procure funds sufficient to get to sea with the Exchequer Bills placed in my hands, in my letters of the 3rd and 19th of August I reported the repairs that had to be made on the Ship and the new spars that had been placed in her and the Brig Wharton; and on

¹⁸Endorsed on above report are the words: "Special Report of the Acting Secretary of War and Marine, in relation to the Navy. Nov. 15th 1842. Secret." (A. D. S. in Navy Papers. Texas State Library.)

¹⁴A. L. S. in Navy Papers. Texas State Library.

the 7th September I reported that I had procured nearly all of the substantial articles of provisions; I considered it unnecessary to state how I had procured them as the Department was informed by me while in Houston in July, that I had no other means of obtaining either supplies or money. at the date (early part of September) when "the Department was advised that at least ten thousand Dollars of the Exchequer Bills brought here by me were in circulation, *I had in my possession over twelve thousand dollars of them*, and there was and is here at this date, hypothicated for provisions etc. \$4,100 of them.

In relation to information or advices that the Department may hear of me, I beg leave to refer you to my communication of the 4th April last, in which you will find my reasons for the effort of certain persons to injure me, which I deem unnecessary to repeat here.

I in order to prevent the circulation of any of the Exchequer Bills until after the expiration of the time that I was authorized to hypothicate them, I made heavy personal sacrifices, and am now liable for a considerable amount of money which could not have been procured here on the faith of the Government as any one here well knows; and not until the sailing of the Neptune on the 18th of November did I consent to sell *one dollar* of the Exchequers; by her something less than a thousand dollars went over; and on the sailing of the New York (24th November) eight thousand seven hundred dollars went over, which *I was compelled to sell* to meet the demands against me for supplies of those articles of provisions which I have to purchase every week, and to return the money which *I* borrowed to purchase copper for the ship's bottom when she was in Dock.

The provisions which I procured in August were the following, Beef, Pork, Vinegar, Beans, Raisins and Tobacco for a full complement for all the Vessels for sixteen weeks, and there is now on board this Ship and the Brig enough of those articles for a cruise of ten weeks—the other articles of the rations viz: Bread, Flour, Sugar, Tea, Cheese, Butter, Molasses and Whiskey I obtained on my own credit, for I have no money, in small quantities weekly.

In reply to the inquiries in yours of the 5th November, I have to state that one of the individual responsibilities referred to, was returned to the Department while in Houston on July 2nd, and I stated to His Excellency, the President, that with the other nothing could be done, and that I would have returned it at that time had I have had it with me. I have not been able to lay my hands on it since my return or it would have been returned. my impression is that Mr St John has it, and he has gone to the North. it can

however be of no avail as the authority to negotiate was given to me only.

I regret the condition of the San Barnard and unless something is soon done with her she will be beyond repair—twenty five [thousand] dollars (\$25,000) of the appropriation of the extra session of Congress was for provisions and outfits and it would take a very small proportion of it for her—in fact that amount would be ample to repair the San Barnard and fit out the squadron for a cruize of four months, I mean this Ship, the Brig Wharton and the San Barnard.

The San Antonio sailed from Galveston on the 27th of August, first for Matagorda, and then for the Coast of Yucatan, having on board *over three months* provisions, which could have been made to last four months. I did not mention her having sailed, or the nature of the cruize, deferring it until her return, which I have been anxiously [awaiting?] for more than a month, but from news received from Campeache two days since, up to the 15th November she had not been heard from and I very much fear that she foundered or was capsized in one of the three heavy gales of September and October. The object of the cruize was to reconnoitre off the coast of Yucatan, and in the event of the people of that country holding out against the Troops of Santa Anna, Lieutenant Commanding Seeger was to communicate with the Governor and endeavor to obtain funds to fit out the Navy.

I received a letter from the Secretary of War and Marine of Yucatan in the early part of November, from the tenor of which I have been expecting funds from that quarter, but from an arrival here from there two days since I fear that nothing can be expected from that quarter, for the enemy are upon them both by sea and land. the letter stated that in a short time the Government intended sending an Agent to Washington City for the purpose of making arrangements for the acknowledgement of their Independence which would be declared in a short time.

I have been compelled to discharge within the last month about *thirty men* whose term of service had expired and had not *one dollar* to pay them off; this frequent occurrence, which I have repeatedly communicated to the Department, is one having a most injurious tendency and creating greater difficulty in procuring seamen for the service. these men were shipped in May last in this Port, and on the 14th Inst. [*sic*] there are not more than *six men* in both vessels whose term of service will not have expired. under this state of things the Department will see the utter impossibility of moving the Vessels from their present anchorage without means to ship seamen and not one will ship until those who are in the city (and they are running

after me whenever I am on shore for their pay) are paid off. neither can towage or pilotage be obtained on the credit of the Government. in short nothing can be obtained here on the credit of the Government. If it were in my power to raise the funds to carry out the orders of the 29th Oct[obe]r, reiterated on the 16th November, it should most certainly be done, but I have exhausted all my means and very nearly all my credit.

If the Vessels were at Galveston in ordinary, and were to be fitted for sea they would have to be brought here to obtain seamen, and the towage and pilotage in and out would cost as much as the advance to half the men required. if I had the means to ship a crew, and purchase the balance of our provisions and clothing, (ordnance stores and ammunition we have plenty) I could sail in a few days, and as the enemy are now on the Gulf, (blockading Campeache) poorly manned, and even if they were better manned, I would not hesitate attacking them with this Ship and the Brig Wharton. every Officer in the service is anxious, exceedingly anxious to get off.

I feel it my imperative duty to again call the attention of the Department to the condition of the Officers as stated in my two communications of the 2nd and 24th July last.

By the last Steamer I forwarded to the Auditor the Returns of Pursers N Hurd and F. T. Wells up to the end of the Quarter ending 30th September last, and by this Steamer I forward my account current for the disbursement of moneys received from the Government of Yucatan, which would have been sent some time since but for two receipts from purser J. F. Stephens, which I received only a few days since.

I sincerely hope that in a short time the appropriation made by the Extra Session of Congress for the Navy will be available in order that we may be at sea; and I feel it my duty to state to the Department that unless the Officers are provided for at least in some measure that it will not be possible for them to remain in the service.

I have the honor to be

Your Obt. Servt.

E. W. Moore
Com'dg Texas Navy.

To M. C. Hamilton Esq
Actg Sec. of War and Marine
Washington, Texas.

A correct copy

M. C. Hamilton,
Actg. Sec. War and Marine
Washington, 13th Dec. 1842.

Mr. Greer moved that the foregoing communication from the President, marked *secret*, be referred to the Committee on Foreign Relations [Messrs. Lawrence, Pattillo and Smith]. Carried.

On motion, the doors were reopened.

Wednesday, December 28, 1842.

The Senate met in secret session.

Mr. Lawrence moved that that portion of the documents transmitted by the Executive, together with that portion of the message, of the 22nd instant, relating particularly to naval affairs, be referred to the Committee on Naval Affairs [Messrs. Greer, Barnett and Byrne]. Carried.

On motion, the doors were reopened.

Saturday, December 31, 1842.

The Senate met in secret session.

A communication from the President, marked *secret*, was taken up, and together with the accompanying documents, ordered to be transmitted to the House of Representatives in accordance with the request of the President.

The following communication, marked *secret*, was taken up and read:

Executive Department,
Washington, Dec[embe]r 30th, 1842.¹⁵

To the honorable the Senate:

I herewith respectfully submit, for the consideration and constitutional advice and consent of your honorable body, the following nominations, viz:

Francis B. Ogden, Consul of the Republic for Liverpool, G[reat] Britain.

Alfred Fox, Consul of the Republic for Falmouth Great Britain.

John Graham Stewart, Consul of the Republic for Glasgow, Great Britain.

John Atkinson, Consul of the Republic for Kingston-upon-Hull, Great Britain.

John Roxburgh, Consul of the Republic for Greenock, Great Britain.

Thomas Were Fox, Consul of the Republic for Plymouth, Great Britain.

Basil G. Ijames, Notary Public for Colorado County.

I avail myself, also, of the present occasion to invite the attention of the honorable, the Senate, to the urgent propriety of providing

¹⁵See note 3 above.

by law for the compensation of the consular agents of the Government. As the laws now stand, no provision whatever is made, whereby our consuls can be reimbursed for indispensable outlays for the service of the country whose interests they superintend and protect. Seals, flags, postages upon documents of a national character sent to the Department of State, and upon regular official correspondence, and books of record and office furniture, have hitherto been supplied from private liberality alone. This should no longer continue to be the case. The Government which requires the time, labor and attention of its public functionaries of this grade, should exercise towards them some show of reciprocity. And this cannot be done upon any plan so equitable and available to the parties interested as by the allowance of reasonable perquisites upon the performance of official acts, regulated upon a scale corresponding to the probable amount of business to be done.

I would therefore, respectfully recommend that a law be passed authorizing all our consular agents to charge and collect fees, in accordance with specific instructions from the Executive through the Department of State, upon invoices of merchandize, passports and the other usual acts performed by the like agents of other countries.

The consular attestation to invoices of merchandise would operate as a protection of the revenue against fraud, and at the same time be a material convenience to the importer, by dispensing with the harassing, and in some cases, injurious examinations which must otherwise be made into the contents of bales, boxes and packages of goods at the Custom House.

A reasonable charge, also, for passports to persons coming into the Republic, would not only furnish a means of compensation to the Consul, but would, it is believed, result in salutary advantages to the country, by subjecting to scrutiny and inspection the persons, names, and character and pursuit of any and every individual introducing himself within our limits. Thus would our population be in great degree protected from the inroad of a class of persons of ill fame and criminal notoriety, who but too frequently seek a home among us; and, instead of making good citizens, blight the peace and morals of the community which may receive them.

The rates of fees, it is thought, may be more equitably graduated by the Executive, than by any positive enactment, for the reason that the perquisites at some consular stations would be, in amount, much larger than at others, and will vary under different circumstances. For instance, the rates prescribed for the station at New Orleans should, at this time, be much less than elsewhere, for there a much

larger amount of business would be done, and the aggregate of compensation to the Consul would, at very moderate rates, be ample.

I would also, respectfully ask the notice of the honorable, the Senate, to the following extract of a private note addressed to the President of our Chargé d'Affaires in Europe, and dated London, Oct[ober] 26th, 1842. He says: "I shall leave the supervision of our affairs here in charge of Mr. Rate, our Consular Agent. Let me on this occasion invite your attention to consider Mr. Rate's appointment. His house is one of the most respectable in London; one of his partners is a director in the Bank of England; and Mr. Rate enjoys the best reputation for capacity in mercantile affairs and for integrity. He has been judiciously active since he undertook the consular agency."

Sam Houston

On motion of Mr. Greer, that portion of the message relating to consulates, was referred to the committee on Foreign Relations [Messrs. Lawrence, Pattillo and Smith].

On motion, the doors were reopened.

Wednesday, January 4, 1843.

The Senate met in secret session.

The following message from the President, marked *secret*, was opened and read:

(Secret.)

Executive Department,
Washington, January 3, 1843.¹⁴

To the honorable, the Senate, and the House of Representatives.

The Executive, in conformity to what he conceives to be his duty, at the very first moment of leisure with health sufficient for the purpose, transmits such information touching the present condition of the Navy as may be of some importance to the honorable Congress.

It is needless to reiterate, that the last cent of the appropriation placed at the disposition of the Executive for the support of the Navy for the year 1842, has been issued to the proper officer; and that there is every reason to believe it has been expended: with what benefit to the country, the President does not pretend to say; and contents himself with simply submitting the fact.

For the purpose of showing as far as practicable the actual condition of the Navy, copies of letters are herewith laid before the Congress, marked 1 and 2, addressed to the Secretary of War and Marine by Commodore E. W. Moore, under date of 19th December, ultimo, and Lieutenant D. H. Crisp of the 21st of the same month.

¹⁴See note 3 above.

It will be perceived that Commodore Moore is without funds. He has not accounted for the disbursement of the appropriation of the twenty thousand dollars made for the service of the past year. The officers under him are in a destitute condition for clothing, and "they, every one of them, need money". He appears to rely upon an appropriation made at the called session in July last, to enable him to extricate himself from his present difficulties; although he must be fully aware that that appropriation has not been and is not now available. The situation of Lieut[enant] Crisp is even yet more destitute and deplorable. He and his officers are subsisting on the charity of their friends at Galveston. The President has no means to bestow upon them for their relief; because the appropriation has long since, as above suggested, passed out of his control into the hands of the appropriate officer.

In the extract given by Lieut[enant] Crisp from a letter of Commodore Moore it would appear that the Commodore was disposed to reflect upon the Department of War and Marine for not having the ground tackle of the vessels repaired and improved—suggesting its deficiency was notorious. It might have been notorious in the Navy, and no doubt was; but it does not appear that he made any requisition upon the Department for the repairs or improvements necessary. It was his duty to have done so; and while the appropriations were within the control of the Department; or, after having drawn the appropriation himself, his first and bounden duty was to have procured such repairs and made up such deficiencies as were necessary. This he appears, in the midst of his surprise, to have overlooked; and though he alleges that he had attempted to impress, on repeated occasions, the fact on the Department, he must have regarded it as unnecessary, when the entire appropriation came into his hands. This was the case previous to the destruction of the San Bernardo, which appears to be attributable to the want of suitable ground tackle, in which all the vessels of the Navy were, it is alleged, very deficient.

As early as the month of October, the Executive became perfectly satisfied, that nothing would be achieved by the Navy; and, as heretofore stated to the honorable Congress, the President directed that it should be ordered into Galveston; provided it could not be forthwith got to sea in a condition for efficient service. That order has been since repeated: but owing to his inability, or disinclination to obey orders, the Commodore has not complied. On the 2nd instant it was again repeated through the proper Department, as will be seen by Mr. Hamilton's letter, No 3, accompanying.

The President need not express the painful solicitude which he

feels on this subject. Having heretofore laid it before the honorable Congress, with as much urgency as he thought consistent with the delicacy of the relations which he bears to it, nothing but his anxiety could induce him again to call attention to the subject. The accompanying papers inculcate the great necessity of adopting some immediate course which may be calculated to produce some good to the nation by saving what remains of the Navy and preventing further expense and involvement.

From the best estimate that can be made out, the actual daily expenses at this time will exceed one hundred dollars. This is without any corresponding benefit; and the estimate is made in hard dollars. The wear, tear and decay of the vessels and injury resulting from their present condition may also fairly be estimated at a clear loss of one hundred dollars per day, making the daily injury to the country amount to about two hundred dollars per day; to fourteen hundred dollars per week; to six thousand dollars per month; and to seventy two thousand dollars per annum. This calculation is made upon such data as to leave no doubt of its correctness.

While the Government remains without one dollar at its disposition, and expenses continually and inevitably increasing, the Executive is constrained to ask what can be done? If no expense would accrue until a decision of the question was made by the honorable Congress, and no injury result to the public property, it might be postponed. But as evils of great magnitude are daily resulting, expenses increasing, no means providing, and no hopes of getting the Navy to sea, the Executive feels warranted in soliciting most respectfully and urgently the attention of the honorable Congress to the subject. Early and prompt attention on the part of the Congress and Executive may effect a great saving to the nation, and rid the country of heavy expense, and increase our means by a judicious disposition of the Navy. Texas is totally unable to maintain it in service: an effort to do so will only be attended with disappointment and misfortune.

Although I have not the data before me, my impression is, that we are now in arrears with individuals for pay due to officers and seamen, provisions procured at various times, contingencies, and repairs done, in a sum little short of an hundred thousand dollars. We have no means to meet these demands; and they constitute a source of endless annoyance to the officers of Government. If individuals make demand upon the Government for the payment of their claims, and it is unable to meet them, it is a most fruitful source of denunciation and abuse of those entrusted with the administration of the laws, creates discontent, is attended with disappoint-

ment, gives rise to disaffection, and hence active employment to demagogues. Those evils are certainly to be deprecated; and the honorable Congress can do much towards obviating them.

It is respectfully requested that the honorable, the Senate, will cause this communication with the accompanying documents to be transmitted to the House of Representatives.

Sam Houston

Number 1.

Texas Sloop of War Austin,
New Orleans, December 19, 1842.¹⁷

To the Hon. Secretary of War and Marine:

Sir—I wrote by the last steamer, and I avail myself of the sailing of the Neptune to forward muster rolls of this ship and the Brig Wharton, by which the Department will see how many men we have to take care of the vessels. I am still making every exertion in my power to raise money to ship a crew and get out of the river.

I hope most sincerely that at least a part of the appropriation of the Extra Session of Congress will soon be available; for many of the officers are in a destitute condition for clothing, and they every one of them need money.

I met a gentleman yesterday from Havana, who came from England in the mail steamer Dec. He left at St. Thomas, on the 24th November, the steamer Montezuma on her way to Vera Cruz. Nothing from Yucatan since I last wrote.

I have the honor to be, very respectfully,

Your obedient servant,

E. W. Moore,
Comd'g Texas Navy.

Number 2.

Brig Archer,
Galveston, December 21, 1842.¹⁸

Hon. M. C. Hamilton, Acting Sec'y War and Marine:

Sir—I have to acknowledge the receipt of your communication, dated the 4th inst., with two communications enclosed.

I have not been able to stop the leak of the schooner [San Bernard], and cannot do anything for her without funds; and I have reasons to suppose she is sustaining injury which I cannot prevent.

I need not inform the Department that we are now subsisting mainly on the charity of our friends. Com. Moore sent us some beef

¹⁷The secret journal has no copy of this communication; it has been supplied from "Appendix to the Journals of the Senate of the Republic of Texas. Seventh, Eighth and Ninth Congresses." (MS.), p. 94. Department of State.

¹⁸*Ibid.*, p. 94-5.

and pork some time ago, or we should have stayred on board. This is now nearly expended; and as he says he can furnish no more, I do not know how we shall live when this is out.

As senior officer on the Station, I have already made full and ample report of our condition and prospects; and, (according to Art. 9 and 26 of the Regulations for the Commander-in-Chief,) have advised the course to be pursued; and I hope the Department will not think me complaining, when I remark that I have received no instructions about provisions, although on the 2d December, I reported that mine would only last a week or two; and although by good luck we have been enabled to subsist till this time, I fear the same fortune will not attend much longer.

In a communication I received from you, 23d September, you expressed surprise that the fault of the schooner's ground tackling had not been sooner reported. I have corresponded with Commodore Moore on the subject, and beg leave to transcribe what he says: "I am much surprised that the Department did not know the schooner's anchors were too light; for I have, on repeated occasions, mentioned the fact in my communications, and particularly about the time of the loss of the San Jacinto. It was certainly unnecessary for you to have said anything on the subject, at the time you were appointed to the command of the San Bernard; for it was notorious that the ground tackle of all vessels of the navy was very deficient."

The San Antonio, I regret to say has not been heard of since she left Matagorda. She is certainly lost.

I have the honor to remain,

Your obedient servant,

D. H. Crisp, Lieut. Comd'g.

Mr. Stephens, the Purser, who bears this to you, will furnish you with more information respecting our present condition.

D. H. Crisp.

Department of War and Marine,
Washington, 28th December, 1842.

To His Excellency Sam Houston:

Sir—I beg leave herewith to transmit copies of communications just received—No. 1, from Post Captain E. W. Moore, Commanding Texas Navy, in reference to the condition of the officers and men on the ship Austin and Brig Wharton—and No. 2, from Lieutenant D. H. Crisp, Texas Navy.

I have the honor to be, very respectfully, your ob't serv't,
 M. C. Hamilton,
 Act'g Sec'y War and Marine.

Number 3.

Department of War and Marine,
 Washington, 2d January, 1843.¹⁹

To Post Captain E. W. Moore,

Commanding Texas Navy, New Orleans:

Sir—Your communication of the 19th ultimo, enclosing muster rolls of the ship Austin and brig Wharton, have been received.

Any expectations that may have been entertained of realizing, or in any manner making available, the appropriation of the extra session of Congress, will certainly end in disappointment. It was from the first, and still is, subject to such contingencies as to render it a dead letter upon the statute book. The Government is fully aware of the destitution of the officers, and of the inadequacy of the appropriations to sustain the Navy; and I am directed by His Excellency the President to say, that he has deplored the misfortune as much as any citizen in the Republic: but that these evils do exist, and that for them there is no present remedy.

You will therefore report, if practicable, in conformity with your former orders, at Galveston.

I have the honor to be, very respectfully, your ob't serv't,
 M. C. Hamilton,
 Act'g Sec'y War and Marine.

Mr. Greer, Chairman of the Committee on Naval Affairs, to whom was referred that part of a communication from the Executive which relates to the Naval affairs, reported

A bill to be entitled an act to dispose of the Navy, which was read first time.

On motion of Mr. Jack, the rule was suspended, and the bill read second time.

Mr. Jack moved to strike out "the Steamship Zavala". Carried.

Mr. Jack also moved to insert "entire" before "liabilities," and after "purchase" insert "of all the vessels". Carried.

Mr. Jack moved to strike out that portion of the bill which relates to the compensation of the agent or agents. Carried.

On motion, the bill was then ordered to be engrossed.

On motion, the rule was further suspended, and the bill read a third time and passed.

On motion, the doors were reopened.

¹⁹Appendix to the Journals of the Senate of the Republic of Texas. Seventh, Eighth and Ninth Congresses," (MS.), p. 95-6. Department of State.

Thursday, January 5, 1843.

The Senate met in secret session.

A message was received from the House of Representatives, informing the Senate that the House had under consideration a bill to be entitled An Act to provide for the sale of the Navy, and had proposed the following amendments to the same, to-wit:

In the first section of said bill, after the word "Wharton", strike out "and Archer and the Schooner San Bernard"; and after the words "purchase of", strike out "all the", and insert "said"; and after the word "vessels", insert "and the brig Archer and the Schooner San Bernard, together with the Steamship Zavala, her tackle, furniture, and apparel; also the Navy Yard, with all the naval stores, be sold for cash."

"Sec. 3. Be it further enacted, That the sum of five thousand dollars be, and the same is hereby appropriated, to enable the President to carry out the provisions of this act."

The above named bill, with the amendments from the House, was taken up.

Mr. Jack offered the following amendments to the amendments of the House.

To the first Section, to-wit: "In ninth line, after the word 'the' insert 'property of the'. After the word 'cash', in the last line, add 'or credit,' as the President may deem proper; and the proceeds of sale from the Archer, San Barnard and Zavala, with the public property at the Navy Yard, shall be disbursed in the following manner, to-wit: Eight thousand dollars for the payment of claims due the present or former officers, in proportion to the time they have served and the amount which may be due; and the balance to be appropriated for the purpose of constructing works of fortification, or procuring gun-boats for the defense of Galveston."

Which said amendments, as amended, were adopted.

The Senate refused to concur in the third section, as proposed by the House.

Mr. Randall, Chairman of the Committee on Engrossed Bills, reported that the above bill had been examined and was found to be correctly engrossed.

On motion, the doors were reopened.

Friday, January 6, 1843.

The Senate met in secret session.

The following communication from Executive, marked *secret*, was taken up and read, to-wit:

Executive Department,
Washington. January 6th, 1843.²⁰

To the honorable, the Senate:

I herewith respectfully submit, for the constitutional action of your honorable body, the name of Daniel J. Toler, for Notary Public for the County of Washington.

Sam Houston

On motion, the communication was laid on the table one day, for consideration, it being a nomination submitted for the ratification of the Senate.

On motion, the doors were reopened.

Saturday, January 7, 1843.

The Senate met in secret session.

The nomination of Daniel J. Toler for Notary Public of Washington County, was taken up, and on motion of Mr. Jack, was confirmed by the Senate.

Also, the nomination of Charles H. Raymond, Secretary of Legation to the United States, was unanimously confirmed.

And also, the following nominations were, respectively confirmed, to wit:

Lachlan McIntosh Rate, Consul General of Texas for Great Britain.

Francis B. Ogden, Consul of Texas for Liverpool, Great Britain.

Alfred Fox, Consul of Texas for Falmouth, Great Britain.

John Graham Stewart, Consul of Texas for Glasgow, Great Britain.

John Roxburgh, Consul of Texas for Greenock, Great Britain.

Thomas Were Fox, Consul of Texas for Plymouth, Great Britain.

John Atkinson, Consul of Texas for Kingston-upon-Hull, Great Britain.

Basil G. Ijams, Notary Public for Colorado County.

On motion, the doors were reopened.

Friday, January 13, 1843.

The Senate met in secret session.

The journal of the secret sessions of the preceding days, was read and adopted.

A communication from the President, marked *secret*, was taken up and read, as follows:

²⁰See note 3 above.

Executive Department,
Washington, January 11th, 1843.²¹

To the honorable, the Senate:

I herewith present, for the advice and consent of your honorable body, the name of Thomas Harvey, for the office of Notary Public for Matagorda County.

Sam Houston

On motion, the rule was suspended, and the nomination of Thomas Harvey unanimously confirmed.

A bill to be entitled An Act to sell the Navy, with the amendments of the House to the amendments of the Senate, was reported back by the House through their Chief Clerk, Mr. J. H. Raymond, who informed the Senate that the House had appointed a committee of conference upon the same to act with a like committee on the part of the Senate: and also, that the House had passed a bill to remunerate General Waddy Thompson, etc.

On motion of Mr. Greer, the committee of conference asked for by the House was appointed, consisting of the members of the committee on Naval Affairs [Messrs. Greer, Barnett and Byrne].

A bill to provide for the repayment of moneys advanced by General Waddy Thompson to the Santa Fe prisoners, was read first time.

On motion, the rule suspended, and bill read second time and passed to a third reading.

On motion, the rule was further suspended, and the bill read third time and passed.

An Act²²

Making provisions for the repayment of monies advanced by the Hon. Waddy Thompson, to the Santa Fé Prisoners.

Section 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the sum of six thousand five hundred dollars, be, and it is hereby appropriated for the payment of the claims of General Waddy Thompson for advances made to the Santa Fé prisoners for their subsistence and transportation to their homes, after their release, and that the same be appropriated out of the first proceeds of the sale of the Navy.

N. H. Darnell

Speaker of the House of Representatives

Edward Burleson

President of the Senate

²¹See note 3 above.

²²The bill was filed in the Executive Office, January 13, 1843, and failed to become a law because the president did not sign it. The enrolled bill is filed among the Papers of the Seventh Congress.

On motion of Mr. Greer, the Secretary was instructed to call upon the Executive, and request the return to the Senate of the treaty concluded on the 30th July last, between the Republic of Texas and the United States.

Mr. Jack moved that the Secretary be instructed to cause the secret journal to be copied in a book, (to be procured for that purpose;) and that the same compensation be allowed for this as is allowed by a resolution of the Senate for copying the journal for the printer. Carried.

On motion, the doors were reopened.

Friday Evening, January 13, 1843.

The Senate met in secret session.

Mr. Greer, chairman of the joint committee of conference on the part of the Senate, upon a bill to sell the Navy, reported as follows:

Committee Room, January 13, 1843.

To the President of the Senate:

The committee of conference to which was referred the subject matter of difference between the two Houses, on a bill to be entitled an act to provide for the sale of the navy, have had the same under consideration, and have agreed to recommend that the amendments of the Senate to said bill be amended, by striking out "eight", in seventh line of the second amendment, and insert "fifteen." and insert after word "officers", in ninth line, "seamen and marines of the Navy"; and strike out all of said amendment after the word "be," in twelfth line, and insert "paid into the Treasury of the Republic", and with these amendments, that the House concur in the amendments of the Senate, and the Senate concur therein.

J. A. Greer,

Chairman on part of the Senate.

H. N. Potter,

Chairman on part of the House of Representatives.

Which report was adopted.²²

The following communication from the President, marked *secret*, was taken up and read:

Secret.

Executive Department,

Washington, January 10th, 1843.²³

To the honorable, the Senate, and House of Representatives.

As the present session of the honorable Congress is drawing near

²²The act to provide for the sale of the navy is printed in the Appendix as No. 6.

²³See note 3 above.

its close, and as a recent call has been made upon the Executive for any information he may have in his possession, as to the probability of Mexican invasion, etc., he avails himself of the present occasion to communicate the substance of certain intelligence on that subject, which he has very lately received, with such suggestions as he deems it his duty to make.

This intelligence is from the city of Mexico, and dated the 8th of November. It indicates to the Executive in the most authentic and impressive terms, that Mexico, in the event of being successful against Yucatan, will immediately invade Texas with a formidable force both by land and sea. And the Gentleman who communicates the intelligence does it with a view that Texas may so provide, as to ensure the repulse of the troops of the enemy sent against her. He is not now in Mexico, but has transmitted the information with the greatest despatch, that it may be laid before Congress previous to its adjournment. It is additional to any that was in the possession of the Executive, at the time his last communication on this subject was made.

It seems to be a fact established by reason, that if Mexico meditates the invasion of Texas, it will be attempted during the ensuing spring. She cannot expect that the civilized powers will tolerate in her a protracted war with Texas, unless she make some demonstration to them that would create a reasonable belief that she is capable of subjugating and reannexing it to the Mexican territory. Hence it may be supposed, that all her available energies will be called into action and employed with the greatest efficiency.

The question then arises, is Texas in a situation to repel a formidable invasion? If she is, we have nothing to fear from it; if not, she ought to be so. Every means in our power should be called into action, and be in readiness for any event we should anticipate.

We should calculate the probable effect and influence, which the employment of our troops on the Rio Grande might produce upon Mexico, as well as the events which might result to Texas from the same cause. If disaster should befall our men on the Rio Grande, their return to Texas will be well calculated to create sensations not only of an unpleasant nature, but cast a gloom upon the spirits of our people that would be unfavorable to prompt action on our part. A state of great excitement is always unfavorable to military operations: and with the advance of the enemy in great strength, confusion might soon mature into panic, and cause the removal of families. With them, also, a large portion of those who should rally to the field, would recede from the scene of action, leaving but

comparatively a small force to contend with the invaders. If an insufficient force should rally, and be compelled to give back before the enemy, it would only increase the panic, if any existed; and, if at the commencement, there should be no actual panic, it would have a tendency to create one, or, at least, to depress the ardor of our troops.

In regarding our enemy, we ought not to rely so much upon their inefficiency, as upon our own preparation and readiness to meet them. By underestimating them, we neglect to husband our own strength, and to use that forecast and precaution, which might alone ensure success to our arms.

We have yet time to organize our forces, by sending expresses to the several colonels commanding regiments throughout the Republic, with contingent orders, so as to meet, or rendezvous, at certain points, to enable us to counteract the probable movements of the enemy. This may be done at an expense not exceeding two thousand dollars; and an appropriation of that amount for the purpose, is respectfully recommended.

If Texas is invaded, the object will certainly be to overrun the country by a formidable force, entering it probably in two divisions; the most numerous by San Antonio, detaching to upper Colorado a sufficient force, composed principally of cavalry, to sustain itself; and after ravaging the upper part of that river, fall down to La Grange, and there unite with the main body, advanced from Bexar. The lower division will probably enter the country by Victoria, and advance along the seaboard in coöperation with the fleet destined for Galveston, inciting, if possible, an insurrection among the negroes of the lower Colorado and the Brazos; supplying them with arms and munitions of war, and forming, finally, a junction with their fleet at Galveston. The division at La Grange may be expected, in the greatest force, to advance to Washington, whilst the remainder of the division would diverge by San Felipe, and those at this point cross the Brazos, descend to the bay, and there concentrate with the entire force of the invading army. They would thus have the entire command of our waters, and the gulf, and could sustain themselves, receiving supplies by water, and by the aid of cavalry, harrass the country eastward as far as the Trinity, and forage upon the stock and numerous herds of cattle which abound in Texas.

All this may not occur; and it is even possible that an invasion may not take place; but if the enemy possess means and invade Texas, this is the plan of operations which a General would project; and experience has taught us that we are liable to suffer its execu-

tion before efficient resistance could be made. To prevent the success of such a plan, in case of invasion, will require all the military talent of the country, with arms and ammunition sufficient for every fighting man, and some degree of discipline, with perfect subordination. Arrangements for this purpose should be timely, and nothing hazarded upon the first encounter with the enemy. If we permit ourselves to be involved in an engagement with them, and do not make our success decisive, we may rely upon this truth: *That, though we have twenty thousand warriors in Texas, three thousand will not be rallied at any one point for the conflict, unless they have confidence in their leaders.*

Experience has also taught us, that detached commands involve the country in the heaviest calamities, and insure inevitable destruction to both officers and men. The fall of the Alamo, the destruction of Johnson, and Grant, and Morris, the defeat and execution of Captain King's party, with the command of Colonel Ward, and the massacre of the unfortunate Fannin and his gallant band, are mainly attributable to a spirit which existed at that day, fostered by the General Council, of insubordination to the lawful authority. Orders had been given for the destruction of the Alamo, more than a month previous to its fall. The commands on the lower San Antonio, also, were directed to fall back upon the Guadalupe, both before and after the advance of the invading army. These orders were not obeyed, disaster ensued, and panic was the consequence. But three hundred and seventy-four men could be rallied at Gonzales; although Texas ought to have mustered eight thousand capable of bearing arms. And though the enemy were pressing on the settlements, and every exertion used by the Commander-in-Chief, he could only rally about seven hundred men at the Colorado; and but little more than that number fought with him at San Jacinto. Had no disaster befallen our troops at the commencement of the invasion, our men would have rallied; and Texas, in all human probability, would not have lost twenty men in repulsing the enemy and driving them beyond the Rio Grande.

The loss arising to Texas from this cause, was immense. Her gallant soldiery, already disciplined, and her arms and ammunition of the first quality, could they have been concentrated, would have composed a force, amounting to little short of one thousand men, and have formed a nucleus on which the militia of the country could have rallied, and prevented the advance of the enemy to the East of the Guadalupe.

At this time, we have no organized force. We have no ammunition, and our arms are in bad order and so far distant from where

there may be a probable demand for distribution, that, should troops arrive from the East, marching by this place or Houston to sustain the West, and be deficient in arms, the evil could not be remedied. The artillery is scattered from Bexar to Galveston, the harness has been destroyed, the carriages are out of repair, and not a public waggon or team at the disposition of the Government. There is not now a single pound of lead, nor a single keg of rifle powder in possession of the Government for the public defence. An appropriation of at least three thousand dollars is imperatively required for the purchase of a reasonable supply.

These facts are not stated with a view to alarm the honorable Congress; nor are they presented in the language of complaint. They, however, do exist; and by no fault of the present administration. If it had possessed the means, some, if not all, the evils existing would have been obviated. It is a picture of our situation unpleasant to present; but the facts generally have been at various times laid before the Congress for its consideration. The Executive has asked for means to enable him to collect and secure such public property as would be eminently useful in the event of invasion. He presented the subject at the commencement of the session, in his general message. If it has not elicited their consideration and action, he nevertheless feels that he has performed his duty.

It is estimated that there are two thousand stand of arms scattered throughout the Republic, which, with the necessary power and means, might have been collected for the future service of the country. The number of efficient arms now on hand does not exceed two hundred.

Should Texas have to embody a force for resistance, it should be composed principally of infantry and riflemen. Comparatively few mounted gunmen, or cavalry, with some companies of scouts and spies, will be necessary. Our men are without discipline, and when they are once called into camp, to remedy that evil should be the unceasing duty of the officer in command. If individuals are permitted to repair to the camp mounted, their attention will necessarily be called to the care of their horses. A neglect of duty, great confusion and increase of labor will be the consequence; whilst their minds will be directed, as well as their time, from the subjects of organization and discipline. The establishment of subordination will be found much more difficult than it would otherwise be, where a similarity and uniformity of circumstances prevails with the men.

It is presumed to be the duty of every able bodied man in the Republic, of proper age, to rally in defence of his rights. Though this is the case, we often find that persons are delinquent, and that

in times of great emergency, those who have the most important interest in the country find means to evade its just requirements. It is, therefore, respectfully suggested that such measures be adopted, as, in the event of invasion, will command the services of the militia *en masse*. As it now is, substitutes are often admitted, fitted out at the expense of the individual whose personal service is required; and the principal stands acquitted of this duty, whilst in many cases, the substitute has no interest in the country, and often, after having received the fee of his employer, engages his time and means in removing himself beyond the Sabine. If those who have an interest in the country are required to render personal service, the safety of their homes, their families and the sacred rights of the country, would constitute them a corps that would prove itself invincible to the enemy and victorious in battle. Men merely mercenary would be far more likely to abandon a cause which seemed difficult, or for the present desperate.

In arranging for the defence of the nation, our exertions ought to be proportionate to the magnitude of the achievement and the difficulty of the task. Every means which can be brought to bear, so as to give the greatest efficiency to our action, should be subsidized and employed. We should consider by what means we can best effect the great object of resisting the enemy; and, forgetting the petty feuds which arise from local or factious feeling, unite in the holy bands of brotherhood, and present such a phalanx to the enemy, as would give them a signal repulse and at once redeem our soil from all future attempts of invasion. If, however, we permit those schisms and feelings to exist, which have heretofore reduced Texas to the very verge of destruction, we can hope for nothing but panic and disaster.

Since early in the year of 1837, Texas has been recognized as an independent state; and has had little else to do, except in occasional excitements, than to organize and establish the civil institutions of the country. The derangement of our finances has done much to reduce us to our present depressed condition; and though it was foreseen and foretold, the evil was not prevented. It behooves us, therefore, at this time, if possible, to remove the evils and obviate the misfortunes with which we are surrounded. This can only be done by concert and union. Dissension may exist in a country in time of profound peace, without great detriment to the nation; but when a community is environed by difficulties and external dangers, nothing but concord and united exertion can avert destruction. That our enemy is encouraged with the belief and by the hope, that the efforts of Government will be paralyzed by influences which will thwart its plans and render its efforts nugatory, there can be but little doubt.

The newspapers of our country, which reach Mexico with astonishing celerity, will convey to them the idea that we are in a distracted and comparatively helpless condition. This will be calculated to inspire them with confidence, and in proportion as they believe that their success will be easy, so will be their willingness and anxiety to achieve great and bloodless triumph. If flushed with hope, they will come with an ardor and efficiency, which they would not do, if they believed that they were to invade a country whose resources have increased since the disasters which befel its enemy in 1836.

If Texas is now united, and those in command of her troops will exercise forecast and discretion, these circumstances might be turned to good account. Otherwise we have much less to hope for.

The executive, in making this communication, feels it a duty he owes to himself and the country, that he should present to the consideration of the Congress, a subject which immediately affects his relations with the Republic. The constitution declares that the President shall be the Commander-in-Chief of the Army and Navy. At the same time, it restricts him from personal command, unless he should assume the same by authority of Congress. Although he sincerely deprecates the necessity which might render it proper for him to be invested with personal command, yet he can anticipate an emergency which might render it very proper and necessary to the interests of the country for him to do so. He would therefore, respectfully suggest to the honorable Congress, if a formidable force should invade the country, and it should be necessary to rally our greatest strength, for the purpose of arresting their advance, that he be authorized to assume the command in person.

This suggestion arises from various considerations, not connected with any ambition or desire he might feel on the subject, but such as arise from the fact that, if the enemy do advance and find that those who, during their last invasion, participated in the strife, are withdrawn from the conflict and are suspended in the exercise of their full constitutional rights, it will inspire them with additional confidence. Also, if it should be necessary for the Government to recede at any time to a place of greater safety, and retire before the advancing enemy, numbers would deem the peril greater than it might otherwise be regarded, become disheartened, and thus impair the defences of the country.

The veterans of '36, who would repair to the army, finding the Chief Magistrate, their former companion in arms, withdrawn from new perils, might not appreciate rightly the circumstances under which he was absent, and might suppose that it arose from the magnitude of the dangers to be encountered, or that he distrusted the success

of the conflict. Many, also, might rally to the aid of the country, if he were present, who would not under other circumstances, and thereby increase the means of national defence.

If, from these considerations, the honorable Congress should think proper to authorize him to assume actual command, upon the advance of the enemy as far as the Guadalupe, he will be gratified to have it in his power to render to his country's cause every aid which his circumstances might enable him to perform. But should the decision be otherwise, he will cherish no displeasure, nor withhold any means in his power, but, on the contrary, contribute not only his good wishes, but his best exertions to sustain those who may be in command, and rejoice at the triumph of our arms.

It is respectfully requested, that the honorable, the Senate, cause this communication, to be transmitted in due season to the House of Representatives, under injunctions of secrecy.

Sam Houston

On motion of Mr. Webb, the message was transmitted to the House, in accordance with the request of the Executive.

On motion the following message from the President was opened and read.

Executive Department,
Washington, Jan[uar]y 13th, 1843.²⁴

To the honorable, the Senate.

In compliance with a resolution of your honorable body, of this date, I herewith respectfully submit the treaty of Amity, Commerce and Navigation concluded at Washington on the 30th of July last, between the United States and Texas, for their further consideration and action.

Sam Houston

On motion, the doors were reopened.

Monday, January 16, 1843.

The Senate met in secret session.

The following communication from the Executive, marked *secret*, was taken up and read:

Executive Department,
Washington, January 16, 1843.²⁵

To the honorable, the Senate:

I herewith respectfully submit, for the constitutional advice and action of your honorable body, the nomination of George W. Hill, for Secretary of War and Marine.

Sam Houston

²⁴See note 3 above.

²⁵*Ibid.*

On motion of Mr. Jack, the rule was suspended in relation to said nomination.

Mr. Jack moved that the Senate do advise and consent to the said nomination.

Mr. Jones moved to lay the nomination on the table. Lost.

Mr. Jack then moved to lay the nomination on the table until four o'clock this evening. Carried.

On motion of Mr. Greer, the treaty between the Republic of Texas and the United States, concluded at Washington City on the 30th of July last, and resubmitted to the Senate at their request, was taken up. Carried.

Mr. Greer then offered the following resolutions:

Resolved, That the Senate of the Republic of Texas do advise and consent to the ratification of the treaty of Amity, Commerce and Navigation, entered into between Texas and the United States, and concluded at Washington on the 30th day of July, 1842.

Resolved further, That the Senate do advise and consent to the ratification of said treaty with a modification of the fifth article of the same, if the President should deem such modification expedient, so as to make said article read as follows:

Article V.

The two contracting parties agree that raw cotton, the produce of either country, may be imported into the other free of duty, for five years from the exchange of the ratifications of this treaty; and that for and in consideration of the advantages which Texas will derive from the foregoing stipulation, and of the reciprocal advantages to be derived from the following, it is further agreed that, on all articles, the growth, produce or manufacture of either country sent from one country to another by land, river or sea, and exported to a foreign country, no duties or charges shall be required to be paid to the power within and from out of whose limits such articles arrive and depart, and that they may be repacked for exportation, under the inspection of the proper authority, and at the expense of the party interested.

Which said proposed modification was read a first time.

Mr. Greer moved a suspension of the rule. Carried.

The said proposed resolutions respecting the modification, were then read a second time.

On motion, the rule was further suspended, and the said resolutions read a third time, and passed.

The Committee on Enrolled Bills, Mr. Randall Chairman, reported that a joint resolution for the sale of the navy had been examined and was found to be correctly enrolled.

On motion, the doors were reopened.

Monday Evening, Jan'y 16, 1843.

The Senate met in secret session.

The journals of the preceding sessions, which had not been previously read, were read and adopted.

On motion of Mr. Shaw, the nomination of George W. Hill was taken up, and then unanimously confirmed.

The journal was then read and adopted.

On motion, the doors were reopened.

EIGHTH CONGRESS

Roll of Senators .

John A. Greer, for the District of San Augustine.

William L. Hunter, for the District of San Patricio, Goliad and Refugio.

William H. Jack, for the District of Brazoria.

David S. Kaufman, for the District of Shelby, Sabine and Harrison.

William Lawrence, for the District of Harris, Liberty and Galveston.

Gustavus A. Parker, for the District of Austin, Colorado and Fort Bend.

Isaac Parker, for the District of Houston, Nacogdoches and Rusk.

George A. Pattillo, for the District of Jasper and Jefferson.

John Rugely, for the District of Matagorda, Jackson and Victoria.

James Shaw, for the District of Robertson and Milam.

John W. Smith, for the District of Bexar.

James Webb, for the District of Bastrop, Fayette, Gonzales and Travis.

Robert M. Williamson,¹ } for the District of Washington,
Jesse Grimes,¹ } Montgomery and Brazos.

Officers of the Senate

Edward Burleson, Vice President and President of the Senate.

John A. Greer, President pro tempore.

Thomas Green, Secretary.

¹R. M. Williamson's seat in the Senate was declared vacant January 4, and Jesse Grimes succeeded him January 22, 1844.

EIGHTH CONGRESS

Be it remembered that the Senate of the Eighth Congress of the Republic of Texas met in secret session, with closed doors, at the town of Washington, on the Brazos, on Wednesday the twentieth day of December, in the year of our Lord one thousand eight hundred and forty-three and of the independence of the Republic the eighth.¹

Mr. Jack moved that the resolution of the House of Representatives, marked "secret," be taken up and read.

Motion carried, and the resolution read as follows, to wit:

Be it resolved by the House of Representatives, That with the concurrence of the Senate, that the injunctions of secrecy be removed from all the proceedings had in secret session, in the House of Representatives and Senate of the seventh Congress; and that upon the adoption of this resolution by the two Houses, the proceedings had upon this, together with the resolution itself, shall be spread upon the public journals.

On motion of Mr. Jack, the said resolution was ordered to lie on the table.

Mr. Jack offered the following resolution, to wit:

Resolved, That the President be requested to give his assent to remove the seal of secrecy in relation to the proceedings of the last session of Congress, touching the disposition of the Navy.

Resolution was read and adopted.

A communication from His Excellency the President was read in these words, to wit:

Executive Department,
Washington, Dec[embe]r 20, 1843.²

To the Honorable, the Senate:

I transmit herewith, for the advice and consent of your Honorable Body, the following nominations, viz:

James B. Miller, Secretary of the Treasury.

Thomas William Ward, Commissioner of the General Land Office.

William Henry Daingerfield, Chargé d'Affaires to the Netherlands.

Pierre Brunet, Consul General of Texas for France.

Henry F. Fisher, Consul for the City of Bremen.

¹There are two sources for the secret journals of the Eighth Congress:

1. The Secretary of the Senate's rough drafts of each daily session are preserved among the papers of the Eighth Congress.

2. The copy recorded by W. D. Miller; see paragraph 3 of note 2 to the secret journals of the Seventh Congress. The secret journals cover pages 317 to 333 of the volume containing the Journals of the Eighth Congress. The latter has been followed in the copy here printed.

²The message here printed has been compared with and made to conform to the original.

Maximilien Vanden Bergh, Consul for Antwerp, Netherlands.
 Joshua J. Crooswyck, Consul for Rotterdam.
 Thomas Snowe, Consul for Dublin, Ireland.
 Maly E. Dumon, Consul for Cette, France.
 Thomas J. Fettyplace, Consul for Mobile, U[nited] States
 William Henry Brockett, Vice Consul for New Castle-upon-Tyne.
 James H. Cocke, Collector of Customs for the District of Galveston.
 William M. Hurt, Collector of Customs for the District of San
 Augustine.
 Henry Redmond, Collector of Customs for the District of Aransas.
 William C. V. Dashiell, Collector of Customs for the District of Sa-
 bine.
 Peter MacGreal, District Attorney for first Judicial District.
 David C. Van Derlip, District Attorney for the second Judicial
 District.
 Niles F. Smith, Notary Public for Jefferson County.
 William H. Patterson, Notary Public for Galveston County.
 Daniel D. Culp, Notary Public for Harris County.
 Moses Park, Notary Public for Washington County.
 Simon L. Jones, Notary Public for San Patricio County.
 Mills M. Battle, Notary Public for Fort Bend County.

Sam Houston

On motion, the foregoing message was ordered to lie on the table
 one day.

On motion the doors were reopened.

Friday, December 22, 1843.

The Senate met in secret session.

A communication from His Excellency the President, relative to
 the removal of the injunctions of secrecy of the last session of Con-
 gress touching the disposition of the Navy, was read as follows:

Executive Department,
 Washington, December 21, 1843.

To the Honorable the Senate.

I have the honor to inform your Honorable Body, that the action
 of the two Houses of Congress, removing the seal of secrecy from the
 proceedings of their last session, in relation to the disposition of the
 Navy, will meet with my entire assent and concurrence.

Sam Houston.

On motion of Mr. Jack, the resolution of the House of Representa-
 tives relating to the same subject, was taken up and read.

Mr. Jack offered the following resolution, to wit:

Resolved by the Senate, That the Secretary inform the Honorable

House of Representatives that the Senate freely assent to their proposition to remove the seal of secrecy from the joint action of the two Houses of Congress, during the last winter, touching the disposition of the Navy.

Adopted.

On motion of Mr. Jack, the Secretary was instructed to inform the House of the action of the Senate.

On motion of Mr. Parker of Fort Bend, the nominations made by His Excellency the President, were taken up.

On motion of Mr. Greer, the nomination of James B. Miller as Secretary of the Treasury, was confirmed.

On motion of Mr. Williamson, the nomination of Thomas William Ward, as Commissioner of the General Land Office, was confirmed.

The ayes and noes being called on the confirmation thereof, stood thus:

Ayes—Messrs. Greer, Jack, Hunter, Kaufman, Lawrence, Parker of Fort Bend, Parker of Nacogdoches, Pattillo, Smith, Webb and Williamson. 11.

Noes—Messrs. Rugely and Shaw. 2.

On motion of Mr. Jack, the nomination of William Henry Daingerfeld, as Chargé d'Affaires to the Netherlands, was laid on the table.

On motion of Mr. Jack, the nomination of Pierre Brunet, as Consul General for France, was laid on the table.

On motion of Mr. Kaufman, the nomination of Henry F. Fisher, as Consul for the City of Bremen, was laid on the table.

On motion of Mr. Greer, the nomination of Maximilian Van Den Bergh, as Council for Antwerp, Netherlands, was confirmed.

On motion of Mr. Parker of Fort Bend, the nomination of Joshua J. Crooswyck, as Consul for Rotterdam, was confirmed.

On motion of Mr. Parker of Fort Bend, the nomination of Thomas Snowe, as Consul for the City of Dublin, Ireland, was confirmed.

On motion of Mr. Greer, the nomination of Maly E. Dumon, as Consul for Cete, France, was confirmed.

On motion of Mr. Williamson, the nomination of Thomas J. Pettyplace, as Consul for Mobile, United States, was confirmed.

On motion of Mr. Greer, the nomination of William Henry Brockett, as Vice Consul for New Castle-upon-Tyne, was confirmed.

On motion of Jack, the nomination of James H. Cocke, as Collector of Customs for the District of Galveston, was laid on the table.

On motion of Mr. Greer, the nomination of William M. Hurt, as Collector of Customs for the District of San Augustine, was laid on the table.

On motion of Mr. Hunter, the nomination of Henry Redmond, as

Collector of Customs for the District of Aransas, was laid on the table.

On motion of Mr. Pattillo, the nomination of William C. V. Dashiell, as Collector of Customs for the District of Sabine, was laid on the table.

On motion of Mr. Parker of Fort Bend, the nomination of Peter MacGreal, as District Attorney for the First Judicial District, was confirmed.

On motion of Mr. Jack, the nomination of David C. Van Derlip, as District Attorney for the second Judicial District, was laid on the table.

On motion of Mr. Pattillo, the nomination of Niles F. Smith, as Notary Public for Jefferson County, was laid on the table.

On motion of Mr. Lawrence, the nomination of William H. Patterson, as Notary Public for Galveston County, was laid on the table.

On motion of Mr. Lawrence, the nomination of Daniel D. Culp, as Notary Public for Harris County, was confirmed.

On motion of Mr. Williamson, the nomination of Moses Park, as Notary Public for Washington County, was confirmed.

On motion of Mr. Jack, the nomination of Simon L. Jones, as Notary Public for San Patricio County, was ordered to lie on the table.

On motion of Mr. Parker of Fort Bend, the nomination of Milla M. Battle, as Notary Public for Fort Bend County, was confirmed.

On motion of Mr. Greer, the doors were reopened.

Friday, December 29, 1843.

The Senate met in secret session.

Mr. Jack offered the following resolution, to wit:

Resolved, That a committee of three be appointed to inquire into the official conduct of James H. Cocke, the nominee for Collector of Customs for the port of Galveston, with power to examine witnesses and report the result to the Senate at the earliest possible period.

Adopted.

Messrs. Jack, Parker of Nacogdoches and Kaufman were appointed said committee.

On motion of Mr. Jack, the doors were reopened.

Wednesday, January 3, 1844.

The Senate met in secret session.

Mr. Webb moved that the secret communication from the House of Representatives, be taken up, which motion was carried, and the communication read as follows:

House of Representatives,
January 3, 1844.

To the Hon. Edward Burleson,
President of the Senate.

Sir: I am instructed by the Honorable House of Representatives to transmit "a bill for the relief of the citizens of Texas now prisoners in Mexico." which was passed by it yesterday *in secret session*.

Very respectfully, your obedient servant,
James H. Raymond, Chf. Clk.

The bill for the relief of the citizens now prisoners in Mexico, was taken up and read a first time.

On motion of Mr. Webb, the rule was suspended, and the bill read a second time.

On motion of Mr. Kaufman, it was then referred to the committee on Finance. [Messrs. Greer, Jack and Rugely] with instruction to report tomorrow morning.

Mr. Hunter offered the following resolution, to wit:

Resolved, that the select committee to which was referred the resolution relating to the Collector of Galveston, be required to inquire into the conduct of Mr. Redmond, collector for the district of Aransas.

Adopted.

On motion, the doors were reopened.

Friday, January 5, 1844.

The Senate met in secret session.

The secret communication of the President, with communication from the Secretary of War and Marine in relation to the condition of the Navy, were taken up and read as follows:

(Secret.)

Executive Department,
Washington, January 3, 1844.³

To the Honorable, the Senate.

I herewith transmit a copy of a communication from the Department of War and Marine, recently transmitted to the House of Representatives, in relation to the condition of the vessels of war now in the Port of Galveston, etc., etc.

Sam Houston

Department of War and Marine,
Washington, January 1st, 1844.

To his Excellency, Sam Houston.

Sir: Having transmitted to your Excellency estimates for funds necessary to refit for sea the vessels of war now in Galveston harbor required to be sold, and maintain them in active service for one year

³See note 2 above.

and to keep the same in ordinary for a like period, I feel constrained by a sense of duty to the country and a desire to promote the interest of the service, to communicate the following facts, a knowledge of which will be essential, should it be the object to found an action upon these estimates for the future operations of the Navy.

Our naval vessels were built for the government in the year 1839, and though of good appearance at the time received, their timbers have decayed and are still decaying much more rapidly than vessels built of the best materials and in the best condition. Much expense has been incurred from time to time in making the essential repairs, which have in many instances served to point out other deficiencies. Some of them have been found when placed in dock for repair, entirely eaten through by worms where the copper was off, by which they are rendered unsafe as slight injuries may produce free and dangerous leaks. The copper of all the vessels is much worn and they will soon require to be stripped and newly covered. Considerable portions of the ship Austin and brig Wharton are bare; worms will readily penetrate their plank on the approach of warm weather, and if not recoppered, they must sink. To effect this and to make the numerous other repairs required, as well from decay, as from the injuries caused by the reception of numerous heavy balls while on the coast of Yucatan in May last, (which have been but partially repaired) will require them to be placed in a dry dock, which in the present condition of the navy, will be attended with many inconveniences and much expense and when effected, the period of their utility will be of uncertain duration, for it is uncertain at what time the dock may be required for vessels, the timbers of which are in a state of rapid decay, however well repaired. Laying them up in ordinary will not preserve them. Vessels for this character of service should be sound and well appointed, and from the best information in possession of the Department, as well as from personal observation, as from the reports of naval officers. I am constrained to state, that with all the repairs practicable, the period that we can expect the naval vessels at present in the port of Galveston to be kept sea-worthy as such, can not exceed eighteen months, and may be much shorter, as they can barely be considered so at the present, after receiving the essential repairs.

The estimates transmitted were all made in *par funds*, and to refit the vessels for sea or to lay them up in ordinary, it will be necessary that the entire amount for repairs and the principal portion of the remainder of the estimates should be at the disposal of the Department at once, as in all transactions connected with the service, either at Galveston or at New Orleans, La., *cash* is required.

A desire for the estimates alluded to, seems to indicate a meditated

change of policy with reference to the Navy and believing the subject worthy of full investigation, I transmit the above statement and beg leave most earnestly to solicit the attention of your Excellency to a consideration of how far the interests of the nation might be advanced by applying such means as may be at the disposition of the government and required to be expended upon the vessels at present belonging to it, to the purchase of new vessels should their active employment be required. A navy well fitted and appointed is *useful*. That which is not possessed of these requirements must be *worse* than *useless*, particularly to a nation not abundant of means.

I beg leave here to state, that I am in daily expectation of the receipt of intelligence, that the vessels are *abandoned* for want of means to maintain a crew on board.

I have the honor, etc.,

G. W. Hill,

Secretary of War and Marine.

On motion, the message and accompanying papers were referred to the Committee on Naval Affairs [Messrs. Rugely, Lawrence and Hunter].

Mr. Greer, Chairman of the Committee on Finance, reported a bill to be entitled an act for the relief of the citizens of Texas now prisoners in Mexico, for the action of the Senate.

Mr. Greer moved to strike out the fourth section. Lost.

Mr. Jack offered the following amendment to the fourth section:

“And the Secretary of the Treasury shall instruct the Collector of Customs at Galveston to accept and pay such drafts.” Adopted.

Mr. Kaufman offered the following amendment, to the amendment of Mr. Jack.

“And further provided, that should the draft or drafts exceed one thousand dollars, the Collector shall have thirty days in which to pay the same,” which was also adopted.

Mr. Greer moved to amend the fourth section by striking out “twenty-five dollars” and inserting in lieu thereof the words “twenty dollars.” Carried.

Mr. Jack offered an additional section, to be

“Sec. 11. Be it further enacted, That in addition to the sum heretofore allowed by the previous sections of this act, the sum of two hundred dollars shall be paid by the said agent to José Antonio Navarro, one of the Santa Fé prisoners, out of the first appropriation that may come to his hands.” Adopted.

Mr. Jack moved to strike out in the fifth section, the words “a copy of this act,” also the words “together with,” which was carried.

On motion, the rule was suspended and the bill placed upon its third and final passage; and the ayes and noes being called on the passage thereof, stood thus:

Ayes—Messrs. Greer, Jack, Hunter, Kaufman, Lawrence, Parker of Fort Bend, Parker of Nacogdoches, Rugely, Shaw, Smith and Webb. 11.

Noes—Mr. Pattillo. 1.

And so the bill passed.

On motion of Mr. Kaufman, the doors were reopened.

Thursday, January 9, 1844.

The Senate met in secret session.

The following communication from His excellency the President, was read.

(Secret.)

Executive Department,
Washington, January 9, 1844.*

To the Honorable, the Senate:

I herewith submit for the consideration and action of the Honorable, the Senate, the treaty of Peace and Friendship with various tribes of Indians, concluded and signed at Bird's Fort, on the Trinity river, on the 29th day of September, 1843.

It is perhaps proper to remark, that the Commissioners found it impracticable to designate in the treaty the line as established by law, in consequence of the objections of the Indians to any agreement in reference thereto until all the tribes interested should be consulted. The President did not feel himself authorized to give any instructions to the Commissioners not in strict accordance with the law.

Sam Houston

A Treaty^s of Peace and Friendship, between the Republic of Texas and the Delaware, Chickasaw, Waco, Tiwocano, Keachi, Caddo, Anadkah, Ionie, Biloxi and Cherokee tribes of Indians, concluded and signed at Bird's Fort, on the Trinity River, the 29th day of Sept 1843.

Whereas for some time past, hostilities have existed and war been carried on between the white and red men of Texas to the great injury of both parties; and whereas, a longer continuance of the same would lead to no beneficial result, but increase the evils which have so long unhappily rested upon both races; and whereas the parties are now willing to open the path of lasting peace and friendship and are desirous to establish certain solemn rules for the regulation of their mutual intercourse:

*See note 2 above.

*The secret journal does not contain a copy of this treaty; it has been supplied from the original.

Therefore, the Commissioners of the Republic of Texas and the Chiefs and headmen of the before mentioned tribes of Indians, being met in Council at Bird's Fort, on the Trinity River, the 29th day of Sept 1843, have concluded, accepted, agreed to and signed the following articles of treaty:

ARTICLE I.

Both parties agree and declare, that they will forever live in peace, and always meet as friends and brothers. Also, that the war which may have heretofore existed between them shall cease and never be renewed.

ARTICLE II.

They further agree and declare, that it is the duty of warriors to protect women and children, and that they will never make war upon them, or upon unarmed persons, but only upon warriors.

ARTICLE III.

They further agree and declare, that the Indians will never unite with the enemies of Texas, nor make any treaty with them, which shall require of the Indians to take part against Texas; and that if any such proposals should ever be made to them that they will immediately communicate the same to an agent or to the President.

ARTICLE IV.

They further agree and declare, that when they learn that Texas is at war with any people, a chief will come to an agent and ask to be conducted to the President that they may commune with him.

ARTICLE V.

They further agree and declare, that agents shall be appointed by the Government of Texas and be stationed at such places as may be deemed proper, for the purpose of hearing the complaints of the Indians and seeing that justice is done between them and the whites; and also to communicate the orders and wishes of the President to the various bands and tribes.

ARTICLE VI.

They further agree and declare, that no person shall go among the Indians to trade, except by the express authority of the Government of Texas.

ARTICLE VII.

They further agree and declare, that no white man or other person within the control of the laws of Texas shall introduce among any tribe or nation of Indians, or sell to any Indian or Indians ardent spirits or intoxicating liquors of any kind.

ARTICLE VIII.

They further agree and declare, that no white man or other person, else than a regularly licensed trader shall purchase any property of an Indian or Indians without the consent of an agent of the Government of Texas.

ARTICLE IX.

They further agree and declare, that when any property is found among the whites, belonging to the Indians, it shall be the duty of the agent to see that the same is restored; and on the other hand, whenever property belonging to the whites is found among the Indians, the same shall be restored in like manner by the Chiefs on application of the owner or owners thereof through the agent.

ARTICLE X.

They further agree and declare, that no trader shall furnish any warlike stores to the Indians, but by the express permission of the President.

ARTICLE XI.

They further agree and declare, that no person or persons shall pass the line of trading houses without the special permission of the President, and then only for friendly purposes; nor shall any person or persons reside or remain within the territory assigned to the Indians unless by express direction of the President.

ARTICLE XII.

They further agree and declare, that any person or persons who shall molest or attempt to molest the persons or property of the Indians while they remain peaceable under this treaty, shall be held guilty of felony and punished accordingly by the Government of Texas.

ARTICLE XIII.

They further agree and declare, that any killing or outrage whatsoever committed by a white man, or other person within the control of the laws of Texas, upon an Indian in time of peace shall be pun-

ished by the Government of Texas in the same manner as though the Indian were a white man, and that the person so offending shall be liable to indictment and punishment in any county in the Republic.

ARTICLE XIV.

They further agree and declare, that if any Indian or Indians shall kill any white person, he or they shall suffer death; and that if any Indian or Indians shall steal any property of the whites, he or they shall be punished by the tribe in presence of an agent with whipping or other punishment according to the offence.

ARTICLE XV.

They further agree and declare, that the Chiefs and Captains will not permit the Indians to cross the line for any purpose whatsoever without authority and a passport from an agent; nor sell any property to a white man unless authorized so to do by some agent.

ARTICLE XVI.

They further agree and declare, that if any person or persons shall come among the Indians without authority from the President or agent, they will immediately seize and deliver him or them to some one of the agents.

ARTICLE XVII.

They further agree and declare, that they will mutually surrender and deliver up all prisoners which they have of the other party for their own prisoners; and that they will not be friendly with any people or nation, or enter into treaty with them who will take prisoners from Texas, or do its citizens any injury.

ARTICLE XVIII.

They further agree and declare, that the President may send among the Indians such blacksmiths and other mechanics, as he may think proper for their benefit; and also that he may send schoolmasters and families for the purpose of instructing them in a knowledge of the English language and Christian religion.

ARTICLE XIX.

They further agree and declare, that when the President shall send persons among the Indians, they will extend to them kind treatment and protect them from harm.

ARTICLE XX.

They further agree and declare, that the Chiefs and headmen of the Indians will cause their young men and warriors to behave themselves agreeably to the words of this treaty, or that they will punish them with death or in such other way as will compel them to keep peace and walk in the path made straight between the white and red brothers.

ARTICLE XXI.

They further agree and declare, that should any difficulty or cause for war arise between the Government of Texas and the Indians, they will send their complaints to the President, and hear his answer, before they commence hostilities and the Government of Texas will do the same.

ARTICLE XXII.

They further agree and declare, that the Government of Texas reserves to itself the right of working all mines, which have been, or may hereafter be discovered in the territory assigned the Indians.

ARTICLE XXIII.

They further agree and declare, that so soon as the Indians shall have shown that they will keep this treaty and no more make war upon the whites, nor steal horses from them, the President will authorize the traders of Texas to sell to them powder, lead, guns, spears and other arms, such as they may need for the purpose of killing game, and also make to them every year such presents as the Government of Texas may provide.

ARTICLE XXIV.

They further agree and declare, that the President shall make such arrangements and regulations with the several tribes of Indians, as he may think best for their peace and happiness.

ARTICLE XXV.

The foregoing articles having been read, interpreted and fully understood by them, they hereby agree to and confirm the same by sealing and signing their several names in presence of

Ro. J Gilchrist

L Williams

B. Booth

Sam B Marshall

Rob S Hulme

G. W. Terrell [Seal]

E H Tarrant [Seal]

Commissioners on the part of Texas.

Deleware chiefs	{ Roasting Year +	[Seal]
	{ McCallah +	[Seal]
	{ James St. Louis -	[Seal]
Chickasaw chief	Ish te u-ka-Tubby +	[Seal]
Waco chief	Aeah-quash +	[Seal]
Waco chief	Cha tuch Kaba +	[Seal]
Tiwacona chief	Ki chi ka-roqua +	[Seal]
Kechi chief	Ka-te-ah-tick +	[Seal]
Caddo chiefs	{ Red Bear +	[Seal]
	{ Binchah +	[Seal]
	{ Had-de-bah +	[Seal]
Anadkah chief	Jose Maria +	[Seal]
Ionie chief	Tow-a-ash +	[Seal]
Biloxi chief	Hoyo Tubby +	[Seal]
Cherokee Captain	Chicken Trotter +	[Seal]
Interpreters	{ James Shaw +	
	{ Levis Sanches +	
	{ Chow a nih +	
	{ Pierce Sobby +	
	{ Choetaw Tom +	

On motion of Mr. Jack, the message and accompanying treaty were referred to the Committee on Indian Affairs [Messrs. Shaw, Williamson, and Parker of Nacogdoches].

On motion of Mr. Parker of Fort Bend, the doors were reopened.

Thursday, January 18, 1844.

The Senate met in secret session.

Mr. Shaw, Chairman of the Committee on Indian Affairs, to which was referred a treaty made with various tribes of Indians in Texas, made the following report:

Committee Room, January 16, 1844.

To the President of the Senate.

The committee on Indian Affairs, to which was referred a treaty of peace, concluded with the different tribes of Indians, by Geo. W. Terrell and E. H. Tarrant, Commissioners on the part of Texas, on the 29th day of September, 1843, have examined the same and recommended its ratification without amendment.

James Shaw, Chairman.

On motion of Mr. Greer, the treaty together with the report of the Committee on Indian Affairs, was laid on the table.

On motion, the doors were reopened.

Monday, January 22, 1844.

The Senate met in secret session.

The following communication from the President on the subject of the annexation of Texas to the United States, etc., was read.

Executive Department,
Washington, January 20, 1844.

To the Honorable, the Senate, and House of Representatives.

Connected with our present condition, our foreign relations are becoming daily more and more interesting, and it seems to me that the representatives of the people should anticipate the events which may in all probability occur.

To suppose that both branches of the Honorable Congress were not aware of the important and absorbing questions which it is believed will agitate the Congress of the United States, connected with the fate of this country, would be to doubt their intelligence. The Executive therefore relies upon the deliberative wisdom and decision of the representatives of the people, to give him all the aid in their power to conduct the affairs of Texas to such an issue as will be promotive of its interests as a community, and, at the same time, gratifying to the people. Heretofore he has carefully abstained, during his present administration, from the expression of any opinion in reference to the subject of annexation to the United States, and in submitting this communication, he does not think it becoming in him now to express any preference.

It will be perceived by the Honorable Congress, that if any effort were made on the part of this Government to effect the object of annexation, which is so desirable, and it should fail in meeting responsive and corresponding action on the part of the United States, it might have a seriously prejudicial influence upon the course which England and France might otherwise be disposed to take in our favor. And a failure on our part, after a decided expression, could not but be mortifying to us, and to a great extent diminish our claims to the confidence of other nations. It would create distrust on their part toward us, because the opponents of our interests would allege there was no stability in our purposes, and therefore unsafe in other nations to cultivate very intimate relations with us, or even to maintain those which now so fortunately exist. They might apprehend that after the lapse of a few years, Texas, having acquired increased importance from their friendly aid and good offices, would be induced again by the agitation of the same question in the United States, to apply for admission into the Union, and that by possibility it might be effected. Hence the utmost caution and secrecy on our part as to the true motives of our policy, should be carefully observed.

Were the interest now manifested both in the United States and Texas, in relation to annexation, to pass off without producing any material change in our national attitude, another object of but secondary importance might be achieved. It appears to the Executive that the relations which the United States bear to this country, and its important position on the Gulf, would not disincline them to a treaty of alliance with us—defensive at least, if not also offensive. If nothing else were effected than a treaty for defence, it would secure to Texas a position that would forever bid defiance to our Mexican enemy. It would be as important to us in fact, as the recognition of our independence by Mexico.

These measures seem, to the judgment of the Executive, to be vitally connected with the glory, well-being and stability of the nation; and had he, under this conviction, not communicated the same to Congress, he should have felt himself delinquent in the discharge of an important duty. If they are favorably received by the Honorable Congress, and their effectuation desired, it may be necessary for this purpose, if circumstances daily arising should justify the course, to despatch an additional agent to the Government of the United States to co-operate with our agent now there. And in that event, an appropriation of five thousand dollars would be requisite to meet the necessary expenses. This recommendation does not arise from any distrust of the ability and capacity of Mr Van Zandt, our Present Chargé d’Affaires. His industry, zeal and capacity are evinced by his correspondence with this Government. But the additional weight which a coadjutor would give to our character at that court, and the multiplication of facilities for success, by the aid they could mutually render each other, from increased opportunities for intelligence, and in collecting and comparing information, would doubtless be of the highest importance.

If the Honorable Congress should think well of these suggestions, they will be aware of the propriety of *immediate* action upon the subject. The Congress of the United States have now been in session some time, and there can be but little doubt if they have not already done so, that they will soon indicate their disposition and course of policy towards this country.

Believing, as the Executive did at the commencement of the present session, that the subject of annexation was in the best position in which Texas could place it, he did not allude to it in his general message, apprehending that any public action, taken by either the Executive or the Congress, would only have a tendency to embarrass the subject. Action must now be taken by the United States; and we must now watch and meet their disposition towards us. If we evince

too much anxiety, it will be regarded as importunity—and the voice of supplication seldom commands, in such cases, great respect.

The Executive hopes that the injunctions under which this communication is made, may be so regarded by the Congress as to prevent the possibility of its publication, until the measures sought may be accomplished, or the negotiations terminated. Sam Houston.

On motion of Mr. Greer, the communication was referred to the committee on Foreign Relations [Messrs. Kaufman, Webb and Jack].

On motion the doors were reopened.

Tuesday, January 23, 1844.

The Senate met in secret session.

The committee on Foreign Relations, Mr. Kaufman Chairman, to which was referred the Communication of the President relative to annexation, etc., made the following report:

Committee Room,
Washington, January 23, 1844.

To the Hon[orable] Edward Burluson,
President of the Senate.

The Committee on Foreign Relations, to which was referred the communication of His Excellency the President, asking an appropriation of five thousand dollars, for the purpose of enabling him "to despatch an additional agent to the Government of the United States, to co-operate with our agent now there," have had the same under consideration, and have bestowed upon it that serious attention which its importance demands. As ardent friends of the great and desirable object of our annexation to the United States, sought to be attained by the appropriation asked for, your committee cannot hesitate to recommend a compliance with His Excellency's request.

Your committee, after mature consideration, are fully convinced that if we are annexed to the United States at all, it can only be done by means of a treaty between the two Governments. It was by treaty that Louisiana and Florida were acquired; and indeed there is perhaps no instance on record where nations have acquired an accession to their territory by the consent of Governments owning the same, where such accession was not acquired through the instrumentality of treaties. Besides, a treaty when once formed, is of authority equal in dignity to the constitution itself. Whereas, if we should come in under legislative enactment, we might go out again under a similar process. But a treaty when once formed by mutual consent, could not be abrogated, except by the same consent, and when ratified, it would be stable and permanent.

It being then admitted that we can only be annexed by treaty, and that treaty having to be negotiated at the capital of the United States, considering the very important questions involved in the negotiation of such treaty, your committee cannot hesitate to believe that the co-operation of two individuals, would effect a more satisfactory arrangement of the terms of our admission than the unaided efforts of one individual, however able and talented that individual may be. When the treaty of Ghent was formed, it was deemed necessary by the Government of the United States to despatch three of the most talented individuals in that Government as special commissioners; and they were in addition required to associate with them the resident ministers from the United States at the courts of London and Paris. Important as that mission was, it could not certainly be more so than the duties that would devolve on the Texian Commission in the proposed negotiation. Texas will be called upon to surrender her nationality and merge her existence in another Government; and stipulations in regard to her national debt, the disposition of her public domain, and many others of the most vital importance to her well-being and prosperity, will enter into the provisions of such treaty. If five commissioners were considered useful, in the case above referred to, surely it cannot be urged that *two* would be superfluous in a case of this character. It is an old adage that in a multitude of counsellors there is safety; and if that remark is true in ordinary cases, it cannot be less so where the consequences flowing from such treaty, whether for good or evil, must necessarily be so lasting in their character.

In view of all the facts, and with the expression of their warm approbation of the policy recommended by the Executive, the committee have instructed me to report the accompanying joint resolution, and recommend its passage.

David S. Kaufman, Chairman.

A Joint Resolution

Providing for the appointment of an additional agent to co-operate with our agent now at the seat of Government of the United States, in negotiating for the annexation of Texas to the United States.

Be it resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the President be, and he is hereby authorized to despatch an additional agent to the Government of the United States, to co-operate with our agent now there, for the purpose of entering into negotiations for our annexation to the United States; and the sum of five thousand dollars is hereby appropriated to carry into effect the provisions of this joint resolution;

and the same shall be in full force and effect from and after its passage.

A joint resolution providing for the appointment of an additional agent to the United States, etc., was read a first time.

On motion of Mr. Kaufman, the rule was suspended and the joint resolution read a second time, and ordered to be engrossed.

On motion of Mr. Parker of Fort Bend, the rule was then further suspended, and the joint resolution read a third time and passed.

On motion, the doors were reopened.

Monday, January 29, 1844.

The Senate met in secret session.

A message was received from the House of Representatives, by Mr. James H. Raymond, their Chief Clerk, as follows:

House of Representatives,
January 29, 1844.

To the Honorable Edward Burleson,
President of the Senate.

Sir: I am instructed by the House to inform the Honorable Senate that they have adopted a substitute for "a joint resolution providing for the appointment of an additional agent to co-operate with our agent now at the seat of Government of the United States, in negotiating for the annexation of Texas to the United States," to which they respectfully ask the concurrence of the Honorable Senate.

I have the honor to be your obedient servant,

Jas. H. Raymond, Chf. Clk.

The substitute of the House of Representatives was taken up and read first time.

On motion of Mr. Kaufman, the substitute, together with the original joint resolution, was referred to the Committee on Foreign Relations [Messrs. Kaufman, Webb and Jack].

On motion of Mr. Kaufman, the nominations made by His Excellency the President, to the Senate, were taken up, when the following were unanimously confirmed, to wit:

Pierre Brunet, Consul General for France;

Henry F. Fisher, Consul for the city of Bremen;

James H. Cocke, Collector of Customs for the district of Galveston;

William M. Hurt, Collector of Customs for the district of San Augustine;

William C. V. Dashiell, Collector of Customs for the district of Sabine;

Niles F. Smith, Notary Public for Jefferson County; and

Simon L. Jones, Notary Public for San Patricio County.

The nomination of David C. Van Derlip, was on motion of Mr. Webb, laid on the table.

The nomination of William H. Patterson was also laid on the table.

The ayes and noes being called for on the nomination of Henry Redmond, as Collector of Customs for the district of Aransas, stood as follows:

Ayes—Messrs. Grimes, Kaufman, Pattillo and Rugely. 4.

Noes—Messrs. Greer, Hunter, Parker of Nacogdoches, Shaw, Smith and Webb. 6.

So the nomination was rejected.

The nomination of William Henry Daingerfield, as Chargé d'Affaires to the Netherlands, was laid on the table.

On motion of Mr. Shaw, the doors were reopened.

Wednesday, January 31, 1844.

The Senate met in secret session.

Mr. Kaufman, Chairman of the Committee on Foreign Relations, to which was referred the substitute from the House of Representatives to a joint resolution of the Senate providing for the appointment of an additional agent, etc., made the following report:

Committee Room, January 31, 1844.

To the Hon[orable] Edward Burleson,
President of the Senate.

The committee on Foreign Relations, to which was referred the substitute of the House of Representatives for a bill of the Senate to be entitled a joint resolution to provide for the appointment of an additional agent, etc., have had the same under consideration, and beg leave to recommend that the Senate refuse to concur in the same, and that they adhere to their original bill.

They conceive that any legislation in relation to the mode of organizing a convention for the purpose of taking steps for our incorporation into the American Union, is premature, and in the present condition of our relations with the United States, unnecessary. Should the United States resolve to admit Texas into the Union, *by legislative enactment* instead of *by treaty*, a special session of Congress will be convened by the Executive to provide for such emergency.

Your committee asks to be discharged from the further consideration of the same.

David S. Kaufman, Chairman.

The Ayes and noes being called on the adoption of the foregoing report, stood thus:

Ayes—Messrs. Greer, Grimes, Hunter, Kaufman, Lawrence, Parker of Fort Bend, Parker of Nacogdoches, Pattillo and Shaw. 9.

Noes—Messrs. Rugely, Smith and Webb. 3.

So the report was adopted.

On motion of Mr. Parker of Fort Bend, the treaty concluded between the Republic of Texas and various Indian tribes, was taken up, and the rule being suspended, the same was read article by article.

Mr. Kaufman offered the following resolution:

Resolved, That the Senate do advise and consent to the ratification of the "Treaty of Peace and Friendship between the Republic of Texas and the Delaware, Chickasaw, Waco, Tah-woe-cany, Keechi, Caddo, Anah-dah-kah, Ionie, Biloxi, and Cherokee tribes of Indians, concluded and signed at Bird's Fort, on the Trinity river, on the twenty-ninth day of September, 1843."

The Ayes and noes being called on the adoption of the resolution, stood thus:

Ayes—Messrs. Greer, Grimes, Kaufman, Parker of Fort Bend, Parker of Nacogdoches, Pattillo, Rugely, Shaw, Smith and Webb. 10.

Noes—Mr. Hunter. 1.

So the resolution was adopted.

On motion of Mr. Hunter, the doors were reopened.

Saturday, February 3, 1844.

The Senate met in secret session.

A message was received from the House of Representatives, by Mr. James H. Raymond, their Chief Clerk, as follows:

House of Representatives,
February 3, 1844.

To the Hon[orable] the President of the Senate.

Sir: I am instructed by the House to inform the Honorable Senate, that they adhere to their amendments to "a joint resolution providing for the appointment of an additional agent to cooperate with our agent now at the seat of Government of the United States, in negotiating for the annexation of Texas to the United States;" and that they have appointed a committee, consisting of Messrs. Phillips, Barnard, Hogg, Davis, and Maverick, as a committee of conference, and respectfully request the appointment of a like committee on the part of the Senate.

I have the honor to be your obedient servant,

Jas. H. Raymond, Chf. Clk., H. R.

On motion of Mr. Kaufman, the nomination of William Henry Daingerfield, as Chargé d'Affaires to the Netherlands, was taken up.

The ayes and noes being called on the confirmation thereof, stood as follows:

Ayes—Messrs. Greer, Grimes, Hunter, Kaufman, Parker of Fort Bend, Parker of Nacogdoches, Pattillo, Shaw and Smith. 9.

Noes—Mr. Rugely. 1.

So the nomination was confirmed.

On motion, the doors were reopened.

Monday, February 5, 1844.

The Senate met in secret session.

A message from the house of Representatives, relative to the disagreement between the two Houses on the bill originating in the Senate, providing for the appointment of an additional agent to the United States, etc., was taken up.

Messrs. Kaufman, Shaw and Pattillo were appointed a committee of conference on the part of the Senate thereon.

The following message was received from his Excellency the President, to wit:

Executive Department,
Washington, February 5, 1844^e

To the Honorable, the Senate.

The Executive has the honor to transmit to the Senate, the following nominations, for its constitutional action, viz:

F. H. Merriman, District Attorney for first Judicial District;
George W. Brown, District Attorney for second Judicial District;
Thomas Johnson, District Attorney for third Judicial District;
John D. Anderson, District Attorney for fourth Judicial District;
O. M. Roberts, District Attorney for fifth Judicial District;
Peter W. Gray, District Attorney for sixth Judicial District;
William C. Young, District Attorney for seventh Judicial District;
J. W. Maulding, Notary Republic for Harrison County;
James P. Nash, Notary Public for the Port of Galveston; and
George L. Martin, Notary Public for Liberty County.

Sam Houston

The rule being suspended on all the said nominations, they were, severally, unanimously confirmed.

A message was received from the House of Representatives, by Mr. James H. Raymond, as follows, to wit:

That the House has adopted the report of the committee of conference on the joint resolution providing for the appointment of an additional agent to the United States, etc.

*See note 2 above.

Mr. Pattillo, chairman of the committee on Enrolled bills, made the following report:

Committee Room, February 5, 1844.

Mr. President:

Your committee on Enrolled Bills, have examined a joint resolution providing for the appointment of an additional agent to cooperate with our agent now at the seat of Government of the United States for negotiating for the annexation of Texas to the United States, and finding the same correctly enrolled; and the same having been signed by the Speaker of the House of Representatives and President *pro tempore* of the Senate, was this day presented to His Excellency the President for his approval.⁷

G. A. Pattillo, Chairman.

On motion, the doors were reopened.

⁷This joint resolution is printed in the Appendix as No. 7.

NINTH CONGRESS

Roll of Senators

John Caldwell, for the District of Bastrop, Travis, Fayette and Gonzales.

John A. Greer, for the District of San Augustine.

Jesse Grimes, for the District of Washington, Montgomery and Brazos.

David S. Kaufman, for the District of Sabine, Shelby and Harrison.

H. L. Kinney, for the District of San Patricio, Goliad and Refugio.

William Lawrence, for the District of Harris, Galveston and Liberty.

James K. McCrearey, for the District of Austin, Colorado and Fort Bend.

Henry J. Munson, for the District of Robertson and Milam.

Isaac Parker, for the District of Nacogdoches, Rusk and Houston.

George A. Pattillo, for the District of Jasper and Jefferson.

Timothy Pilsbury, for the District of Brazoria.

Richard Roman, for the District of Matagorda, Jackson and Victoria.

John W. Smith¹,
Samuel H. Luckie¹, } for the District of Bexar.

George W. Wright, for the District of Red River, Fannin, Bowie and Lamar.

Officers of the Senate

Edward Burleson, Vice-President until December 9, 1844.

Kenneth L. Anderson, Vice-President, inaugurated Dec. 9, 1844.

John A. Greer, President pro tempore.

Henry J. Jewett, Secretary.

¹John W. Smith died January 13, 1845; he was succeeded in the Senate by S. H. Luckie on February 1st.

NINTH CONGRESS

FIRST OR REGUAR SESSION

Secret Journals of the Ninth Congress.

[By a law, entitled "an act concerning the archives of the legislature," approved February 16, 1852, it was made "the duty of the present Secretary of the Senate, and Chief Clerk of the House of Representatives to carefully arrange, and file the entire archives of the Congress[es] of the late Republic of Texas and of the State Legislature, and place the same under proper labels, in a safe and convenient receptacle to be provided for the purpose; and, also, to record in suitable blank books . . . complete journals of the said Congress[es] and State Legislature . . . so far as the same have not heretofore been recorded: the whole to be executed with the utmost uniformity, neatness and accuracy."¹

The journals of the senate of the seventh, eighth and ninth congresses, now on file in the office of the Secretary of State, show that W. D. Miller, Secretary of the Senate, Fourth Legislature, performed this task admirably. However, when he reached the point where the secret journal of the Ninth Congress should have been recorded, he was compelled to make following entry in its stead:

"*Note:* When this volume was recorded, the Secret Journal of the Ninth Congress could not be found in the archives of the Senate. It was supposed to be among the papers of the House of Representatives, in the hands of the Chief Clerk of that Body, at his residence on La Vaca Bay. Sufficient space is left for the Secret Journal, and it will be recorded when discovered. "W. D. Miller,

"Sec'y Senate, Fourth Legislature."²

To supply as nearly as possible the information contained in these missing journals, the President's secret messages to the Senate and the replies of the Secretary of the Senate to the President are printed below.]

(Secret.)

Executive Department,
Washington, December 5, 1844.³

To the Honorable the Senate:

I herewith respectfully submit, for the constitutional action of your Honorable Body, the Convention of Friendship, Commerce and Navi-

¹Gammel, *Laws of Texas*, III 125-6.

²Journal of the Senate of the Republic of Texas, Ninth Congress, (ms.), p. 351. Department of State.

³Executive Record, Vol. 40, p. 382. Department of State.

gation, between the Republic of Texas and the Hanseatic Republics of Lubeck, Bremen and Hamburg, concluded at Paris, on the 17th day of April, 1844.⁴

[Sam Houston]

(Secret.)

Executive Department,
Washington, December 5, 1844.⁵

To the Honorable, the Senate:

I herewith respectfully submit, for the constitutional action of your Honorable Body, the Treaty of Peace, Friendship and Commerce, between the Republic of Texas and the Comanche, Keechi, Waco, Caddo, Anadahka, Ioni, Delaware, Shawnee, Cherokee, Lipan and Tonkawa tribes of Indians, concluded and signed at Tahwoccano Creek, on the 9th day of October, 1844.⁶

[Sam Houston]

(Secret.)

Executive Department,
Washington, December 5, 1844.⁷

To the Honorable the Senate:

I have the honor to submit for the advice and consent of the Senate, the following nominations, under appointment made during the recess of Congress:

George W. Terrell, Chargé d'Affaires to France, etc.
James Reily, Chargé d'Affaires to the United States.
William H. Palmer, District Attorney for the 6th judicial district.
Gideon R. Jaques, Notary Public for Matagorda County.
Robert L. Williams, Notary Public for Jasper County.
Benj. Richardson, Notary Public for Jasper County.
Otes McGaffy, Notary Public for Jasper County.
Joseph Daniels, Notary Public for Washington County.
Samuel D. Hay, Notary Public for Montgomery County.
David Ayres, Notary Public for Austin County.
John A. Veatch, Notary Public for Liberty County.
G. L. Martin, Notary Public for Liberty County.
R. M. Forbes, Notary Public for Brazoria County.
Adolphus Sterne, Notary Public for Nacogdoches County.
Samuel Monroe Hyde, Notary Public for Rusk County.
John R. Craddock, Notary Public for Lamar County.
A. P. Vaughn, Notary Public for Harrison County.

⁴The treaty between the Republic of Texas and the Hanseatic Republics of Lubeck, Bremen and Hamburg is printed in Garrison, *Diplomatic Correspondence of the Republic of Texas*, II.

⁵Executive Record, Vol. 40, p. 382. Department of State.

⁶The treaty between the Republic of Texas and the Indian tribes enumerated above is printed in Gammel, *Laws of Texas*, II 1191-1196.

⁷Executive Record, Vol. 40, p. 383. Department of State.

Niles F. Smith, Notary Public for Port of Sabine.

James Somervell, Notary Public for Port of Matagorda.

[Sam Houston]

Senate Chamber

December 11th, 1844.*

To His Excellency

Anson Jones, President etc

Sir.

I have the honor to inform your Excellency that the following Nominations have been *confirmed*, viz

Gideon R Jaques,	Notary Public for Matagorda County.
Joseph Daniels,	Notary Public for Washington County.
Samuel D Hay,	Notary Public for Montgomery County.
G. L. Martin,	Notary Public for Liberty County.
R M Forbes	Notary Public for Brazoria County.
Adolphus Stern	Notary Public for Nacogdoches County.
Samuel Munroe Hyde	Notary Public for Rusk County.
Niles F Smith	Notary Public for Port of Sabine.
James Summervill	Notary Public for Port of Matagorda.

Also that the following Nominations have been *rejected* by the Senate, viz.

David Ayers,	Notary Public for Austin County.
A P Vaughn	Notary Public for Harrison County.

Very Respectfully,

Henry J Jewett

Secretary of the Senate

Senate Chamber

December 12th 1844.*

To His Excellency

Anson Jones, President

Sir

I have the honor to inform your Excellency, that the following Executive Nominations were this day acted upon by the Senate.

John R Craddock, Notary Public for the County of Lamar; *confirmed*.

John A Veatch, Notary Public for the County of Liberty; *rejected*.

Very Respectfully,

Henry J Jewett

Secy Senate.

*MS. Senate Confirmations. Texas State Library.

*MS. Senate Confirmations. Texas State Library.

Executive Department,
Washington, 12th Decr 1844.¹⁰

To the Hon. the Senate:

The Executive respectfully submits for your consideration and advisement the following nominations. viz

W. B. Ochiltree, Secretary of the Treasury.

Ebenezer Allen, Attorney General.

Moses Johnson, Treasurer.¹¹

Anson Jones.

Secret

Executive Department
Washington, 17th Decr 1844.¹²

To the honorable the House of Representatives:

In compliance with a secret Resolution of the Hon. House, adopted on the 11th Inst., I herewith transmit a communication with accompanying documents from the Secretary of the Treasury,¹³ and respectfully suggest that his remarks in regard to the suppression of names, receive the attention of the Hon. House.

Anson Jones

Secret

Executive Department
Washington, 23d Decr 1844.¹⁴

To the honorable, The Senate:

In reply to a Resolution of the 21st Inst.¹⁵, passed in open session, requesting a statement showing the disposition of the appropriation made for the relief of the Mier Prisoners etc., etc., the Executive would inform the Hon. Senate, that the information required has been transmitted to the House of Representatives under an injunction of secrecy.

Owing to the extreme length of the documents in question, the President is constrained to refer your honorable body to the House, which he doubts not, will furnish the desired papers at your request.

Anson Jones

¹⁰Executive Record, Vol. 47, p. 6. Department of State.

¹¹APPOINTMENTS BY THE PRESIDENT.

Wm. B. Ochiltree, Secretary of the Treasury.

Ebenezer Allen, Attorney General.

Moses Johnson, Treasurer.

James B. Shaw, Comptroller—re-appointed.

Charles Mason, Auditor—re-appointed.

S. Z. Hoyle, President's Private Secretary.

The Department of State and War & Marine have not yet been filled. The Hon. E. Allen will act as Secretary of State *ad interim*; and M. C. Hamilton, Esq., as Secretary of War & Marine *ad interim*.—*Morning Star*, December 21, 1844.

¹²Executive Record, Vol. 47, p. 15. Department of State.

¹³The communication with accompanying documents from the Secretary of the Treasury has not been found.

¹⁴Executive Record, Vol. 47, p. 16. Department of State.

¹⁵The Resolution is printed in the *Journals of the Senate of the Ninth Congress*, p. 59.

*Secret*Executive Department
Washington, 30th Decr 1844.¹⁶

To the honorable, the Senate:

I respectfully submit, for the advice and consent of the Senate,
the following nominations. viz.

Cullen Arnett	Notary Public Liberty County
Ira M. Freeman	Notary Public Harrison County
Joseph Pinson	Notary Public Houston County
Robert Walker	Notary Public Harris County
L. C. Cunningham	Notary Public Bastrop County

Anson Jones

Senate Chamber
Decr 31st 1844¹⁷

To His Excellency

Anson Jones,

Sir

I have the honor to inform your Excellency, that the Senate have
confirmed the following nominations, this day, vizWilliam H Palmer, District Attorney for the Sixth Judicial Dis-
trict.

Cullen Arnett,	Notary Public, Liberty County.
Ira M Freeman,	Notary Public, Harrison County.
Joseph Pinson,	Notary Public, Houston County.
Robert Walker,	Notary Public, Harris County.
L. C. Cunningham,	Notary Public, Bastrop County.

Very Respectfully

Henry J Jewett
Secy Senate*Secret*Executive Department
Washington, 8th January 1845.¹⁸

To the honorable, the Senate:

The Executive respectfully submits for your consideration and
advisement, the following nominations. viz.

Robert S. Herndon	Collector for District of Brazos.
Thomas Harvey	Notary Public, Matagorda County
A. W. O. Hicks	Notary Public, Shelby County
George Fisher	Notary Public, Harris County

Anson Jones

¹⁶Executive Record, Vol. 47, p. 18. Department of State.¹⁷MS. Senate Confirmations. Texas State Library.¹⁸Executive Record, Vol. 47, p. 18. Department of State.

*Secret*Executive Department
Washington, 10th January 1845¹⁰

To the honorable, the Senate:

Since I had the honor on the 8th Inst. to nominate Mr. George Fisher to the office of Notary Public for the County of Harris, I have been informed that Daniel D. Culp Esq. the incumbent of that office has returned from the United States after an absence of many months; which long absence I had supposed a virtual resignation of his office; as however, Mr Culp had not formally resigned, but on the contrary has expressed his wish to me to continue in the discharge of the duties of that office until the end of his term, I respectfully ask permission of the honorable Senate, to withdraw from before it, the nomination of Mr. Fisher for the office referred to.

Anson Jones

Senate Chamber

To His Excellency
Anson Jones.Washington Jany 8th 1845¹⁰

Sir.

I have the honor to inform your Excellency, that the Senate have confirmed the following nominations this day; viz.

Robert S Herndon, Collector for the District of Brazos.

Thomas Harvey, Notary Public for the County of Matagorda

A W O Hicks, Notary Public for the County of Shelby

Very Respectfully,

Henry J Jewett,
Secy Senate*Secret*Executive Department
Washington, 21st January 1845.¹¹

To the honorable, the Senate:

I respectfully submit for the advice and consent of your Hon. body, the following nominations, viz.

Thomas Newcomb. District Attorney for Fourth Judicial District

George Quinan. District Attorney for First Judicial District

William Byrne. District Attorney for Second Judicial District

Archibald Jones. Notary Public for Gonzales County

F. M. Wethered Jr. Notary Public for Sabine County

Anson Jones

¹⁰Executive Record, Vol. 47, p. 21. Department of State.¹¹MS. Senate Confirmations. Texas State Library.¹²Executive Record, Vol. 47, p. 22. Department of State.

*Secret*Executive Department
Washington, 25th January 1845.²²

To the honorable, the Senate:

I respectfully submit for the advice and consent of your Hon. body, the following nominations. viz.

Auguste Furtado. Consul for the port of Bayonne, France.

Stephen H. Ellis. Notary Public, Bowie County.

Anson Jones

Senate Chamber
January 24th 1845.²³

To His Excellency, Anson Jones.

I have the honor to inform you, that the following Executive Nominations were *confirmed* by the Senate, this day. viz

Auguste Furtado, for the office of Consul for the port of Bayonne, France.

Stephen H Ellis, Notary Public Bowie Co

William Byrne, District Attorney for the Second Judicial District.

Also the following Nominations were *rejected*George W Terrell,²⁴ Chargé d'Affaires to France.James Reilly,²⁴ Chargé d'Affaires to the United States.

The following resolution was also adopted by the Senate.

Resolved, That the Senate do advise and consent to the ratification of the "Treaty of Peace, Friendship and Commerce between the Republic of Texas and the Comanchie, Keechi, Waco, Caddo, Anahdahkah, Ionie, Delaware, Shawnee, Cherokee, Lipan and Tahuakkano Tribes of Indians, conducted [*sic*] and signed at Tahuacano creek on the ninth day of October in the year One thousand eight hundred and forty four."

Very Respectfully,

Henry J Jewett
Secy SenateSenate Chamber
Feby 3d 1845.²⁵

To His Excellency, Anson Jones.

I have the honor to inform your Excellency that the following Nominations were this day Confirmed by the Honl. Senate.

Thos. H O Addicks, Notary Public for Bexar County.

²²Executive Record, Vol. 47, p. 23. Department of State.²³MS. Senate Confirmations. Texas State Library.²⁴The Senate has rejected the nomination of Gen'l Terrell and Col. Reilly, as Charges d'Affaires. . . . It is reported that only five votes were given in favor of Terrell, and four in favor of the appointment of Col. Reilly. It is said that the chief cause of opposition to these gentlemen was owing to their hostility to annexation.—*Telegraph*, February 5, 1845.²⁵MS. Senate Confirmations. Texas State Library.

Wm J Downing, Notary Public for San Patricio County.

Also that the Convention of Friendship, Commerce and Navigation between the Republic of Texas and the Hanseatic Republics of Lubeck, Bremen and Hamburg, on motion, has been laid on the Table.

Respectfully

Henry J Jewett
Secy Senate

NINTH CONGRESS

SECOND OR CALLED SESSION

[The Secret Journals of the Extra or Called Session of the Ninth Congress are printed in the the *Journals of the Senate of the Extra Session, Ninth Congress, of the Republic of Texas*, pp. 85-94, and are, therefore, not printed here.]

APPENDIX

SECRET ACTS AND JOINT RESOLUTIONS

Number 1.

Joint Resolution requesting the President to open a secret correspondence with Gen. James Hamilton.¹

Resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the President be authorized to open a Secret Correspondence with Gen. James Hamilton, of Charleston, South Carolina, to ascertain of him whether or not he will accept the Commandancy of the Army of Texas, if the emergency of the Country requires it

Ira Ingram
Speaker of the House of Representatives
Richard Ellis
Pres[iden]t of the Senate Pro Tem

Approved 22nd Decr 1836
Sam Houston

Number 2.

Secret Resolution requesting the President to instruct the Minister at the Court of St James²

Resolved by the Senate and the House of Representatives of the Republic of Texas in Congress assembled That the President be and he is hereby authorized to instruct our Minister at the Court of St James in Great Britain to repair to the Court of St Cloud in France at any time that he in his opinion may consider that the interest of our country may be advanced by his visiting that Government.

B. T. Archer Spkr. of H of R
Jesse Grimes Prest Protem of the Senate

Approved 7th June 1837
Sam Houston

Number 3.

A Joint Resolution on the Subject of Establishing Amicable Relations with Mexico. Approved December 21, 1839.³

Number 4.

An Additional Joint Resolution relative to the pacification and ad-

¹MS. Laws of the First Congress, folio 9. Department of State.

²MS. Laws of the First Congress, folio 48.

³This secret joint resolution has not been found.

justment of existing difficulties between Texas and Mexico. Approved December 21, 1839.³

Number 5.

Joint Resolution, in secret session.⁴

Section 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled (in secret session). That the Secretary of the Treasury, under direction from the President shall be authorized to issue from the Treasury Department a sufficient amount of Promissory notes of the Government to meet and cover payments and demands on the Treasury arising from appropriations made by this Congress without it being understood that this resolution shall in any way alter or change the regular account of returns which the Secretary must present to the next Congress.

Section 2. Be it further resolved, That from and after the passage of these Resolutions the Secretary of the Treasury be, and he is required to suspend the further publication in the public Gazettes of the monthly receipts and expenditures of the Government

David S. Kaufman

Speaker of the House of Representatives

David G. Burnet

President of the Senate

Approved 5th February 1840

Mirabeau B. Lamar

Number 6.

(*Secret.*)

An Act to provide for the Sale of the Navy of Texas.⁵

Sect. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the President be and he is hereby authorized and required [as] soon as practicable, consistent with the public interest, to dispose of the vessels comprising the Navy of Texas, to wit, The Ship Austin the Brig Wharton at the highest price which can be obtained either by sale or in exchange for and redemption of the entire liabilities of the Government contracted in the purchase of said vessels, and the Brig Archer and the Schooner San Bernard together with the Steamship Zavalla her tackle furniture and apparel, also the property of the Navy Yard with all the Naval Stores be sold for cash or credit as the President may deem proper, and the proceeds of sale from the Archer, San Bernard and Zavalla with the public property at the Navy Yard, shall be disbursed in the following manner, to wit, fifteen thousand dollars for the payment of

³This secret joint resolution has not been found.

⁴File 1499, (MS.) in Papers of the Fourth Congress.

⁵MS. Laws of the Seventh Congress, folio 3.

claims due the present or former officers, seamen and marines of the Navy in proportion to the time they have served and the amount which may be due, and the ballance to be paid into the Treasury of the Republic.

Sec 2. Be it further enacted That the President be and he is hereby authorized to appoint some trustworthy and suitable person or persons, to act as agent or agents, in affecting [*sic*] at as early a period as practicable the object of this act.

Sec 3. Be it further enacted That this act take effect from and after its passage,

N. H. Darnell

Speaker of the House of Representatives

J. A. Greer

President Pro. Tem. of the Senate.

Approved 16th Jan'y 1843

Sam Houston

Number 7.

Secret.

A Joint Resolution providing for the appointment of an additional agent to co-operate with our agent now at the Seat of Government of the United States in negotiating for the annexation of Texas to the United States.^o

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the President be, and he is hereby authorized to dispatch an additional agent to the Government of the United States to co-operate with our agent now there, for the purpose of entering into negotiations for our annexation to the United States, and the sum of Five thousand dollars is hereby appropriated to carry into effect the provisions of this Joint Resolution.

Sec. 2. Be it further resolved That in the event it may be found impossible to secure a majority of Two thirds of the United States Senate, to a treaty of our annexation to the United States, that the said agent, shall be required to use his influence to procure our annexation to the United States by an Act of Congress of the same, and in the event such an act be passed, the President of this Republic is requested to convene a Special Session of Congress to take such action thereon, as the emergency of the case may require; and This Joint Resolution shall be in full force from and after its passage.

Richardson Scurry

Speaker of the House of Representatives

John A. Greer

Pro. Tem. President of the Senate

Approved 5th Feby 1844

Sam Houston.

*MS. Laws of the Eighth Congress, folio 86.

INDEX

- Aake, Charles, nominated assistant surgeon, 184; confirmed, 189.
- Abbott, Richard A., nominated 1st lieutenant, 46; confirmed, 52.
- Adams, George W., nominated notary public, 140; confirmed, 143.
- Addicks, Thomas H. O., confirmed notary public, 311.
- Ainsworth, A. S., vote received for chief justice, 175.
- Airey, Thomas H., nominated consul, 232; confirmed, 233.
- Aldrich, Collin, nominated chief justice and rejected, 86.
- Alexander, J. M., confirmed 2d lieutenant, 172.
- Allen, Ebenezer, nominated attorney general, 398.
- Allen, James C., nominated judge advocate general, 66; nominated chief justice, 87; confirmed, 88; vote received for district judge, 174.
- Allen, Sam W., nominated 2d lieutenant, 45; confirmed, 51.
- Allen, T. D., nominated 2d lieutenant, 47; confirmed, 53.
- Allston, James, nominated 2d lieutenant, 47; confirmed, 53.
- Almonte, J. N., release of, 28.
- Amory, Nathaniel, nominated secretary of legation, 114; returned to president, 116; again nominated and confirmed, 161; nominated consul and confirmed, 232.
- Anderson, A. A., nominated district attorney, 177; confirmed, 178.
- Anderson, John D., nominated district attorney and confirmed, 301.
- Anderson, Kenneth L., nominated collector of customs, 136; confirmed, 142; nominated district attorney, 231; confirmed, 232; vice-president, 304.
- Anderson, T. P., nominated surgeon, 136, 226; confirmed, 170, 227.
- Anderson, T. T., nominated assistant surgeon, 44; confirmed, 50.
- Andrews, Micah, nominated captain, 30; confirmed, 31.
- Annexation, committee to report on prospects, 91; report, 95; information called for concerning withdrawal of, 123; president's message in regard to, 294-6; report of committee on, 296-7, 299; joint resolution providing for an additional agent to the United States, 297-302, *passim*, 317.
- Anthony, Thomas J., nominated 2d lieutenant, 59; confirmed, 60.
- Applegate, John P., nominated 1st lieutenant, 30; confirmed, 31.
- Appleman, John, nominated sailing master, 138; returned to president, 170.
- Arcambal, Charles J., nominated midshipman, 138; returned to president, 170.
- Archambal. *See* Arcambal.
- Archer, Branch T., nominated secretary of war, 184; confirmed, 188; mentioned, 60, 208.
- Archer, Powhatan, nominated 1st lieutenant, 208.
- Archer, brig, mentioned 253, 263, 266, 316.
- Armstrong, James, nominated district attorney, 177; confirmed, 179.
- Arnett, Cullen, nominated notary public and confirmed, 309.
- Arnold, Hayden, nominated secretary to commissioners to treat with the Indians, 19; confirmed, 20.
- Arreola, Leander, nominated 1st lieutenant, 44; confirmed, 50.
- Atkins, George B., nominated chief justice, 135; vote for, 175.
- Atkinson, John, nominated consul, 258; confirmed, 267.
- Augustine, Henry W., senator 1st and 2d congresses; resigned, 70.
- Austin, Stephen F., nominated secretary of state, 15; confirmed, 17; mentioned, 13, 28.
- Austin, William H., nominated notary public, 205.
- Austin, William T., nominated collector of customs and confirmed, 119.
- Austin*, ship, mentioned. 252-257, *passim*. 263, 265, 286, 316.
- Ayres, David, nominated notary public, 306; rejected, 307.
- Baeumlein, C. F., nominated assistant surgeon, 44; confirmed, 50.
- Baker, Joseph, transitor to senate, 15; nominated chief justice and confirmed, 34; recommends Van Ness, 94.
- Ballinger, E., vote received for chief justice, 176.

- Barbey, Theodore, nominated consul, 187; confirmed, 188.
- Barker, John H., nominated sailing master, 138; returned to president, 170.
- Barnard, John F., nominated midshipman, 139; returned to president, 170.
- Barnard, J. H., mentioned, 300.
- Barnes, John, nominated consul, 216; confirmed, 217.
- Barnett, George W., senator 2d, 3d, 4th, 5th, 6th and 7th congresses.
- Barnet, Thomas, nominated chief justice and confirmed, 34.
- Barr, Robert, nominated postmaster general and confirmed, 41.
- Barron, Thomas H., nominated captain, 30; confirmed, 31.
- Bartlett, George C., nominated lieutenant in navy, 137; returned to president, 170.
- Bassiers, ———, nominated lieutenant in navy, 137; returned to president, 170.
- Battle, Mills M., nominated notary public, 282; confirmed, 284.
- Bcall, Horace, nominated assistant surgeon, 184; confirmed, 189.
- Beason, Jesse, nominated 2d lieutenant, 47; confirmed, 53.
- Bee, Barnard E., accompanied Santa Anna to Washington, 28; nominated secretary of war, 87; confirmed, 88; nominated secretary of state and confirmed, 117; nominated commissioner to Mexico, 135, 148; instructions, 150-155; nominated minister to United States, 160; nominated chargé d'affaires, 177; confirmed, 178; mentioned, 13, 97, 98, 158, 185.
- Bee, Hamilton P., nominated clerk to boundary commission, 135; confirmed, 143.
- Belgium, commercial project, 221-223; adverse report, 224.
- Bell, George H., nominated midshipman, 139; returned to president, 170.
- Bell, Peter H., nominated assistant adjutant general, 43; confirmed, 49; nominated inspector general, 136; confirmed, 170.
- Benge, Samuel, mentioned, 38, 39.
- Bennett, Joseph, nominated colonel, 59; confirmed, 60.
- Bennett, Littleton, nominated midshipman, 138; returned to president, 170.
- Bennett, Valentine, nominated quartermaster, 43; confirmed, 56.
- Benton, Jesse, nominated district attorney, 216; confirmed, 217.
- Berry, James, nominated 1st lieutenant, 45; confirmed, 51.
- Berry, John G., nominated collector of customs and confirmed, 220.
- Berry, Nathan E., nominated 2d lieutenant, 184; confirmed, 194.
- Betts, C. S., nominated midshipman, 138; returned to president, 170.
- Bingham, Mathias A., mentioned, 300.
- Birdsall, John, nominated attorney general and confirmed, 93; nominated chief justice of the Republic, 114, 116.
- Blockade of Matamoros raised, 18; blockade of Mexican ports not enforced, 246.
- Blount, Alexander C., nominated lieutenant in navy, 137; returned to president, 170.
- Bonnell & Cruger, vote received for public printer, 145.
- Booker, Shields, nominated surgeon, 136; confirmed, 170; vote received for receiver, 178, 179.
- Booth, B., mentioned, 292.
- Borden, Gail, nominated collector of customs, 48, 211; confirmed, 48, 212.
- Borden, John P., nominated commissioner of general land office, 184; confirmed, 186; resigned, 190.
- Borton, Philip, nominated surgeon, 43; confirmed, 49.
- Boundary, eastern, appointment of boundary commissioner urged, 92; Corzine nominated, 93; Taylor nominated, 113; Sample nominated, 135; Dexter nominated, 141; Hunt nominated, 143; Smyth nominated, 184.
- Boundary convention with United States. Submitted, 110.
- Bourland, James, nominated collector of customs and confirmed, 221.
- Bowl, chief of the Cherokees, mentioned, 39.
- Bowyer, John M., nominated captain, 59; confirmed, 60.
- Boylan, James D., nominated master commandant, 54; rejected, 60; arrest ordered, 72; message concerning, 102.
- Brady, James M., nominated midshipman, 138; returned to president, 170.
- Brame, Charles E., nominated 2d lieutenant, 184; withdrawn, 191.
- Brannum, William T., confirmed pursur, 27; nominated navy agent, 139; returned to president, 170; nominated pursur, 226; confirmed, 227.
- Brashear, William C., nominated lieutenant in navy, 207, 226; confirmed, 227.
- Bremen, treaty with, submitted to senate, 306; tabled, 312.
- Brewster, H. P., nominated district attorney, 184; confirmed, 186.

- Brigham, Asa, nominated treasurer, 33, 127, 211; confirmed, 34, 127, 212.
- Briscoe, Andrew, nominated chief justice and confirmed, 31.
- Brockett, William H., nominated consul, 282; confirmed, 283.
- Bronaugh, J. C., nominated midshipman, 129; returned to president, 170.
- Brooke, John C., nominated chief justice, 135.
- Brooks, J. W., nominated notary public and confirmed, 217.
- Brower, John H., nominated consul, 192; confirmed, 193.
- Brown, George W., nominated district attorney and confirmed, 301.
- Brown, James M., nominated chief justice, 140; vote received, 175.
- Brown, Jeremiah, nominated collector of customs, 48; confirmed, 49.
- Brown, John, nominated 2d lieutenant and confirmed, 130.
- Brown, John W., nominated 2d lieutenant, 47; confirmed, 53.
- Browu, Joseph B., nominated consul, 135; confirmed, 139.
- Browning, George W., nominated chief justice, 205.
- Brunet, Pierre, nominated consul general, 281; confirmed, 298.
- Erufton, Joseph, nominated 1st lieutenant, 45; confirmed, 51.
- Brutus*, mentioned, 61, 101.
- Bryan, Austin, nominated secretary of legation, 119; confirmed, 120.
- Bryan, William, nominated consul, 119, 232; confirmed, 120, 232.
- Buckner, Benjamin P., nominated chief justice, 135.
- Buht, Henry C., nominated 2d lieutenant, 47; confirmed, 53.
- Bunker, Thomas C., nominated notary public and confirmed, 168.
- Bunner, George C., nominated lieutenant in navy, 226; confirmed, 227.
- Burgess, Charles, nominated 2d lieutenant, 184; confirmed, 194.
- Burleson, Edward, senator 3d congress; nominated colonel, 128; confirmed, 129; vice-president, 204, 230, 280, 304.
- Burnet, David G., vice-president, 134, 182, 204; acting secretary of state, 158, 159, 173; acting president, 190-202; mentioned, 14, 78, 152. *See also* Messages.
- Burnet, R. Wallace, nominated consul, 177; confirmed, 178.
- Burnley, Albert T., nominated commissioner to negotiate a loan, 42, 110, 184; confirmed, 58; mentioned, 83, 158, 193, 201, 215.
- Burrus, James, nominated 2d lieutenant, 59; confirmed, 60.
- Eurton, Isaac W., nominated commissioner to treat with Indians, 20; confirmed, 21; senator, 2d, 3d and 4th congresses.
- Butterfield, C., nominated 2d lieutenant, 47; confirmed, 53.
- Butts, B. H. H., nominated 2d lieutenant, 47; confirmed, 53.
- Byrne, James W., nominated collector of customs and rejected, 121; senator 5th, 6th and 7th congresses.
- Byrne, William, nominated notary public, 136; confirmed, 143; nominated district attorney, 310; confirmed, 311.
- Caldwell, John, senator 9th congress.
- Caldwell, Matthew, nominated captain, 126, 136; confirmed, 126, 171.
- Caldwell, Pinckney, nominated quartermaster, 43; confirmed, 49, 170.
- Campbell, David W., nominated 2d lieutenant, 30; confirmed, 31.
- Campbell, James, nominated 1st lieutenant, 46, 126; confirmed, 52, 126; nominated chief justice, 135; vote received, 176.
- Capse, G. Wilson, nominated surgeon and withdrawn, 93.
- Carson, Samuel B., nominated 1st lieutenant, 45, 136; confirmed, 51, 172.
- Case, George W., mentioned, 39.
- Cassin, Robert W., nominated lieutenant in navy and confirmed, 93.
- Castro, Henri, nominated consul general and confirmed, 220.
- Catlett, Fairfax, nominated secretary of legation, 29; confirmed, 30.
- Cazneau, William L., nominated commissary general of subsistence, 136; confirmed, 171.
- Chamberlain, Horace P., his dismissal from the army, 95, 96, 97, 98, 100, 101, 104.
- Chalmers, J. G., nominated secretary of treasury, 200; confirmed, 201.
- Chaplin, Chichester, nominated chief justice and confirmed, 34.
- Cherokee Indians, treaty, 36-40; postponed, 41; report on, 74-79, 82; declared null, 101; secrecy removed from proceedings, 189.
- Chevallie, M. H., nominated 1st lieutenant, 184; confirmed, 189.
- Chisholm, James H., nominated 1st lieutenant, 46; confirmed, 52.
- Chisman, Francis F., nominated surgeon, 26; confirmed, 27.
- Clapp, Elisha, nominated captain, 59; confirmed, 60.
- Clark, Charles A., nominated 2d lieutenant, 47; confirmed, 53.
- Clark, John, nominated captain, 59; confirmed, 60.

- Clark, Leonard, nominated 1st lieutenant, 46; confirmed, 52.
- Clark, R. M., nominated assistant surgeon, 207; nominated surgeon, 226; confirmed, 227.
- Clay, W. J., mentioned, 113.
- Clement, B. F., nominated notary public, 216; confirmed, 217.
- Clements, Robert, nominated midshipman, 138, 208; returned to president, 170.
- Clendennin, Adam, nominated captain, 44, 130; confirmed, 50, 130; his dismissal, 95, 96, 98-101, 104.
- Clifton, John M., nominated captain, 45; confirmed, 51.
- Cobb, Henry A., nominated midshipman, 138; returned to president, 170.
- Cochran, Richard, nominated surgeon, 26, 136; confirmed, 27, 170.
- Cocke, James H., nominated collector of customs, 282; inquiry concerning, 284; confirmed, 298.
- Coit, D. P., nominated chief justice and confirmed, 34.
- Cole, James P., nominated notary public, 168, 184; confirmed, 186.
- Coles, John P., nominated chief justice and confirmed, 34.
- Collins, ———, nominated lieutenant in navy, 137; returned to president, 170.
- Collins, John, nominated chief justice, 135; confirmed, 176.
- Collingsworth, G. W., nominated collector of customs and confirmed, 127.
- Collingsworth, George M., nominated collector of customs, 54, 195; confirmed, 55.
- Collingsworth, James, senator 1st congress; chief justice of the Republic, 10; nominated attorney general, 16; confirmed, 17; declined, 24; deceased, 114.
- Collingsworth, John T., nominated inspector general, 40; confirmed, 41.
- Colly, C. C., nominated 2d lieutenant, 47, 126; confirmed, 53, 126.
- Colquhoun, Ludovic, senator 6th congress.
- Commissioner general to European powers recommended, 95.
- Consular fees to be regulated, 258-260.
- Consultation, solemn declaration of, 77.
- Conway, Thomas P., nominated midshipman, 139; returned to president, 170.
- Cook, Louis P., nominated secretary of navy, 135; confirmed, 168.
- Cooke, H. L., nominated chief justice, 114; returned to president, 116.
- Cook, William G., nominated inspector general, 44; confirmed, 50; nominated general stock commissioner and confirmed, 93; nominated quartermaster general, 114; returned to president, 116; renominated quartermaster general, 136; confirmed, 170; nominated colonel, 184; confirmed, 189.
- Cooper, James, nominated chief justice, 205.
- Cordra, Nathan, nominated notary public, 232; confirmed, 233.
- Cortes, John F., nominated consul, 107; confirmed, 108.
- Corzine, Shelby, senator 1st congress; elected district judge, 10; nominated boundary commissioner and confirmed, 93; deceased, 144.
- Cox, Cornelius, nominated midshipman, 138; returned to president, 170.
- Cradock, John R., nominated captain, 59; confirmed, 60; nominated notary public, 306; confirmed, 307.
- Craig, ———, nominated consul, 187; tabled, 193.
- Craig, H. C., nominated 2d lieutenant, 45; confirmed, 51.
- Crawford, ———, mentioned, 190.
- Creecy, J. R., midshipman, 208.
- Crisp, Downing H., nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227; mentioned, 251, 260, 261; letter to secretary of war and marine, 263-4.
- Crittenden, Alexander P., nominated chief justice, 205.
- Crockett, Robert P., nominated 2d lieutenant, 44; confirmed, 50.
- Crooswyck, Joshua J., nominated consul, 282; confirmed, 283.
- Crutcher, Thomas, nominated notary public and confirmed, 220.
- Culp, Daniel D., nominated notary public, 282; confirmed, 284; mentioned, 310.
- Cummings, Cyrus, nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227.
- Cunningham, L. C., nominated notary public and confirmed, 309.
- Curtis, Charles, nominated 1st lieutenant, 30; confirmed, 31.
- Daily, Andrew, nominated 1st lieutenant, 46; confirmed, 52.
- Daingerfield, William H., nominated notary public and confirmed, 121; nominated commissary of purchases, 136; confirmed, 169; senator, 5th and 6th congresses; resigned, 204; nominated secretary of treasury, 219; confirmed, 225; nomi-

- nated chargé d'affaires, 281; confirmed, 300-1.
- Daniels, ———, vote received for chief justice, 175.
- Daniels, Joseph, nominated notary public, 306; confirmed, 307.
- Darnell, N. H., mentioned, 268.
- Dashiell, William C. V., nominated collector of customs, 282; confirmed, 298.
- Davidson, William F. H., nominated surgeon, 43; confirmed, 49.
- Davis, A. M., vote received for chief justice, 175.
- Davis, H. W., nominated captain and confirmed, 130.
- Davis, James, mentioned, 300.
- Davis, J. H., nominated major, 46; confirmed, 51.
- Dawson, F., mentioned, 115.
- Dearborn, M. H., nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 226; confirmed, 227.
- Deffenbax, Anthony, nominated 2d lieutenant, 47; confirmed, 53.
- Demott, L., nominated 1st lieutenant, 44; confirmed, 50.
- Devine, John, nominated 2d lieutenant, 47; confirmed, 53.
- Dexter, P. B., nominated lieutenant colonel, 136; nominated boundary commissioner, 141; rejected, 142.
- Dexter, Thomas A., nominated consul, 135; confirmed, 139.
- Dick, Michael, nominated 2d lieutenant, 59; confirmed, 60.
- Dillard, Thomas, nominated notary public, 173; confirmed, 177.
- Dinsmore, Silas, nominated chief justice, 34, 120; confirmed, 34, 129; vote received, 175.
- Dobson, George, nominated consul, 107; confirmed, 108.
- Doleman, John, nominated assistant commissary of subsistence, 55; confirmed, 56.
- Donaldson, Wellington, nominated notary public, 195.
- Doom, R. C., nominated collector of customs, 48, 129; confirmed, 49, 129.
- Dor, John M., nominated commissioner to treat with Indians, 19; rejected, 20; sketch of, 22.
- Drey, Fletcher, nominated surgeon, 137; returned to president, 170.
- Douglass, Kelsey H., nominated commissioner to treat with Indians and confirmed, 22; mentioned, 78, 79, 80.
- Downing, William J., confirmed notary public, 312.
- Drake, Benjamin, nominated consul, 192; confirmed, 193.
- Driscoll, Daniel O., nominated 1st lieutenant, 45; confirmed, 51.
- Duke, Thomas M., nominated collector of customs, 205; confirmed, 210.
- Dumon, Maly E., nominated consul, 282; confirmed, 283.
- Duncan, Brice C., nominated 2d lieutenant, 44; confirmed, 50.
- Dunlap, Richard G., nominated secretary of treasury, 116; charges against, 117, 118; confirmed, 118; presents proposition for a loan, 122-124; nominated minister, 135; rejected, 142; mentioned, 150, 154.
- Dunn, John, nominated chief justice and confirmed, 34; senator 2d, 3d and 4th congresses.
- Dunnington, William M., nominated 1st lieutenant, 45, 136; confirmed, 51; confirmed, 172.
- Durango, mentioned, 109.
- Durker, A. K., nominated purser, 138; returned to president, 170.
- Durst, Joseph, mentioned, 39.
- Dyer, John H., nominated captain, 59; confirmed, 60.
- Earle, Paul H., nominated surgeon, 231; confirmed, 232.
- Eastland, N. W., vote received for chief justice, 176.
- Eastland, William H., nominated captain, 30; confirmed, 31.
- Eddy, Timri W., nominated notary public, 135; confirmed, 143.
- Edmonds, P., nominated consul and confirmed, 219.
- Edson, Willis, nominated 2d lieutenant, 47; confirmed, 53.
- Ellis, Nathan D., nominated collector of customs, 220; withdrawn, 221.
- Ellis, Powhatan, mentioned, 159.
- Ellis, Richard, senator 1st, 2d, 3d and 4th congresses.
- Ellis, Stephen H., nominated notary public and confirmed, 311.
- Ellison, Samuel, nominated 2d lieutenant, 184; confirmed, 194.
- English, ———, vote received for receiver, 178.
- English, George, nominated captain and confirmed, 60.
- Estes, George W., nominated lieutenant in navy, 137; returned to president, 170.
- Evans, John S., nominated notary public, 136; confirmed, 139.
- Evans, Musgrove, nominated 2d auditor, 135; confirmed, 148.
- Everitt, Stephen H., senator 1st, 2d, 3d, 4th and 5th congresses; letter to vice-president, 72; resigned, 183.
- Ewing, A., nominated surgeon general, 43; withdrawal requested, 57.
- Ewing, William H., nominated chief justice, 205.

- Falkner, Duke L., midshipman, 208.
- Fannin, J. W., mentioned, 272.
- Farley, Henry W., nominated chief justice, 140; deceased, 173.
- Farley, Massillon, nominated chief justice and confirmed, 34.
- Faro, A. V., nominated 1st lieutenant, 46; confirmed, 52.
- Fettyplace, Thomas J., nominated consul, 282; confirmed, 283.
- Fields, Fox, interpreter, 39.
- Filisola, Vicente, mentioned, 14.
- Fisher, George, nominated notary public, 309; withdrawn, 310.
- Fisher, Henry, nominated purser, 26; confirmed, 27.
- Fisher, Henry, nominated notary public, 200; confirmed, 202.
- Fisher, Henry F., nominated consul, 281; confirmed, 298.
- Fisher, S. Rhoads, nominated secretary of navy, 15; confirmed, 17; submits list of officers, 26; case of his dismissal, 73, 74, 80-83, 85, 87, 89-91, 92.
- Fisher, William S., acting secretary of war, 31; nominated secretary of war, 42; postponed, 56; nominated lieutenant colonel, 128; confirmed, 129; mentioned, 97.
- Fitch, Ben F., nominated 2d lieutenant, 59; confirmed, 60.
- Flores, Manuel, nominated captain, 44; confirmed, 50.
- Flores, Salvador, nominated captain, 44; confirmed, 50.
- Foote, Robert H., nominated chief justice and confirmed, 93.
- Forbes, John, commissioner to treat with Indians, 36, 39, 77, 78.
- Forbes, R. M., nominated notary public, 195, 306; confirmed, 307; mentioned, 216, 217.
- Forrest, J. A., nominated midshipman, 139; returned to president, 170.
- Forrest, Moreau, confirmed surgeon, 27.
- Forrest, Zaçharia, nominated midshipman, 138; returned to president, 170.
- Forster, Thomas G., nominated secretary of legation, 206; tabled, 211.
- Fosgate, Walter, nominated medical director, 43; confirmed, 49.
- Fowler, Andrew J., nominated chief justice, 135; vote received, 176.
- Fox, Alfred, nominated consul, 258; confirmed, 267.
- Fox, Thomas W., nominated consul, 258; confirmed, 267.
- Fralley, George C., nominated commissary of subsistence, 55; confirmed, 56.
- France, treaty with, 168, 169, 171.
- Franklin, Ben C., nominated chief justice of the Republic, 116; resigned as district judge, 144.
- Freeman, Ira M., nominated notary public, 205, 309; confirmed, 209, 309.
- Fuller, Charles F., nominated midshipman, 138; returned to president, 170.
- Fulton, George W., nominated 2d lieutenant, 45; confirmed, 51.
- Fulton, Lorenzo, nominated assistant surgeon, 44; confirmed, 50.
- Furtado, Auguste, nominated consul and confirmed, 311.
- Gaines, Francis T., nominated chief justice and confirmed, 86.
- Gaines, James, nominated collector of customs, 48; rejected, 49; senator 4th, 5th and 6th congresses; resigned, 204.
- Gardiner, J. B., nominated surgeon, 137, 207, 226; returned to president, 170; confirmed, 227.
- Garlick, H. S., midshipman, 208.
- Garner, P. K., nominated 1st lieutenant, 46; confirmed, 52.
- General council, mentioned, 272.
- Gervais, Sinclair D., nominated chief justice and confirmed, 86.
- Gibbon, James E., nominated lieutenant in navy, 137; returned to president, 170.
- Gilchrist, R. J., mentioned, 292.
- Gilder, John S., nominated 1st lieutenant, 46; confirmed, 52.
- Gilland, Benjamin Y., nominated lieutenant colonel, 46; confirmed, 51.
- Gilland, C. D. O., nominated 1st lieutenant, 45; confirmed, 51.
- Gillon, Benjamin Y., nominated captain, 136; confirmed, 170.
- Gilmer, Thomas W., nominated commissioner to negotiate a loan, 42; confirmed, 58; mentioned, 83.
- Glenn, William E., nominated midshipman, 138; returned to president, 170.
- Goggin, James M., nominated 1st lieutenant, 184; confirmed, 189.
- Geod, Hannibal, nominated captain and confirmed, 60.
- Goodall, ———, nominated 1st lieutenant and confirmed, 130.
- Goodall, A. G., midshipman, 203.
- Goodloe, ———, nominated 1st lieutenant, 59; confirmed, 60.
- Goodman, W. B., nominated chief justice, 205.
- Gordon, Thomas G., nominated notary public, 184; confirmed, 186.
- Gossett, Elijah, nominated chief justice, 205; vote received, 176.
- Gossett, J., nominated 1st lieutenant, 59; confirmed, 60.

- Gould, Charles, nominated midshipman, 139; returned to president, 170.
- Gould, C. M., nominated district attorney and confirmed, 168.
- Grabeau, Theodore, nominated notary public, 184; confirmed, 186.
- Graham, ———, nominated consul, 177.
- Grant, James, mentioned, 272.
- Grash, Henry L., nominated 1st lieutenant, 46; confirmed, 52.
- Gray, Alfred G., nominated lieutenant in navy, 207, 226; confirmed, 227.
- Gray, F. P., nominated captain, 46; confirmed, 52.
- Gray, Peter W., nominated district attorney, 205, 216, 301; confirmed, 210, 217, 301.
- Gray, W. Fairfax, secretary of senate, 70, 106; nominated notary public, 114, 129; returned to president, 116; confirmed, 129; nominated district attorney, 184; confirmed, 188.
- Grayson, ———, vote received for chief justice, 176.
- Grayson, Peter W., nominated attorney general, 42; confirmed, 51; nominated navy agent and confirmed, 93.
- Great Britain, treaty of commerce with, 195, 197; convention relative to mediation, 196, 201, 210; treaty concerning African slave trade, 215, 217, 218.
- Green, Thomas, secretary of senate, 280.
- Green, Thomas J., nominated brigadier general and rejected, 35; senator 2d congress; unseated, 70.
- Greer, John A., senator 2d, 3d, 4th, 5th, 6th, 7th, 8th and 9th congresses.
- Grey, John, nominated major, 46; confirmed, 51.
- Grimes, Jesse, senator 1st, 8th and 9th congresses; mentioned, 60.
- Grush, H. L., nominated 2d lieutenant, 136; confirmed, 172.
- Haas, G. H., nominated 1st lieutenant, 46; confirmed, 52.
- Hagler, Lindsay, nominated captain, 45; confirmed, 51.
- Hall, J. J. M., nominated captain, 46; confirmed, 52.
- Hall, John M., nominated 1st lieutenant, 45; confirmed, 51.
- Halstead, R. T., nominated midshipman, 139; returned to president, 170.
- Hamburg, treaty with, 306; tabled, 311.
- Hamilton, James, appointed assistant commissioner of loans, 101; nominated commissioner of loans, 119, 24—Lib.
- 184; confirmed, 120; nominated peace commissioner and confirmed, 167; nominated commissioner to Holland, 184; concluded treaties with England, 195, 196, 215; concluded treaty with Netherlands, 198; nominated minister, 199; confirmed, 200; submitted draft of commercial project with Belgium, 221-223; secret joint resolution concerning, 315; mentioned, 71, 158, 166, 193, 196, 197, 201, 215, 216, 218.
- Hamilton, James D., nominated consul, 107; confirmed, 108.
- Hamilton, John, nominated notary public, 200, 210; confirmed, 202.
- Hamilton, M. C., acting secretary of war and marine; report on navy, 251-254; letter to E. W. Moore, 265; mentioned, 261, 263, 265, 308.
- Hamilton, Robert, nominated chief justice and confirmed, 34.
- Hamilton, Thomas L., nominated consul, 119; confirmed, 120.
- Hamilton, William B., nominated consul and confirmed, 232.
- Hammeken, George L., nominated secretary to commissioner to Mexico, 135.
- Hanseatic republics. *See* Bremen, Hamburg, and Lübeck.
- Hansford, John M., vote received for district judge, 144, 174; impeachment of, 214.
- Harrington, E. B., nominated midshipman, 138; returned to president, 170.
- Harrison, C. L., nominated inspector general, 109.
- Harrison, Edward A., nominated lieutenant in navy, 137; returned to president, 170.
- Harrison, John W., mentioned, 218.
- Harry, John H., nominated captain, 46; confirmed, 52.
- Hart, William, nominated chief justice, 135; vote received, 175.
- Hartfield, ———, vote received for chief justice, 175.
- Harvey, Thomas, nominated notary public, 114, 129, 192, 268, 309; returned to president, 116; confirmed, 129, 193, 268, 310.
- Hawkins, Charles E., confirmed post captain, 27.
- Hay, Samuel D., nominated notary public, 306; confirmed, 307.
- Hayden, John, nominated notary public, 145; confirmed, 146.
- Hayes, John, nominated chief justice and confirmed, 86.
- Hemphill, John, vote received for chief justice, 174.
- Hendershot, John S., nominated captain, 44; confirmed, 50.

- Henderson, George, nominated lieutenant in navy, 137; returned to president, 170.
- Henderson, J. Pinckney, nominated attorney general and confirmed, 24; nominated secretary of state, 42; confirmed, 54; nominated agent to Great Britain, 58; negotiated treaty with France, 169, 171; mentioned, 173.
- Henderson, J. W., vote received for county surveyor, 174.
- Henderson, William F., nominated district attorney, 184; rejected, 186.
- Herckenrath, Lewis J., nominated consul and confirmed, 232.
- Herrdon, Robert S., nominated collector of customs, 309; confirmed, 310.
- Herring, William, nominated notary public and confirmed, 220.
- Hewes, Samuel, nominated commissary of purchases, 44; confirmed, 50.
- Hicks, A. O. W., nominated notary public, 309; confirmed, 310.
- Hill, George W., nominated secretary of war and marine, 276; confirmed, 277; report on navy, 285-287.
- Hill, William G., senator 1st congress.
- Hinton, A. C., nominated commander, 137; returned to president, 170.
- Hockley, George W., accompanied Santa Anna to Washington, 28; nominated colonel of ordnance, 40; confirmed, 41; nominated secretary of war, 113, 211; returned to president, 116; confirmed, 212; mentioned, 39.
- Hodge, John L., nominated consul, 107; confirmed, 108.
- Hogg, J. L., mentioned, 300.
- Holland, John, nominated district attorney, 200; withdrawn, 201.
- Holliday, John, nominated captain, 46, 130; confirmed, 52, 130.
- Holman, Sanford, nominated collector of customs, 231; confirmed, 232.
- Holt, David, nominated notary public, 135; confirmed, 139.
- Hopkins, James E., nominated 2d lieutenant, 59; confirmed, 60.
- Hornsby, C. H., nominated 2d lieutenant, 136; confirmed, 172.
- Horton, Alexander, nominated collector of customs, 114; returned to president, 116; mentioned, 39.
- Horton, Alexander, nominated lieutenant colonel, 59; confirmed, 60.
- Horton, Alexander C., senator 1st and 2d congresses.
- Houghton, William D., nominated 1st lieutenant, 136; confirmed, 172.
- Houston, Sam. commissioner to treat with Cherokee Indians, 36, 39, 77, 78; letter to Andrew Jackson, 12, 28; letter in regard to S. Rhoads Fisher, 82; mentioned, 97, 98, 100. *See also* Messages.
- Howard, George T., nominated captain, 45, 136; confirmed, 51, 170.
- Howard, John C., nominated 2d lieutenant, 184; confirmed, 194.
- Howland, ———, vote received for register, 178.
- Hoyle, Josiah, nominated midshipman, 138; returned to president, 170.
- Hoyle, Stephen Z., secretary of senate, 230; president's private secretary, 308.
- Hubert, John, nominated district attorney, 114; returned to president, 170.
- Hudson, H. C., nominated district attorney and confirmed, 33.
- Hudson, J. P., vote received for surveyor, 177.
- Hufton, W., nominated 2d lieutenant and confirmed, 130.
- Hughes, Samuel, nominated collector of customs, 127; confirmed, 128; resigned, 173; nominated notary public, 189; tabled, 193.
- Hulme, Rob S., mentioned, 293.
- Humphreys, J. W., confirmed lieutenant in navy, 27.
- Humphries, ———, mentioned, 99.
- Hunt, Memucan, nominated minister, 43; confirmed, 57; nominated secretary of navy, 117; nominated boundary commissioner, 143; confirmed, 144.
- Hunter, William L., nominated chief justice, 88; confirmed, 89; resigned, 206; senator 8th congress.
- Hurd, James G., nominated lieutenant in navy, 54; confirmed, 56.
- Hurd, Norman, nominated purser, 26, 138, 207, 226; confirmed, 27, 227; returned to president, 170; mentioned, 257.
- Hurt, William M., nominated collector of customs, 282; confirmed, 298.
- Huston, Felix, nominated brigadier general, 35; confirmed, 40; mentioned, 48, 65.
- Hutawa, Edward, nominated consul, 216; confirmed, 217.
- Hyde, Samuel N., nominated notary public, 306; confirmed, 307.
- James, Basil G., nominated notary public, 258; confirmed, 267.
- Ikin, Arthur, nominated consul and confirmed, 202.
- Independence*, mentioned, 27, 60.
- Indians, commissioners to treat with 19, 20, 22; treaty with Cherokees, 36-40; treaty with Tonkaways, 103, 104; treaty made at Bird's Fort,

- 288-293; treaty made at Tehuacana creek, 306; Mexican allies, 185, 250; Texan allies, 250, 251.
- Ingram, Ira, mentioned, 315.
- Invincible*, mentioned, 60.
- Irion, Robert A., senator 1st congress; nominated secretary of state and confirmed, 87; mentioned, 106, 109, 110.
- Irvine, R. Boyd, nominated major, 45; confirmed, 51.
- Jack, Patrick C., nominated district attorney, 177, 205; confirmed, 178.
- Jack, William H., senator 6th, 7th and 8th congresses.
- Jackson, Aldin A. M., inspected Galveston custom house, 141; nominated collector of customs, 141, 147; withdrawn, 143; confirmed, 147.
- Jackson, Andrew, letter to Sam Houston, 12, 13; letter to Santa Anna, 11, 13.
- Jackson, Calvin C., nominated consul, 192; confirmed, 193.
- Jamieson, John D., nominated 2d lieutenant, 45; confirmed, 51.
- January, James B. P., nominated surgeon, 43; confirmed, 49; nominated captain, 136; confirmed, 171.
- Jaques, Gideon R., nominated notary public, 306; confirmed, 307.
- Jennings, John R., nominated 2d lieutenant, 47; confirmed, 53.
- Jevans, nominated captain, 45; confirmed, 51.
- Jewett, Henry J., nominated district attorney, 184; confirmed, 186; secretary of senate, 304; mentioned, 307, 309, 310, 312.
- Johns, Edward, midshipman, 208.
- Johnson, ———, mentioned, 272.
- Johnson, Benjamin F., nominated treasurer, 206; confirmed, 209.
- Johnson, B. H., nominated assistant adjutant general, 136; confirmed, 170.
- Johnson, Hugh B., nominated chief justice, 135; rejected, 140.
- Johnson, James B., nominated notary public, 184; confirmed, 186.
- Johnson, J. D., nominated lieutenant in navy, 137; returned to president, 170.
- Johnson, Moses, nominated treasurer, 308.
- Johnson, Robert, nominated chief justice, 140.
- Johnson, R. D., nominated notary public, 114; returned to president, 116; vote received for chief justice, 175.
- Johnson, Thomas, nominated 2d lieutenant, 184; confirmed, 194.
- Johnson, Thomas, nominated district attorney and confirmed, 301.
- Johnson, William F., nominated notary public, 205; confirmed, 210.
- Johnston, Albert Sidney, nominated brigadier general, 40; confirmed, 41; nominated secretary of war and confirmed, 117.
- Jones, Anson, senator 4th and 5th congresses; nominated minister, 113; returned to president, 116; nominated secretary of state, 211; confirmed, 212. *See also* Messages.
- Jones, Archibald, nominated notary public, 310.
- Jones, Edward S., nominated 2d lieutenant, 184; withdrawn, 191.
- Jones, F., nominated 1st lieutenant, 46; confirmed, 52.
- Jones, G. B., nominated 1st lieutenant, 46; confirmed, 52.
- Jones, John Rice, nominated postmaster general and confirmed, 159.
- Jones, Oliver, senator 3d, 4th, 6th and 7th congresses.
- Jones, Simon L., nominated notary public, 282; confirmed, 299.
- Jones, William J., vote received for district judge, 144.
- Jordan, Sam W., nominated captain, 46; confirmed, 52.
- Jouitt, Thomas, nominated 1st lieutenant, 59; confirmed, 60.
- Jowers, ———, vote received for register, 178.
- Joy, Cyrus, nominated consul, 135; rejected, 172.
- Julius Caesar*, mentioned, 60.
- Karnes, Henry W., nominated colonel, 44; confirmed, 50; concluded treaty with Tonkaway Indians, 102-103.
- Kaufman, David S., senator 8th and 9th congresses; mentioned, 297, 299.
- Keating, John, nominated 1st lieutenant, 44; confirmed, 50.
- Kellogg, Ralph, nominated consul, 114; returned to president, 116.
- Kelton, O. P., nominated notary public and confirmed, 121.
- Kendrick, Harvey, senator 3d, 4th and 5th congresses.
- Kennedy, E. P., nominated lieutenant in navy, 207.
- Kennedy, E. C., nominated lieutenant in navy, 137; returned to president, 170.
- Kennedy, William, nominated consul general and confirmed, 220.
- Kenneymore, J. C. P., nominated 1st lieutenant and confirmed, 130; nominated captain, 136; confirmed, 171.
- Kerley, William, nominated 1st lieutenant and confirmed, 130.
- Kerr, David, nominated purser, 138; returned to president, 170.

- King, ———, mentioned, 272.
- King, H. B., nominated chief justice, 140; vote received, 176.
- King, Samuel, nominated 2d lieutenant, 47; confirmed, 53.
- Kinney, H. L., senator 9th congress.
- Kintzing, Matthew R., nominated midshipman, 139; returned to president, 170.
- Knight, Isaac D., nominated surgeon, 137; returned to president, 170.
- Kyger, D. J., nominated 2d lieutenant, 47; confirmed, 53.
- La Branche, Alcé, mentioned, 106, 109.
- Lamar, Mirabeau B., vice-president, 10; recalled to his post, 71, 72; asks for leave of absence, 190. *See also* Messages.
- Lambert, Francis, nominated assistant surgeon, 138; returned to president, 170.
- Landers, Hillequest, nominated quartermaster, 109; nominated commissary of subsistence, 136; confirmed, 170.
- Landrum, Willis H., senator 1st congress.
- Lane, Cornelius, nominated notary public, 184; confirmed, 186.
- Lane, George, nominated district attorney, 114; returned to president, 116; nominated notary public and confirmed, 220.
- Lansing, J. P., nominated lieutenant in navy, 207, 226; confirmed, 227.
- Laughlin, D., nominated notary public and confirmed, 220.
- Lawrence, G. F., nominated captain, 136; confirmed, 171.
- Lawrence, William, nominated quartermaster, 43; confirmed, 49; senator 7th, 8th and 9th congresses; mentioned, 165.
- Lee, Joseph, nominated chief justice, 205.
- Leech, Richard H., nominated surgeon, 137; returned to president, 170.
- Leftwich, Thomas, nominated captain, 46; confirmed, 52.
- LeGrand, E. O., nominated chief justice, 107.
- Lemon, John, nominated 1st lieutenant, 45; confirmed, 51.
- Leonard, George, nominated 2d lieutenant, 45; confirmed, 51.
- Lester, James S., senator 1st, 2d, 4th and 5th congresses.
- Lewis, Armstrong J., nominated midshipman, 139; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227.
- Lewis, Daniel, nominated 2d lieutenant, 136; confirmed, 172.
- Lewis, James J., nominated midshipman, 139; returned to president, 170.
- Lewis, M. B., vote received for chief justice, 175.
- Lewis, Nathaniel, mentioned, 104.
- Lewis, William G., nominated surgeon, 43; confirmed, 49.
- Lipscomb, Abner S., nominated secretary of state, 174; confirmed, 177.
- Living, Thomas H., nominated purser, 26; confirmed, 27.
- Lloyd, Daniel, nominated sailing master, 138; returned to president, 170.
- Loan commissioners, instructions, 160, 161.
- Lockhart, Levi P., nominated captain, 45; confirmed, 51.
- Loug, Gabriel, nominated quartermaster, 43; confirmed, 49.
- Lothrop, John T. K., confirmed lieutenant in navy, 27; nominated commander, 137, 207, 226; returned to president, 170; confirmed, 227.
- Love, John G., nominated collector of customs, 54; confirmed, 55; vote received for district judge, 174.
- Lubbock, F. R., nominated comptroller, 100, 211; confirmed, 100, 212.
- Lubec, treaty with, 306; tabled, 312.
- Luckie, Samuel H., senator 9th congress.
- Lumpkin, P. O., nominated chief justice, 120; confirmed, 129.
- Lusk, George O., nominated chief justice and confirmed, 34.
- Lusk, Robert O., nominated captain, 30; confirmed, 31.
- Lynch, A., nominated surgeon, 43; confirmed, 49; killed, 99.
- Lynch, N., nominated lieutenant colonel, 45; confirmed, 51.
- Mabbitt, ———, vote received for receiver, 178, 179.
- Mabray, James L., nominated midshipman, 138; returned to president, 170.
- McCaskey, nominated captain, 45; confirmed, 51.
- McClung, Joseph W., nominated notary public, 184; confirmed, 186.
- McClure, Alexander E., nominated notary public and confirmed, 221.
- McClure, D. B., nominated chief justice and confirmed, 34.
- McClure, John, nominated captain, 46; confirmed, 52.
- McCreary, James K., senator 9th congress.
- McCutcheon, William L., nominated 2d lieutenant, 45; confirmed, 51.

- McDonald, A. S., nominated chief justice, 205.
- McFarland, Thomas, senator 6th congress.
- McFarland, William, nominated chief justice and confirmed, 34.
- McFarlane, Alexander C., secretary of senate, 204.
- McFarlane, Dugald, nominated captain, 44; confirmed, 50.
- McFarlane, Samuel P., nominated notary public and confirmed, 220.
- McFarlane, W. W., nominated midshipman, 138; returned to president, 170.
- McGaffey, Otes, nominated notary public, 306.
- McGaffey, Wyatt, nominated notary public, 232; confirmed, 233.
- McGhee, John G., nominated major, 59; confirmed, 60.
- McGovan, Mathew, nominated 1st lieutenant, 45; confirmed, 51.
- McGovern, Matthew, nominated 2d lieutenant, 136; confirmed, 172.
- McGreal, Peter, nominated notary public, 184; confirmed, 186; nominated district attorney, 206, 216, 232; confirmed, 209, 217, 284; mentioned, 216.
- McGuffy, Alexander, nominated consul, 205; confirmed, 209.
- McHenry, John, nominated chief justice and confirmed, 34.
- McHenry, Samuel, nominated chief justice, 205.
- McIntire, Thomas H., nominated chief justice, 135.
- McIntire, W. H., nominated chief justice and confirmed, 34.
- McIntosh, George S., nominated secretary of legation and confirmed, 65; nominated chargé d'affaires, 206; confirmed, 211.
- McKinstry, George B., nominated chief justice and confirmed, 34.
- McLaughlin, ———, nominated 2d lieutenant and confirmed, 31.
- McLeod, Hugh, nominated adjutant general, 136; confirmed, 169; nominated adjutant and inspector general, 184; confirmed, 189.
- McLeod, John D., secretary of senate, 3d, 4th and 5th congresses.
- McMahan, Thompson H., nominated notary public, 216; confirmed, 217.
- McNeill, F. B., nominated midshipman, 139; returned to president, 170.
- McNeill, H., vote received for surveyor, 177.
- Marion, George G., nominated lieutenant in navy, 137; returned to president, 170.
- Marshall, Sam B., mentioned, 292.
- Martin, George L., nominated notary public, 301, 306; confirmed, 301, 307.
- Martin, J. B., nominated 1st lieutenant, 184; confirmed, 189.
- Martin, Wyly, resignation as chief justice, 206; senator 6th congress; deceased, 204.
- Mason, Charles, chief clerk of war department, 97-99; nominated 1st auditor, 135, 308; confirmed, 139.
- Maulding, J. W., nominated notary public and confirmed, 301.
- Maury, William F., nominated purser, 138, 208; returned to president, 170.
- Maverick, S. A., mentioned, 300.
- Mellus, James, confirmed lieutenant in navy, 27.
- Menard, Michael B., nominated commissioner to treat with Indians, 25; confirmed, 27.
- Menchaca, Antonio, nominated captain, 44; confirmed, 50.
- Menefee, John S., nominated notary public and confirmed, 220.
- Menefee, William, nominated chief justice and confirmed, 34; nominated secretary of treasury, 190; withdrawn, 194.
- Merriman, F. H., nominated district attorney and confirmed, 301.
- Messages of President Houston (first term):
 In regard to annual message, 88; charges against S. R. Fisher, 82; dismissal of officers, 96; minister to United States, 57; release of Santa Anna, 28; retention of J. D. Boylan, 102.
 Nominating auditor, 33, 93; boundary commissioner, 93, 113; cabinet officers, 15, 16, 24, 41, 42, 87, 93, 113; captain of *Terrible*, 29; chief justices, 34, 86, 87, 88, 93, 101, 107, 114; chief justice of Republic, 114; collectors of customs, 48, 54, 114; commissioner, 32; commissioner to Great Britain, 58; commissioners to treat with Indians, 19, 20, 22; comptroller, 93, 100; consuls, 31, 107, 113, 114; district attorneys, 32, 92, 94, 107, 114; loan commissioners, 25, 42, 110; military officers, 30, 35, 40, 43, 55, 59, 64, 66, 93, 109, 114; minister to United States, 23, 43, 57, 113; navy agent, 93; navy officers, 25, 26, 54, 93; notaries public, 114; recess appointments, 113; secretary of legation, 29, 64, 114; stock commissioner, 93, 114; treasurer, 33.
 Submitting revocation of blockade, 18.
 Transmitting documents concerning Santa Anna, 11, 14, 28; boundary convention with United States, 110; claims convention with United

- States, 106; report of secretary of state, 116; treaty with Cherokees, 35; treaty with Tonkaways, 102.
- Vetoing joint resolution for benefit of Texan prisoners, 60.
- of President Lamar:
- In regard to collector of customs (Galveston), 141; relations with Mexico, 148, 185.
- Nominating auditor, 127, 134; boundary commissioner, 135, 141, 143; cabinet officers, 117, 135, 146, 159, 173, 190, 205; chargés d'affaires, 177; chief justices, 119, 135, 140, 168, 173; collectors of customs, 119, 120, 127, 136, 147, 173; commissioner to Mexico, 135; consuls, 167, 187, 205; district attorneys, 120, 136, 168, 177; comptroller, 127; consuls, 119, 135, 177; loan commissioner, 119, 129; military officers, 126, 128, 130, 136; minister to United States, 135, 160; navy agent, 127; navy officers, 137; notaries public, 120, 135, 136, 140, 145, 168, 173, 189; peace commissioner, 167; recess appointments, 135, 184; secretary of legation, 119, 161; stock commissioner, 140; treasurer, 127.
- Transmitting documents, 187; proposition for loan, 121; treaty with France, 168.
- Withdrawing nominations, 143, 170.
- of Acting President Burnett:
- Nominating cabinet officers, 190, 200; collector of customs, 195; consuls, 192, 202; notaries public, 192, 195; minister to Great Britain, 199.
- Transmitting treaty with Great Britain, 195; convention with Great Britain, 196.
- Withdrawing nominations, 191, 201.
- of President Lamar (continued):
- Nominating attorney general, 209; chargés d'affaires, 206; chief justices, 205; collectors of customs, 205; district attorneys, 205, 206; navy officers, 207; notaries public, 205, 210; recess appointments, 205; secretary of legation, 206; treasurer, 206.
- of President Houston (second term):
- In regard to annexation, 294; navy, 244, 260, 285; relations with Mexico, 249, 269; removing injunction of secrecy, 282.
- Nominating cabinet officers, 211, 219, 276, 281; chargés d'affaires, 213, 220, 227, 281, 306; collectors of cus-
- toms, 211, 220, 231, 282; comptroller, 211, 231; consuls, 219, 220, 237, 281, 282; district attorneys, 216, 231, 268, 282, 301, 306; military officers, 214, 231; ministers to United States, 211; navy officers, 226, 231; notaries public, 216, 220, 221, 232, 267, 268, 282, 301, 306; recess appointments, 306; secretary of legation, 232; treasurer, 211.
- Transmitting commercial project with Belgium, 221; treaty with Hanseatic republics, 205; treaty with Great Britain, 214; treaties with Indians, 288, 306; treaty with United States, 233, 276.
- Withdrawing nominations, 213, 217, 221.
- of President Jones:
- In regard to Mier prisoners, 308.
- Nominating cabinet officers, 308; collectors of customs, 309, 310; consuls, 311; notaries public, 309, 310, 311.
- Withdrawing nominations, 310.
- Mexican bond holders, mentioned, 164, 165.
- Mexican prisoners. *See* Santa Anna.
- Mexico, joint resolution authorizing an expedition against, 66, 67; measures for establishing peace, 148-159; secret joint resolutions in regard to peace, 161, 164, 165, 166, 185, 192, 193; report of committee on foreign relations, 162; efforts to employ Indians, 185; messages in regard to, 249, 269.
- Mier prisoners, mentioned, 308.
- Millam, Benjamin, mentioned, 22.
- Miles, George W., nominated chief justice, 173; vote received, 175.
- Millard, Henry, nominated commissioner to treat with Indians and confirmed, 22; nominated chief justice and confirmed, 86; vote received, 175; mentioned, 39.
- Miller, James B., senator 5th congress; nominated secretary of treasury, 281; confirmed, 283.
- Miller, John, nominated 1st lieutenant, 44; confirmed, 50.
- Miller, S. L., midshipman, 208.
- Miller, W. D., mentioned, 213, 231, 281, 305.
- Miller, William P., nominated chief justice, 135; vote received, 176.
- Mitchell, Nathan, nominated 2d lieutenant, 30; confirmed, 31.
- Mix, T. M., nominated lieutenant in navy, 137; returned to president, 170.
- Mixon, Sam B., nominated 2d lieutenant, 45; confirmed, 51.

- Moncur, James, nominated captain, 45; confirmed, 51.
- Money, John H., nominated chief justice, 107; confirmed, 108.
- Monroe. *See* Munroe.
- Montague, Daniel, nominated notary public, 232; confirmed, 233.
- Montezuma*, mentioned, 263.
- Montgomery, R., nominated assistant surgeon, 31, 44; confirmed, 31, 50.
- Moody, John W., nominated auditor, 33, 127; confirmed, 34, 127.
- Moore, A., nominated lieutenant in navy, 137; returned to president, 170.
- Moore, Edwin W., nominated post captain, 137, 207, 226; returned to president, 170; confirmed, 227; message on, 245-249; report on, 251-254; letter to secretary of war and marine, 254-257, 263; mentioned, 260, 261, 264.
- Moore, Francis, senator 4th, 5th and 6th congresses.
- Moore, William H., nominated 1st lieutenant and confirmed, 31.
- Moran, Martin, nominated 1st lieutenant, 136; confirmed, 172.
- Morehouse, Edwin, senator 1st congress; nominated adjutant general, 40; confirmed, 41.
- Moreland, ———, vote received for chief justice, 176.
- Moreland, I. N., vote received for chief justice, 175.
- Moreland, Joseph, nominated notary public, 145; confirmed, 146.
- Morgan, George W., nominated 1st lieutenant, 44; confirmed, 50; nominated captain, 136; confirmed, 171.
- Morgan, James, nominated navy agent and confirmed, 127.
- Morgan, J. C., nominated 2d lieutenant, 184; confirmed, 194.
- Morgan, Thomas J., nominated brigade inspector, 66.
- Morgan, T. Jefferson, nominated captain, 46; confirmed, 52.
- Morrill, Amos, nominated notary public and confirmed, 220.
- Morris, F. A., nominated attorney general and confirmed, 209.
- Morris, John D., nominated district attorney, 121, 177; confirmed, 121, 178.
- Morris, Richard, nominated district judge, 205.
- Morris, Robert C., mentioned, 272.
- Morrison, Gwynn, nominated notary public, 136; confirmed, 143.
- Morse, Charles De, nominated assistant inspector general, 44; confirmed, 50; nominated stock commissioner, 140.
- Mott, John, nominated chief justice and confirmed, 34.
- Munroe, Daniel, nominated captain and confirmed, 31; case of his dismissal, 95, 100, 101, 104.
- Munson, Henry J., senator 9th congress.
- Murphy, Daniel, nominated 1st lieutenant, 46; confirmed, 52.
- Murphy, David, vote received for chief justice, 176.
- Murphy, Joseph, vote received for chief justice, 175.
- Muse, K. H., senator 5th, 6th and 7th congresses.
- Myres, William, nominated notary public, 136; confirmed, 139; mentioned, 210.
- Nash, James P., nominated notary public and confirmed, 301.
- Navarro, José Antonio, mentioned, 287.
- Navy, raising funds for, 83, 84; agent to purchase, 83, 84; contract with F. Dawson, 115; purchase of steam vessel, 120; purchase of vessels captured by France, 127; message, 244-249; report on, 251-254; letter from E. W. Moore, 254-257; message, 260-263; sale of, 265, 266, 268, 269, 277, 281, 282, 283, 316-317; condition of, 285-287.
- Neighbors, Robert S., nominated 1st lieutenant, 136.
- Neill, Andrew, nominated captain, 46; confirmed, 52.
- Nelson, ———, vote received for surveyor, 179.
- Nelson, D. S., nominated captain, 45; confirmed, 51.
- Netherlands, treaty with, 198, 199.
- Newcomb, Thomas, nominated district attorney, 310.
- Newlands, John A., nominated notary public, 114; returned to president, 116.
- Nichol, Walter A., nominated midshipman, 138; returned to president, 170.
- Nicol. *See* Nichol.
- Niles, J. W. J., vote received for public printer, 145.
- Norton, James, nominated notary public, 184; confirmed, 186.
- Ochiltree, William B., nominated secretary of treasury, 308.
- O'Connell, William, nominated notary public, 205.
- Ogden, D. C., nominated 1st lieutenant, 136; confirmed, 172.
- Ogden, Francis B., nominated consul, 258; confirmed, 267.

- Ogden, Frederick W., nominated district attorney, 136; confirmed, 139.
- Ogden, J. M., nominated district attorney, 216; confirmed, 217.
- Oliver, Robert, nominated paymaster, 43; confirmed, 49.
- Oliver, Robert, nominated purser, 138; returned to president, 170.
- Oliver, William, nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227.
- O'Neill, William, nominated 2d lieutenant, 44; confirmed, 50.
- O'Shaughnessy, James, nominated lieutenant in navy, 137; returned to president, 170.
- Owen, Clark L., nominated captain, 46; confirmed, 52; senator 6th congress; mentioned, 230.
- Palmer, George W., nominated 2d lieutenant and confirmed, 130.
- Palmer, William H., nominated district attorney, 306; confirmed, 309.
- Palmerston, Lord, on peace between Texas and Mexico, 163, 164; mentioned, 197.
- Park, Moses, nominated notary public, 282; confirmed, 284.
- Parker, Gustavus A., senator 8th congress.
- Parker, G. H., midshipman, 208.
- Parker, Isaac, senator 8th and 9th congresses.
- Parker, J. W. C., nominated midshipman, 139; returned to president, 170.
- Parker, Mathew, nominated chief justice and confirmed, 34.
- Parmer, Martin, nominated chief justice, 135.
- Patten, Moses, nominated consul, 192; confirmed, 193.
- Patterson, William H., nominated notary public, 282; tabled, 284, 299.
- Pattillo, George A., nominated notary public, 136; confirmed, 139; senator 7th, 8th and 9th congresses; mentioned, 302.
- Patton, Robert, nominated 2d lieutenant, 184; confirmed, 194.
- Patton, William H., accompanied Santa Anna to Washington, 28; nominated quartermaster general, 43; confirmed, 49; mentioned, 95.
- Pavn, B. Owen, nominated captain, 231; confirmed, 232.
- Pearson, J. G. W., nominated captain, 59; rejected, 60.
- Pease, E. M., nominated comptroller and confirmed, 93; resigned, 100.
- Peck, Barton, nominated captain, 45; confirmed, 51.
- Peebles, L. S., nominated captain, 46; confirmed, 52.
- Peeters, nominated 1st lieutenant, 59; confirmed, 60.
- Peravay, Edward, nominated consul and confirmed, 167.
- Perry, James, nominated captain, 59; confirmed, 60.
- Peters, Oliver H., nominated captain, 45; confirmed, 51.
- Peterson, C. W., nominated district attorney, 216; confirmed, 217.
- Pettus, Edward, nominated 2d lieutenant, 59; confirmed, 60.
- Peyton, Alexander G., midshipman, 208.
- Phillips, A. H., mentioned, 300.
- Pierpont, William J. D., nominated midshipman, 138; returned to president, 170.
- Pillans, P. J., nominated 1st lieutenant and confirmed, 130; nominated captain, 136; confirmed, 171.
- Pilsbury, Timothy, senator 6th and 9th congresses; resigned, 204.
- Pinson, Joseph, nominated notary public and confirmed, 309.
- Plummer, Joseph E., nominated collector of customs, 173; confirmed, 174.
- Pocket*, Mentioned, 107.
- Foe, George W., nominated stock commissioner, 114; returned to president, 116.
- Porter, William M., vote received for district judge, 174.
- Postell, J. N., midshipman, 208.
- Postell, W. R., nominated lieutenant in navy, 137; returned to president, 170.
- Potter, H. N., mentioned, 269.
- Potter, Reuben M., nominated collector of customs, 205; confirmed, 210.
- Potter, Robert, senator 5th and 6th congresses; deceased, 204.
- Pratt, Thomas, nominated captain, 44; confirmed, 50.
- Price, J. J., nominated 1st lieutenant, 46; confirmed, 52.
- Promissory notes, secret joint resolution, 316.
- Pulsifer, Joseph P., nominated collector of customs, 184; confirmed, 187.
- Pyron, D. Y., nominated captain, 46; confirmed, 52.
- Quinan, George, nominated district attorney, 310.
- Rabb, Andrew, nominated chief justice and confirmed, 34.
- Radcliff, Augustus W., nominated consul, 177; confirmed, 178.

- Ragsdale, Robert, nominated 2d lieutenant, 59; confirmed, 60.
- Rains, Emory, senator 2d and 3d congresses.
- Ramsey, A., nominated surgeon and confirmed, 31.
- Randall, L., senator 6th and 7th congresses.
- Rassignol, Charles, navy agent, 253.
- Ratcliff, Edward S., nominated 2d lieutenant, 184; rejected, 194.
- Rate, Lachlan M., nominated consul general, 232; confirmed, 267; mentioned, 260.
- Ravis, James B., nominated 1st lieutenant, 184; confirmed, 189.
- Raymond, Charles H., nominated secretary of legation, 232; confirmed, 267.
- Raymond, James H., mentioned, 268, 285, 298, 300, 301.
- Read, Ezra, nominated surgeon, 43; confirmed, 49.
- Redd, William D., nominated captain and confirmed, 130.
- Redfield, William, nominated 2d lieutenant, 45, 130; confirmed, 51, 130; duel, 99.
- Redmond, Henry, nominated collector of customs, 282; inquiry concerning, 285; rejected, 299.
- Reeves, James B., nominated 2d lieutenant, 45; confirmed, 51.
- Reid, John R., nominated district attorney, 136, 177; confirmed, 139, 178.
- Reilly, James, nominated loan commissioner, 129; confirmed, 130; nominated district attorney, 177; withdrawn, 179; nominated minister to United States, 211; withdrawn, 213; nominated chargé d'affaires and confirmed, 213; resigned, 227; negotiated treaty with United States, 235, 243; nominated chargé d'affaires, 306; rejected, 311.
- Richardson, ———, mentioned, 64.
- Richardson, Ben, nominated notary public, 306.
- Richardson, Lewis, nominated 2d lieutenant, 45; confirmed, 51.
- Richardson, Willard, nominated notary public, 195.
- Ricord, John, nominated district attorney and confirmed, 33; left Texas, 94.
- Robbins, Nathaniel, nominated commissioner to treat with Indians, 19; confirmed, 20.
- Roberts, O. M., nominated district attorney and confirmed, 301.
- Roberts, Reuben, nominated 2d lieutenant, 184; confirmed, 194.
- Roberts, Reuben M., nominated 1st lieutenant, 208.
- Roberts, Samuel A., nominated notary public and confirmed, 129; nominated secretary of state, 205; confirmed, 210; mentioned, 206.
- Roberts, Willis, nominated collector of customs, 119; confirmed, 120; removed, 141.
- Robertson, Arthur, secretary of senate, 10, 70.
- Robertson, J. B., nominated captain, 46; confirmed, 52.
- Robertson, Sterling C., senator 1st and 2d congresses.
- Robinson, George W., nominated 2d lieutenant, 59; confirmed, 60.
- Robinson, Joel, nominated 1st lieutenant, 30; confirmed, 31.
- Rodgers, J. H. D., nominated colonel, 46; rejected, 53.
- Rodriguez, Ambrozio, nominated 2d lieutenant, 44; confirmed, 50.
- Roman, Richard, senator 9th congress.
- Rose, Robert, nominated notary public, 205; confirmed, 210.
- Ross, David, nominated captain, 214; confirmed, 216.
- Rowe, Judson A., nominated midshipman, 138; returned to president, 170.
- Roxburg, John, nominated consul, 258; confirmed, 267.
- Rugely, John, senator 7th and 8th congresses.
- Ruiz, Francisco, senator 1st congress.
- Rusk, Thomas J., nominated secretary of war, 15; confirmed, 17; nominated chief justice of the Republic, 116; mentioned, 78, 79, 80.
- Russell, William J., senator 2d congress.
- Sample, David, nominated boundary commissioner, 135; rejected, 140.
- St. John, ———, mentioned, 255.
- San Antonio*, schooner, mentioned, 246, 252, 253, 256, 264.
- San Bernard*, schooner, mentioned, 207, 253, 256, 261, 263, 264, 266, 316.
- Sanchez, Lewis, mentioned, 79, 293.
- San Jacinto*, mentioned, 264.
- Santa Anna, Antonio Lopez de, mentioned, 11, 12, 13, 14, 17, 19, 20, 21, 23, 28, 152, 153.
- Santa Fé prisoners, mentioned, 268, 287.
- Sargeant, Edward W., nominated 2d lieutenant, 47; confirmed, 53.
- Saunders, Eldridge G., nominated 1st lieutenant, 45; confirmed, 55.
- Saunders, Robert G., nominated 1st lieutenant, 45; confirmed, 55.
- Scallorn, J. W., vote received for surveyor, 177.
- Schoolfield, ———, vote received for surveyor, 179.

- Scott, A. H., nominated 2d lieutenant, 136; confirmed, 172.
- Scott, George W., nominated notary public, 216; confirmed, 219.
- Scott, John, vote received for district attorney, 144.
- Scott, J. W., nominated pay master, 43; confirmed, 49.
- Scott, Robert R., nominated 1st lieutenant, 184; confirmed, 194.
- Scott, William R., nominated chief justice, 101; confirmed, 105.
- Scurry, Richardson, secretary of senate, 10; nominated district attorney and confirmed, 33; vote received for district judge, 174; mentioned, 317.
- Scurry, William B., nominated district attorney and confirmed, 202.
- Seeger, William, nominated lieutenant in navy, 207, 226; confirmed, 227; mentioned, 256.
- Seguin, Erasmo, nominated chief justice and confirmed, 86; vote received, 176.
- Seguin, Juan N., nominated lieutenant colonel, 44; confirmed, 50; senator 2d, 3d and 4th congresses.
- Sevey, Mannasseh, nominated lieutenant of engineers, 44; confirmed, 50; mentioned, 85.
- Sevey, R. E., nominated 2d lieutenant, 45; confirmed, 51.
- Sevey, Theodore, nominated 1st lieutenant, 184; confirmed, 189.
- Sharp, Azel, nominated 1st lieutenant, 46; confirmed, 52.
- Sharpe, John, nominated notary public, 114, 121; returned to president, 116; confirmed, 121.
- Shaw, Charles B., master, 208.
- Shaw, James, interpreter, 293.
- Shaw, James, senator 6th, 7th and 8th congresses.
- Shaw, James B., nominated comptroller, 184, 231, 308; confirmed, 186, 232.
- Shelby, A. B., vote received for district judge, 144.
- Shelton, W. D., nominated notary public and confirmed, 220.
- Shepard, Seth, mentioned, 113.
- Shepard, William M., nominated surgeon, 43; confirmed, 49; letter to S. R. Fisher, 81; nominated secretary of navy and confirmed, 93.
- Shepherd, ———, mentioned, 190.
- Shipley, S. S., nominated lieutenant in navy, 137; returned to president, 170.
- Short, M. H., nominated quartermaster, 43; rejected, 56.
- Simmons, James W., nominated comptroller and confirmed, 127; nominated treasurer, 184; confirmed, 190; gone to United States, 206.
- Simpson, John S., vote received for chief justice, 176.
- Skerritt, M. B., nominated 1st lieutenant, 44; confirmed, 60; nominated captain, 136; rejected, 169; confirmed, 170.
- Smith, Ashbel, nominated surgeon general and confirmed, 54; nominated chargé d'affaires and confirmed, 220; mentioned, 251.
- Smith, Edward, nominated 2d lieutenant, 47; confirmed, 63.
- Smith, Eugene T., nominated captain, 45; confirmed, 51.
- Smith, Fenwick, midshipman, 208.
- Smith, Francis G., nominated consul, 192; confirmed, 193.
- Smith, Henry, nominated secretary of treasury, 15; confirmed, 17.
- Smith, James W., vote received for chief justice, 176.
- Smith, John W., nominated notary public, 205; confirmed, 209; senator 7th, 8th and 9th congresses; deceased, 304.
- Smith, Nathan, nominated naval storekeeper, 139; returned to president, 170.
- Smith, Niles F., nominated commissioner and confirmed, 32; nominated collector of customs and confirmed, 220; nominated notary public, 282, 307; confirmed, 298, 307.
- Smith N. Winter, nominated colonel of engineers, 40; confirmed, 41.
- Smith, Walter, nominated consul, 135; confirmed, 139.
- Smith, William H., nominated major and confirmed, 31.
- Smith, William R., nominated surgeon general, 136; confirmed, 170.
- Smyth, George W., nominated surveyor to run boundary, 135; confirmed, 142; nominated boundary commissioner, 184; confirmed, 186.
- Snell, M. K., nominated captain, 45; confirmed, 55.
- Snively, Jacob, nominated pay master general, 43; confirmed, 49; nominated pay master general, 136; confirmed, 170; mentioned, 98, 99.
- Snow, Charles B., nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 226; confirmed, 227.
- Snowe, Thomas, nominated consul, 282; confirmed, 283.
- Somervell, Alexander, senator 1st and 2d congresses; nominated collector of customs, 231; confirmed, 232.
- Somervell, James, nominated notary public and confirmed, 307.
- Somerville, Charles, nominated 2d lieutenant, 45; confirmed, 51.
- Stanley, Fabrius, nominated lieutenant

- ant in navy, 137; returned to president, 170.
- Starr, James H., nominated secretary of treasury, 135; confirmed, 148.
- Steele, Jack, mentioned, 38, 39.
- Stephens, J. F., nominated purser, 138, 208, 226; returned to president, 170; confirmed, 227; mentioned, 257, 264.
- Sterne, Adolphus, nominated commissioner to treat with Indians, 20; rejected, 21; nominated notary public, 306; confirmed, 307; sketch of, 22.
- Stewart, Charles, nominated 1st lieutenant, 45; confirmed, 51.
- Stewart, Charles B., nominated notary public, 205; confirmed, 209.
- Stewart, John Graham, nominated consul, 258; confirmed, 267.
- Stewart, Thomas, nominated collector of customs, 48; rejected, 49.
- Stickney, E. Lawrence, nominated commissioner of revenue, 184; confirmed, 189.
- Stiles, William K., nominated commissary of subsistence, 55; confirmed, 56.
- Still, William G., nominated 2d lieutenant, 44; confirmed, 50.
- Stoneall, ———, nominated midshipman, 139; returned to president, 170.
- Strickland, David, nominated 2d lieutenant, 30; confirmed, 31.
- Strickland, James, nominated 2d lieutenant and confirmed, 60.
- Stroud, Benoni, senator 3d, 4th and 5th congresses.
- Sturges, B. B., nominated pay master, 136; confirmed, 169.
- Sublett, Henry W., nominated district attorney, 216; confirmed, 219.
- Sudduth, H. W., nominated notary public, 136; confirmed, 139; mentioned, 210.
- Sullivan, James S., nominated notary public and confirmed, 220.
- Sutton, J. S., nominated 2d lieutenant and confirmed, 130.
- Swain, John D., nominated collector of customs, 136; confirmed, 148.
- Swartwout, Samuel, nominated navy agent, 88; withdrawn, 89, 92.
- Swisher, J. M., nominated 1st lieutenant, 208.
- Swisher, Milton, nominated 1st lieutenant, 59; confirmed, 60.
- Switzer, Alonzo B., nominated lieutenant colonel, 46; confirmed, 55.
- Tarbley, O., nominated notary public, 168.
- Tarrant, E. H., commissioner to treat with Indians, 292, 293.
- Taylor, Charles S., nominated chief justice and confirmed, 34; nominated boundary commissioner, 113; returned to president, 116; nominated district attorney, 136; rejected, 143, 144.
- Taylor, J. M., nominated 2d lieutenant and confirmed, 60.
- Taylor, John W., confirmed lieutenant in navy, 27.
- Taylor, Samuel G., nominated consul, 205; confirmed, 209.
- Taylor, Thruston M., nominated lieutenant in navy, 137, 207; returned to president, 170.
- Taylor, William P. B., confirmed post captain, 27.
- Tennison, William A., nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227.
- Terrell, George W., nominated secretary of state and confirmed, 200; nominated attorney general, 211; confirmed, 212; negotiated treaty with Indians, 292, 293; nominated chargé d'affaires, 306; rejected, 311.
- Terrible*, mentioned, 29.
- Thomaston, William, nominated 1st lieutenant and confirmed, 60.
- Thompson, Algernon, mentioned, 134, 135.
- Thompson, Edward, nominated 1st lieutenant, 136; confirmed, 172.
- Thompson, Henry L., confirmed master commandant, 27.
- Thompson, H. M., nominated 1st lieutenant, 46; confirmed, 52.
- Thompson, Hiram, nominated 1st lieutenant, 59; confirmed, 60.
- Thompson, Napoleon B., nominated district attorney, 107; confirmed, 108.
- Thompson, Waddy, repayment of money advanced to Santa Fé prisoners, 268.
- Thruston, A. S., nominated commissary general of purchases, 44; confirmed, 50; nominated quarter master general, 109; nominated attorney general, 113; returned to president, 116.
- Thynne, Arthur, nominated 2d lieutenant, 44; confirmed, 50.
- Tinsley, J. W., nominated major, 44; confirmed, 50.
- Titcomb, John R., nominated midshipman, 138; returned to president, 170.
- Titus, James, senator 6th and 7th congresses.
- Toby, Thomas, nominated consul, 114; returned to president, 116.
- Tod, John G., nominated commander, 137; returned to president, 170.

- Toler, Daniel J., nominated notary public and confirmed, 121, 267; nominated chief justice, 135; vote received, 175.
- Tompkins, A. M., nominated district attorney and confirmed, 33.
- Tonkaways, treaty with, 102; ratified, 105.
- Townsend, Nathaniel, mentioned, 126.
- Treat, James, secret agent to Mexico, 149; instructions, 156-159; mentioned, 185.
- Treaty with Santa Anna, mentioned, 13, 14, 152, 153; Cherokees, 36-40; Tonkaways, 103; Great Britain, 195, 196, 197; Netherlands, 198; Belgium, project for, 221; United States, 234-243; Indians at Bird's Fort, 288-293; Hanseatic republics, 305; Indians at Tehuacana creek, 306.
- Tucker, Edmund, nominated surgeon, 136; confirmed, 170.
- Turner, Amasa, nominated colonel, 45; confirmed, 51.
- Turner, John, nominated chief justice and confirmed, 34.
- Underhill, Charles B., nominated midshipman, 138; returned to president, 170.
- Underwood, Ammon, nominated notary public, 216; withdrawn, 217.
- Underwood, Warner L., nominated district attorney, 92.
- United States, convention to settle claims, 106; convention of limits, 110; treaty, 233; ratified, 244, recalled, 269; resubmitted, 276; amended and ratified, 277.
- Urrea*, mentioned, 63.
- Usher, Patrick, nominated chief justice and confirmed, 34.
- Van Ben Thuyzen, A. B., nominated 1st lieutenant, 59; confirmed, 60.
- Van Derlip, David C., nominated district attorney, 282; tabled, 284, 299.
- Van Ness, Cornelius, nominated district attorney and confirmed, 94; recommender, 94, 95.
- Vanden Bergh, Maximilien, nominated consul, 282; confirmed, 283.
- Van Soelen, Baron Verstolk, mentioned, 198.
- Van Zandt, Isaac, nominated chargé d'affaires and confirmed, 227; mentioned, 295.
- Vaughn, A. P., nominated notary public, 306; rejected, 307.
- Veatch, John A., nominated notary public, 306; confirmed, 307.
- Veatch, T. F., nominated 2d lieutenant, 47; confirmed, 53.
- Wade, J. H., nominated 1st lieutenant, 30; confirmed, 31.
- Wadhams, Willard, nominated chief justice, 135.
- Waite, Alfred A., nominated midshipman, 138; returned to president, 170; nominated lieutenant in navy, 207, 226; confirmed, 227.
- Walk, Alfred, nominated midshipman, 139; returned to president, 170.
- Walker, Claborne, nominated 1st lieutenant and confirmed, 60.
- Walker, Kidder, nominated chief justice, 168; vote received, 175.
- Walker Robert, nominated notary public and confirmed, 309.
- Walker, Shea, nominated 1st lieutenant, 59; confirmed, 60.
- Waller, Edwin, nominated postmaster general, 146; confirmed, 147.
- Waples, Joseph, nominated notary public, 210; mentioned, 209.
- Ward, Frederick C., nominated lieutenant in navy, 137; returned to president, 170.
- Ward, Thomas W., nominated notary public, 184; confirmed, 186; nominated commissioner of general land office, 190, 281; confirmed, 191, 283.
- Ward, William, mentioned, 272.
- Ware, Orlando, nominated midshipman, 138; returned to president, 170.
- Watkins, Jesse, mentioned, 78, 79.
- Watrous, John C., nominated attorney general, 117; confirmed, 118.
- Watson, Robert H., nominated surgeon and withdrawn, 93.
- Watts, H. O., nominated collector of customs and confirmed, 129.
- Watts, H. W., nominated collector of customs, 184; confirmed, 191.
- Weatherhead, Francis M., nominated notary public and confirmed, 221.
- Webb, Francis B., nominated midshipman, 138; returned to president, 170.
- Webb, James, nominated attorney general, 135; confirmed, 139; senator 6th, 7th and 8th congresses, mentioned, 155, 207, 230.
- Webster, Daniel, mentioned, 235, 243.
- Welhl, J., nominated 1st lieutenant, 136; confirmed, 172.
- Weir, R. L., vote received for public printer, 145.
- Wells, Francis T., nominated purser, 138, 207, 226; returned to president, 170; confirmed, 227; mentioned, 257.
- Wells, Lysander, nominated lieutenant colonel, 44; confirmed, 50; nominated colonel, 114, 136; returned to president, 118; mentioned, 47.
- Welschmeyer, John G., nominated 2d auditor, 93, 127; confirmed, 95, 127.

- Wethered. *See* Weatherhead.
 Weymouth, D. F., nominated commissary general of subsistence, 44; confirmed, 50.
 Wharton, John A., nominated chief justice of the Republic, 116.
 Wharton, William H., senator 1st, 2d and 3d congresses; resigned, 70; nominated minister to United States, 23; confirmed, 24; return home, 58.
 Wharton, brig. mentioned, 252-257, *passim*, 263, 265, 266, 286, 316.
 Wheeler, James M., nominated midshipman, 139; returned to president, 170.
 Wheeler, R. T., nominated district attorney, 216; confirmed, 217.
 Wheelwright, George, confirmed master commandant, 27; nominated commander, 137; returned to president, 170.
 Whitaker, F. A., nominated assistant surgeon, 44; confirmed, 50; nominated surgeon, 184; confirmed, 189.
 Whiting, Samuel, vote received for public printer, 145.
 Wicht, Joseph, nominated captain, 46; confirmed, 52.
 Wiedeman, Edward, nominated assistant surgeon, 184; confirmed, 193.
 Wigginton, H. R. A., nominated colonel, 46; confirmed, 51.
 Wilber, Daniel C., nominated midshipman, 138; returned to president, 170; nominated master, 208; nominated lieutenant in navy, 226; confirmed, 227.
 Wilkerson, James A., nominated captain, 59; confirmed, 60.
 Wilkins, Robert, nominated 1st lieutenant, 46; confirmed, 52.
 Williams, C. Arthur, mentioned, 113.
 Williams, Henry H., nominated consul, 107; confirmed, 108.
 Williams, Joseph C., nominated captain and confirmed, 29.
 Williams, L., mentioned, 292.
 Williams, Robert L., nominated notary public, 306.
 Williams, Samuel M., nominated loan commissioner, 110; rejected, 115.
 Williams, William M., nominated district attorney, 177; confirmed, 178.
 Williamson, R. M., vote received for public printer, 145; senator 8th congress; unseated, 280.
 Williamson, William S., nominated lieutenant in navy, 137; returned to president, 170.
 Willis, John, nominated consul, 113; returned to president, 116.
 Wilson, Robert, senator 1st, 2d and 3d congresses; arrested, 120.
 Winchell, J. H., nominated notary public, 145; confirmed, 146.
 Woodhouse, M. P., nominated 1st lieutenant, 45; confirmed, 51.
 Woodland, Charles H., nominated sailing master, 138; returned to president, 170.
 Woodward, John, nominated consul general and confirmed, 31.
 Woodridge, John R., midshipman, 208.
 Wren, Nicholas, nominated 2d lieutenant, 30; confirmed, 31.
 Wright, A. S., secret agent to Mexico, 185.
 Wright, Francis B., confirmed lieutenant in navy, 27; nominated lieutenant in navy, 137; returned to president, 170.
 Wright, George W., senator 9th congress.
 Wright, J. F., nominated captain, 46; confirmed, 52.
 Wyatt, P. S., nominated major, 128; confirmed, 129.
 Wyche, William P., nominated chief justice, 135.
 Yates, A. J., nominated loan commissioner, 25; confirmed, 27.
 Young, Philip, nominated 1st lieutenant, 46; confirmed, 52.
 Young, William C., nominated district attorney and confirmed, 301.
 Yucatan, mentioned, 208, 245, 246, 248, 251, 252, 253, 256, 257, 263, 270, 286.
 Zavala, Lorenzo de, mentioned, 10.
Zovala, steamship, mentioned, 248, 253, 265, 266, 316.