

L A W S

OF THE

REPUBLIC OF TEXAS

PASSED AT THE

SESSION OF THE FIFTH CONGRESS

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HOUSTON.  
1841



# L A W S.

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## JOINT RESOLUTION

Granting further time for the payment of Government Dues, and the return of Field Notes.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the further time of twelve months, is given for the payment of government dues, and the return of field notes to the General Land Office, on all lands surveyed by virtue of certificates issued by the Board of Land Commissioners, created by the Laws of this Republic: Provided, however, That in no case shall a patent to any lands issue until all the government dues thereon shall have been paid.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

DAVID G. BURNET,

President of the Senate.

Approved December 10th, 1840.

MIRABEAU B. LAMAR.

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## JOINT RESOLUTION

Requiring the Treasurer to pay five thousand dollars out of the appropriations for the Quartermaster and Postmaster's Departments, for the contingent expenses of the two houses of Congress.

Section 1. Resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Treasurer be required to pay five thousand dollars out of the appropriations for the Quartermaster and Postmaster's

Departments for the contingent expenses of the two houses of Congress.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
DAVID G. BURNET,  
President of the Senate.

Approved 12th December, 1840

MIRABEAU B. LAMAR.

## JOINT RESOLUTION

Appropriating five thousand dollars for the Contingent Expenses of both houses of Congress.

Resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the sum of five thousand dollars, be, and the same is hereby appropriated for the contingent expenses of both houses of congress.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
DAVID G. BURNET,  
President of the Senate.

Approved December 12th, 1840.

MIRABEAU B. LAMAR.

## AN ACT

Concerning certain Free Persons of Color.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That Samuel McCulloch, jr., and his three sisters, to wit:—Jane, Harriet and Mahaly, and their descendants, better known as the free children of Samuel McCulloch, senr., now in the Republic of Texas, together with a free colored girl, known by the name of Ulde or Huldir, a member of said McCulloch's family, be, and the same are hereby from henceforth, exempted from all the provisions of "an act concerning free persons of color," approved fifth of February, one thousand eight hundred and forty.

Sec. 2. Be it further enacted, That the aforesaid free persons, be, and hereby from henceforth, are permitted and allowed to continue their residence within the bounds of the Republic of Texas.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved December 15th, 1840.

DAVID G. BURNET.

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AN ACT

Supplementary to "An act to detect Fraudulent Land Certificates, &c.," passed, January, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That it shall be the duty of the Treasurer of this Republic to pay to each of the three travelling commissioners, elected to fill the vacancies in the Board of Commissioners east of the Brazos river, created by the act to which this is a supplement, the sum of five hundred dollars, as an advance upon their salaries, so soon as they may apply after being commissioned.

Sec. 2. Be it further enacted, That this act shall be in force and take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved 15th December, 1840.

DAVID G. BURNET.

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JOINT RESOLUTION

Transferring funds appropriated for the Cavalry to the Infantry.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That sixty thousand dollars of the unexpended amount of the appropriation of the year 1840 of the cavalry pay, be, and the same is hereby

transferred to the Quartermaster and Commissary General's Departments for the purchase and payment of subsistence, for the men now in the field under the orders of the Government.

Sec. 2. Be it further resolved, That this law take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,

President pro tem. of the Senate.

Approved 15th December, 1840.

DAVID G. BURNET.

### AN ACT

Concerning the powers of Chief Justices of the County Courts.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Chief Justices of the County Courts shall have power to grant the same remedial process, as a District Judge, in all matters arising from or originating in the Justices' Courts, and all such process shall be returnable to the District Court.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,

President pro tem. of the Senate.

Approved 18th December, 1840.

DAVID G. BURNET.

### JOINT RESOLUTION

Requiring the Postmaster General not to close the Mail contracts for the year 1841.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Postmaster General, be, and he is hereby required to suspend the closing of mail contracts for the year eighteen hundred and

forty-one, until the twenty-sixth instant, and that this Resolution shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 19th December, 1840.

DAVID G. BURNET.

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### JOINT RESOLUTION

Granting a League of Land to the heirs of Jesse Thompson, deceased.

Whereas, the state of Coahuila and Texas, did on the eleventh of February, one thousand eight hundred and thirty-one, grant to Jesse Thompson, one league of land as an augmentation to his headright league, and whereas it appears, from the Land Office, that said land has never been located, Therefore,—

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the heirs of Jesse Thompson, are entitled to one league of land, to be located and surveyed upon any of the unappropriated lands of Texas, and the Commissioner General of the Land Office, is hereby specially authorised to issue a certificate in the name of said heirs, for the above amount of land, which certificate shall be competent evidence.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 21st, 1840.

DAVID G. BURNET.

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### AN ACT

To provide for the Navigation of the Guadalupe River.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Mayor and Aldermen of the Corporation of Victoria,

be, and they are hereby authorised and empowered to employ the necessary number of engineers, surveyors, superintendants and laborers, to effect the removal or avoidance of the raft or other obstructions in the Guadalupe River, from its entrance into the Bay or Gulf of Mexico to said town of Victoria, or to the town of Gonzales, or any other intermediate point

Sec. 2. Be it further enacted, That said Mayor and Aldermen or their agents under them, shall have power to enter in and upon, and survey, mark out and appropriate for effecting the object contemplated in this act, any lands which may be required for the purpose of a canal or channel around the now existing raft in said River; and should the said Mayor and Aldermen or their properly constituted agents, not be able to make arrangements with the owner or owners of the said land through which it may be necessary to run said improvements, or should said owner or owners not be capable of contracting, or be absent or unknown, the Mayor and Aldermen may petition the Chief Justice of the county in which said land is situated, giving a description of the lands which they deem necessary and indispensable for their operations, with the names of the proprietor or proprietors if they can be ascertained, and the Chief Justice shall then summon a jury of six freeholders, not of the Mayor and Aldermen, who shall make a report of the land so required, and by the payment thereof by the Mayor and Aldermen, either to the owner or the Treasurer of the county for the use of the person or persons incapable of contracting, absent or unknown, a good and bona fide release and title shall be decreed and granted by said Chief Justice to said Mayor and Aldermen, until they shall have re-imbursed themselves by the collection of reasonable tolls, provided for in this act, after which it shall be deemed and become a public highway; and a copy of said decree of said Chief Justice, shall be recorded in the recorder's office of the county in which the land is situated; Provided, That the land so required, shall not exceed fifty yards in width.

Sec. 3. Be it further enacted, That said Mayor and Aldermen, shall have power and authority to appropriate to the improvement of the navigation of the Guadalupe River, as aforesaid, a sufficient amount of the funds derived, and to be derived from the sale of lots in said town of Victoria, and also to negotiate and contract loans and accept of donations for that purpose.

Sec. 4. Be it further enacted, That said Mayor and Aldermen, shall levy and collect reasonable tolls on all Steamboats or other crafts plying on the said river, from its mouth to the town of Victoria, until a sufficient amount shall have been thus raised, and no longer, to re-imburse with ten per cent. interest,



the corporation fund aforesaid, derived from the sale of lots; and also for the payment with interest of the loan or loans, which may have been made to effect the said improvement.

Sec. 5. Be it further enacted, That the Treasurer who shall be appointed by said Mayor and Aldermen, to have in charge the monies raised and to be expended under the provisions of this act, shall enter into bond with good security, made payable to and approved by the Chief Justice of Victoria county, in the sum of ten thousand dollars, conditioned for the honest discharge of his duties.

Sec. 6. Be it further enacted, That this act shall take effect and be in force, from and after its passage, and all laws and parts of laws contravening the provisions of this act, are hereby repealed.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 22d, 1840.

DAVID G. BURNET.

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#### AN ACT

Supplementary to "An act to repeal a portion of 'an act creating funds for the support of the Government for the year 1840,' " approved 10th December 1840.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That it shall be the duty of the Secretary of the Treasury to issue a sufficient amount of the eight per cent. bonds of the government, to fill the amount of appropriations and transfer of appropriations, made since the meeting of the present congress, any law to the contrary notwithstanding.

Sec. 2. Be it further enacted, That the sum of thirty thousand dollars, be, and the same is hereby appropriated for the payment of the civil list and the members of the present congress.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 24th, 1840.

DAVID G. BURNET.

## AN ACT

To exempt the citizens of West Columbia, from the provisions of "An act incorporating the Town of Columbia," passed December twenty-ninth, one thousand eight hundred and thirty-seven.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the inhabitants of that part of the town of Columbia known as the Prairie Settlement, be, and the same are hereby separated from the said town, and exempted from all the provisions of "An act incorporating said town," passed December twenty-ninth one thousand eight hundred and thirty-seven.

Sec. 2. Be it further enacted, That the limits of said corporation, shall hereafter extend one and a fourth miles from Fourteenth street, on a parallel line with said street, and shall in all other respects be according to the said act of incorporation.

Sec. 3. Be it further enacted, That so much of the said act of incorporation as contravenes the provisions of this act, be, and the same is hereby repealed.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved December 24th, 1840.

DAVID G. BURNET.

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 AN ACT

Appropriating four thousand dollars for the purpose therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Secretary of the Treasury, be, and he is hereby authorized to issue four thousand dollars of the eight per cent. bonds.

Sec. 2. Be it further enacted, That the amount of the above-mentioned bonds, so issued as aforesaid, be, and the same are hereby appropriated for the transportation of ammunition to the post at San Antonio, and for the purchase of three Spy Horses at that place, and that the Quartermaster General, be, and he is hereby authorized to receive the same, to be disbursed for that purpose.

Sec. 3. Be it further enacted, That this law shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved December 24th, 1840.

DAVID G. BURNET.

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AN ACT

To amend "An act to suppress Gaming."

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, the third line of the fourth section of an act entitled "An act to suppress gaming," approved fifth of February, one thousand eight hundred and forty, be so altered and amended, as to read, "bank or banks," in the third section of this act enumerated.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved December 24th, 1840.

DAVID G. BURNET.

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JOINT RESOLUTION

Authorising the President to employ three Spy Companies, for the Western Frontier.

Sec. 1. Resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the President be, and he is hereby authorised to appoint and commission, three persons to raise fifteen men each, to act as Spies upon the Western and North Western Frontier of this Republic, for the space of four months, unless the President shall think their services can be dispensed with in a shorter period.

Sec. 2. Be it further resolved, That this resolution be in force and to take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 26th, 1840.

DAVID G. BURNET.

### JOINT RESOLUTION

Making an appropriation to defray the Civil Contingent expenses of Government.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That fifteen thousand dollars of the eight per cent. bonds, be, and the same is hereby appropriated for the payment of all civil contingent expenses of Congress and Departments of Government.

Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 29th, 1840.

DAVID G. BURNET.

### AN ACT

For the election and appointment of Sheriffs.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That whenever the offices of Sheriff and Coroner both become vacant by death or resignation or other cause, immediately preceding or during the regular Session of the District Court, it shall be the duty of the Judge of the District Court, to appoint a Sheriff pro tem., to hold his office until such time as a successor may be elected by the qualified voters of the particular county.

Sec. 2. Be it further enacted, That whenever the office of Sheriff becomes vacant by resignation or otherwise, it shall be the duty of the Chief Justice of the county to hold an election at the several precincts of the county, to fill such vacancy, upon giving ten days notice immediately preceding such election.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 30th, 1840.

DAVID G. BURNET.

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AN ACT

To define in part the duties of Judges of District Courts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That if any Judge of any of the Judicial Districts of the Republic shall fail, neglect or refuse to hold his Court at the time and place as required by law, he shall for each and every Court, that he may so fail, neglect or refuse to hold in his District as aforesaid, forfeit to the Government the sum of Five hundred Dollars, to be deducted from his annual salary.

Sec. 2. Be it further enacted, That the Judge so failing to hold his Court or Courts as aforesaid, shall make and subscribe his affidavit in writing, that such failure resulted alone from sickness, or the public enemy, (provided nothing herein shall operate upon a Judge for not holding his court in a depopulated county that rendered him unable to attend,) which said affidavit shall be attached to his draft on the Treasury.

Sec. 3. Be it further enacted, That in every case where the Judge of the District Court shall fail to attend and hold his court as now provided by law, the Chief Justice of the county in which such failure occurs shall forthwith report the same under his seal of office to the Secretary of the Treasury: which report shall be a sufficient voucher for the treasurer to withhold the amount specified in this act for such failure, except such excuse is present-

ed as herein provided for, anything in the Laws to the contrary notwithstanding.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 30th, 1840.

DAVID G. BURNET.

## AN ACT

To extend to those soldiers who served in the Campaign against San Antonio in the fall of one thousand eight hundred and thirty-five, a Donation of Land.

Whereas it appears that all the secretaries of War previous to the appointment of General Johnston, had granted to all soldiers who had served against San Antonio, and were engaged in the storming of that place in the fall of one thousand eight hundred and thirty-five, a bounty warrant for three hundred and twenty acres of land: and it also appears that nearly all of said soldiers had obtained their bounty land previous to the appointment of General Johnston, and there now remains but a few who have not obtained their claims, General Johnston and his successor having refused to grant said claims on account of the law not being sufficiently explicit; and it is but just, that the few who have not obtained their claims should be relieved; therefore,

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all those soldiers who entered Bexar between the fifth and tenth of December one thousand eight hundred and thirty-five, and actually assisted in the reduction of that place and remained there until the surrender of General Cos, and honorably discharged from the service, shall be entitled to three hundred and twenty acres of land, the same as though they had served out their time of three months.

Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 30th, 1840.

DAVID G. BURNET.

JOINT RESOLUTION

To continue the transportation of the Mails for a limited time.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Postmaster General be, and he is hereby required to continue the transportation of the mails on the mail routes as at present fixed by law, until the adjournment of the present session of Congress.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 31st, 1840.

DAVID G. BURNET.

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AN ACT

To provide the method of filling the office of City Recorder.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, whenever the office of Recorder in either of the incorporated towns or cities of the Republic shall become vacant by resignation or other cause, the board of Aldermen shall have power to elect a successor.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 4th, 1841.

DAVID G. BURNET.

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AN ACT

For the regulation of the Coasting Trade and the protection of Texian Shipping.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That no merchant vessel shall be permitted to assume the Flag of

this Republic, unless owned by a citizen or citizens of the same. Nor can such vessel be commanded, after assuming it, save by a citizen of the Republic, and each and every Vessel or Boat over eight tons burthen, before sailing under the aforesaid Flag, shall be enrolled at the Custom House of some port of the Republic, and be required to take out a register or coasting license according to the rules and regulations and under the responsibilities and restrictions observed in the United States of America, so far as they are compatible with the statutes of this Republic.

Sec. 2. Be it further enacted, That the enrollment and the register or license of every merchant Vessel sailing under the Flag of this Republic shall specify her name, class, description, admeasurement and burthen, and shall also state whether she be of domestic or foreign construction; and if the former, shall state when and in what part of the Republic she was built, and before any Vessel shall be enrolled as being of domestic construction, the fact shall be proven, and the time and place of her building stated in an affidavit signed and sworn to by two creditable and disinterested witnesses before the collector enrolling, or some other competent functionary; which affidavit shall be filed in the office of enrolment.

Sec. 3. Be it further enacted, That all Vessels built in this Republic and sailing under the Texian Flag, shall be free of every kind of tonnage duty, and shall be subject to the payment of no other fees than those specified in the tariff of fees heretofore established by law.

Sec. 4. Be it further enacted, That any Vessel built in a foreign country, on becoming the property of a citizen or citizens of this Republic, may be enrolled under the flag of the same, and be employed either in the foreign or coasting trade, but if engaged in the latter, under a coasting license, she shall pay on the expiration of the term of her license, an annual tonnage duty, of thirty-seven and a-half cents for each ton of her burthen, for which the vessel and her securities shall be bound in the bond of her license, and in case that her license be returned within the year of its term, the said tonnage duty shall be recovered only in proportion to the time which shall have elapsed, between the date of the license and that of its relinquishment; or if the license be returned in consequence of wreck, it shall be paid in proportion to the time elapsed, between the date of her license and the time, if duly proven, of her being lost; any such foreign vessel so adopting the flag of the Republic, shall for her enrolment, and register or license, and for all coasting clearances and entrances, while under coasting license, be subject to the payment of fees of double the amount of those paid by the Texian vessels of domestic construction.



Sec. 5. Be it further enacted, That any foreign vessel, without changing her owner, master or flag, by giving a bond conditioned and secured as required in the case of licensing coasting vessels, in the United States of the North, and depositing her register with the collector of a port of this Republic, may receive from him a license to carry on the coasting trade of the Republic, and no other, for the term of six months, which license may be relinquished for the aforesaid register within (or at the end of) the term, or may be renewed; and the collector, on granting or renewing such license shall recover from such vessel a semi-annual tonnage duty of sixty-two and a half cents for each ton of her burthen, no part of which shall be refunded, though her license should be relinquished within its term, and every such vessel while so licensed shall pay for her license and for all coasting clearances and entrances, fees of double the amount of those paid by a licensed coaster of domestic construction.

Sec. 6. Be it further enacted, That any foreign vessel without changing her owner, master, flag or register may receive at a port of the Republic a cargo either of domestic or foreign produce, and land the same at another port of the Republic, and from each foreign vessel on making under her register such coastwise voyage from one port of the Republic to another, with cargo received at the former, there shall be collected at the port of her coastwise entrance a tonnage duty of fifteen cents for each ton of her burthen, and she shall, while engaged in any such coastwise voyage with cargo so received, be subject to the payment of fees for her clearance and entrance of double the amount allowed for clearance to, and entrance from a foreign port, in the Tariff of fees heretofore established by law.

Sec. 7. Be it further enacted, That no vessel bearing the Flag of the Republic, and sailing under a register, whether she be of domestic or foreign construction, shall be subject to the payment of tonnage duty, nor of higher fees for entrance from and clearance to a foreign port, than those specified in the tariff of fees established by law. Any Texian vessel of domestic construction on making a coasting voyage under register shall pay for a coastwise clearance and entrance, the same fees, as if to and from a foreign port; and if the vessel be of foreign construction, and under the Flag of the Republic, she shall in case of a coasting voyage under register, pay fees for such clearance and entrance of double that amount.

Sec. 8. Be it further enacted, That every vessel or boat of more than four tons burthen, on sailing from one port of the Republic to another, without cargo, with or without a coasting license, shall report verbally, and clear in the same manner; but if

with cargo of domestic produce for home consumption, the nature of her cargo shall be briefly expressed in writing, and if laden with foreign merchandize or with cotton or other articles of domestic produce for exportation out of the Republic the articles of the cargo must be expressed in a manifest in a form similar to that observed in the United States of the North, and a duplicate of such manifest shall be left in the custom house where she cleared.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January, 4th. 1841.

DAVID G. BURNET.

## JOINT RESOLUTION

Transferring a certain Appropriation.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the sum of ten thousand dollars which was appropriated for the purpose of a volunteer expedition against the hostile Indians upon the Brazos river, be, and the same is hereby transferred for the purpose of raising and subsisting any force that the President may authorize to be raised for said expedition.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 6th, 1841.

DAVID G. BURNET.

## AN ACT

Providing the mode of appointing Wreck Masters and prescribing their duties.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Chief Justices of the several counties on the Sea Board of this Republic, be, and they are hereby authorized to appoint

one or more persons, not exceeding three in one county, of good moral character, to act as wreck master or masters, within the county.

Sec. 2. Be it further enacted, That it shall be the duty of any person or persons who may be appointed by the provisions contained in the first section of this act, to repair as soon as practicable after hearing of any wreck, to the place of such wrecked vessel or property, to look after and do all in their power to save and protect the same. He or they shall keep a true account and take into custody all the property, and shall note briefly the circumstances under which it was saved, and the names of persons and the time they were employed in saving the same; of which account, a copy shall be presented to any court before whom the cause for salvages may come.

Sec. 3. Be it further enacted, That any person or persons so appointed shall give a good and sufficient bond and security in such amount as may be deemed proper by the Chief Justice, by whom he or they may have been appointed, for the faithful discharge of the duties prescribed by this act; he or they shall receive five per centum commission upon the amount of sales after the expenses are deducted, and before the part allowed for salvages is appropriated, with such reasonable expenses as may be allowed by the Judge of the court before whom the case may be determined.

Sec. 4. Be it further enacted, That it shall be the special duty of any one appointed a wreck master, to prosecute before the proper tribunal, any person or persons guilty of wasting or embezzling any property coming under the description of wrecked property.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved 8th January, 1841.

DAVID G. BURNET.

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## AN ACT

### Concerning Divorce and Alimony.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the several District Courts within this Republic, shall have

jurisdiction to hear and determine suits for the dissolution of marriage, where the causes alleged thereof shall be natural or incurable impotency of body at the time of entering into the marriage contract, and shall have power and authority to decree the marriage to be null and void.

Sec. 2. Be it further enacted, That the courts aforesaid are hereby invested with full power and authority to decree divorces from the bonds of matrimony in the following cases, that is to say, in favor of the husband where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board, for the space of three years with intention of abandonment. In favor of the wife where the husband shall have left her for three years with intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman.

Sec. 3. Be it further enacted, That a divorce by separation from the bonds of matrimony may be decreed in the following cases; that is to say, where either the husband or wife is guilty of excesses, cruel treatment, or outrages towards the other, if such ill treatment is of such a nature, as to render their being together insupportable.

Sec. 4. Be it further enacted, That in all suits and proceedings for divorce from the bonds of matrimony, the defendant shall not be compelled to answer upon oath, nor the petition be taken "for confessed" for want of an answer, but the decree of the court shall be rendered upon full and satisfactory evidence independent of the confession or admission of either party, and upon the verdict of a jury affirming the material facts alleged in the petition, and the court pronouncing a decree of divorce from the bonds of matrimony shall also decree and order a division of the estate of the parties in such way as to them shall seem just and right, having due regard to the rights of each party and their children, if any: provided however that nothing herein contained shall be construed to compel either party to divest him or herself of the title to real estate or to slaves.

Sec. 5. Be it further enacted, That a divorce from the bonds of matrimony, shall not in anywise affect the legitimacy of the children thereof, and it shall be lawful for either party after the dissolution of the marriage to marry again.

Sec. 6. Be it further enacted, That pending any suit for a divorce, the court may make such temporary orders respecting the property and parties as they shall deem necessary and equitable.

Sec. 7. Be it further enacted, That either party may take testimony by depositions of witnesses residing within as well as without the county in which the suit is pending, under the same

rules, regulations and restrictions, as exist in other suits, and the court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs as to the court shall appear reasonable, and that either party may obtain an appeal to the supreme court from any decree made in any suit under this act, in the same manner as in other suits, without bond and security, if the situation of the party appellant shall render it necessary for the purposes of justice that an appeal should be thus prosecuted.

Sec. 8. Be it further enacted, That if the wife, whether complainant or defendant, has not a sufficient income for her maintenance during the pendency of the suit for a divorce, the judge shall allow her a sum for her support proportional to the means of the husband, until a final decree shall be made in the case.

Sec. 9. Be it further enacted, That on and after the day on which the action for divorce, shall be brought, it shall not be lawful for the husband to contract any debts on account of the community, nor to dispose of the lands or slaves belonging to the same; and any alienation made by him after that time shall be null and void, if it be proved to the satisfaction of the judge and jury that such alienation was made with a fraudulent view of injuring the rights of the wife.

Sec. 10. Be it further enacted, That at any time during a suit for divorce, the wife may for the preservation of her rights, require an inventory and an appraisement to be made of both the real and personal estate which are in the possession of the husband, and an injunction restraining him from disposing of any part thereof in any manner.

Sec. 11. Be it further enacted, That where a divorce from the bonds of matrimony is prayed for on the ground of adultery, when the marriage was solemnized abroad, it must clearly and distinctly appear to the satisfaction of the court and jury, that both parties were inhabitants of this Republic at the time the adultery was committed, and to entitle a party to sustain a petition for such divorce, he must be an actual and bona fide inhabitant of this republic at the time of the adultery committed, and at the time of exhibiting his petition.

Sec. 12. Be it further enacted, That in any suit for a divorce for the cause of adultery, if it shall be proved that the complainant has been guilty of the like crime, or has admitted the defendant into conjugal society or embraces after he or she knew the criminal fact, or that the complainant (if the husband) allowed of his wife's prostitution or exposed her to lewd company, whereby she became ensnared to the crime aforesaid, it shall be a good de-

fence and a perpetual bar against said suit; or if it appears to the court and jury that the adultery complained of is occasioned by collusion of the parties, and done with intention to procure a divorce, or where both parties shall be guilty of adultery, then no divorce shall be decreed.

Sec. 13. Be it further enacted, That the several district courts aforesaid shall have power in all cases of separation, between man and wife, to give the custody and education of the children to either father or mother, as to them shall seem right and proper, having regard to the prudence and ability of the parents, and the age and sex of the child or children to be determined and decided on the petition of either party, and in the meantime to issue any injunction or make any order that the safety and well being of any such children may require.

Sec. 14. Be it further enacted, That this act shall be in force and take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved 6th January, 1841.

DAVID G. BURNET.

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## AN ACT

To amend the act which provides the mode of taking Testimony by Interrogatories, to provide a mode for taking Depositions.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the act to provide for taking testimony by interrogatories approved December 18th, 1837, be, and the same is hereby so amended as to require the appointment of one or more commissioners, before whom interrogatories and cross interrogatories shall be answered, but such commissioner or commissioners shall be either a district judge, a chief justice of the county court or two justices of the peace.

Sec. 2. Be it further enacted, That any party to a suit may take the deposition of a witness after having given the opposite party, his agent or attorney, five days' notice of the time and place at which such deposition will be taken, provided however that an additional notice of one day shall be given for every twenty miles that such party, his agent or attorney may reside from the place at which the depositions may be taken.

Sec. 3. Be it further enacted, That the depositions of witnesses residing in the county in which the suit may be pending, shall be considered as taken *de bene esse*.

Sec. 4. Be it further enacted, That in case any person may anticipate the institution of a suit, in which he may be interested, and such person may desire to perpetuate the testimony of any aged and infirm witness, or any witness about to leave the Republic, he may take the deposition of the witness by giving the person to be thereby affected, the notice prescribed by this act.

Sec. 5. Be it further enacted, That in all cases in which the depositions of a witness is to be taken, it shall be necessary to serve the opposite party with the interrogatories to be propounded to such witness, who may file his cross interrogatories.

Sec. 6. Be it further enacted, That the deposition of a witness shall be taken before a judge of the district court, chief justice of the county court, or two justices of the peace, and such officer or officers may issue a subpoena to a sheriff or constable, requiring him to summon the witnesses to appear before him, to answer interrogatories, or to appear at the time and place appointed to take his deposition, and may enforce his attendance by any means allowed by the law, to the district court; and if such witness so summoned fails to appear, he shall be answerable to the party injured, for all damages he may sustain in consequence of such failure.

Sec. 7. Be it further enacted, That when the deposition be taken, or the interrogatories be answered before justices of the peace of a county other than that in which the suit may be pending, or may be anticipated, the chief justice of said county shall under his seal of office, certify that the person before whom the deposition was taken, or the interrogatories were answered, are duly qualified justices of the peace.

Sec. 8. Be it further enacted, That any party being dissatisfied with the answers of the witness to interrogatories, or with his deposition when taken, may require the witness to answer other interrogatories or may take his deposition *de novo*.

Sec. 9. Be it further enacted, That this act be in force and take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 9th, 1841.

DAVID G. BURNET.

## AN ACT

To dispose of the Public Buildings in the City of Austin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That it shall be the duty of the secretary of the treasury at the next public sale of lots in the city of Austin to offer for rent or to sell all the lots and public buildings thereon, now occupied as public offices, lying below Pecan street in said city; provided, they can be sold for the costs of the same at public auction, except the buildings occupied as a treasury department, and the buildings occupied as a general land office.

Sec. 2. Be it further enacted, That all the public buildings situated above Pecan street in said city, and not occupied by or required for public offices or for public store rooms, shall be rented out for one year to the highest bidder, by the direction of the President, on the first Monday in February next.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 9th, 1841.

DAVID G. BURNET.

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AN ACT

To Incorporate the Harrisburg Rail Road and Trading Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That a company be, and the same is hereby created a body corporate and politic, with the name and style of "The Harrisburg Rail Road and Trading Company," with power to sue and be sued, to plead and be impleaded in any court of law or equity, to have a common seal and at pleasure to change the same, to contract, hold, regulate and control a rail road, from Harrisburg to the river Brazos, on such route and to such point as they may select; and that nothing in the provisions of this bill, be so construed as to authorize the importation of any goods, wares or



merchandise free of duty, other than the engines, machinery, and other materials necessary for the completion of the rail road.

Sec. 2. Be it further enacted, &c., That the capital stock of the company shall not exceed six hundred thousand dollars, and shall be divided into shares of one hundred dollars each, but the company may be organized and may commence operations when one thousand shares shall have been taken, for the purpose of letting out the stock as aforesaid. James B. Miller and A. Hodge of Fort Bend county, James Love and N. F. Williams of Galveston county, Stephen Richardson, DeWitt Clinton Harris, A. Briscoe, and Robert Wilson, of Harris county, are hereby created a board of directors, who, after choosing a president from their own body, and employing a secretary and treasurer, shall devise a plan for disposing of the stock of the company, which they shall make public by advertisement in at least three newspapers published in the Republic, and shall continue to let out stock at least thirty days, after which they shall close the books at discretion, when one thousand shares, or more shall have been taken; whereupon they shall call an election by the stockholders of a board of nine directors to whom they shall surrender the business of the company, and who shall hereafter control the same and dispose of the remaining stock as they think best.

Sec. 3. Be it further enacted, &c., That a board of directors shall be chosen annually as nearly as may be, by a plurality of the votes of the stock represented, and shall hold their offices till their successors shall be duly chosen: every member of the board of directors must be the holder in his own right, of at least twenty shares of the capital stock of the company: the board of directors shall have power to control the whole business of the company, and to adopt such by-laws and regulations as they may think advisable, to appoint and discharge their several officers and agents, and to fix their salaries; they shall, by a majority of their number, choose from their own body, a president, and shall meet at Harrisburg at regular intervals for the transaction of business, when five members, including the president, or six without him, shall constitute a quorum.

Sec. 4. Be it further enacted, &c., That the board of directors shall keep a secretary and treasurer of the company, whom they shall appoint and discharge at pleasure, and whose duties they shall define.

Sec. 5. Be it further enacted, &c., That in all elections by the stockholders, every stockholder shall have one vote for each of the first ten shares which he may hold, two votes for every three of the next thirty shares, and one vote for every four shares which he may hold over one hundred. In all voting by the board of directors, every member shall have one vote when present.

Sec. 6. Be it further enacted, &c., That the stock of the company shall be personal property, and assignable only on the books of the company, and may in all cases be represented by attorney. The stock book shall be always open to the inspection of every person, and the accounts and proceedings of the company, shall be always opened to the stockholders, and to any person with the authority of congress.

Sec. 7. Be it further enacted, &c., That any member of the board of directors who shall be guilty of dishonest, or unfair dealing, in letting out the stock of the company, to the prejudice of any other stock-holder, shall be guilty of a misdemeanor, and on conviction thereof before the district court, shall be punished by fine and imprisonment at the discretion of the court; any officer or agent of the company who shall be guilty of any dishonest use of his office, or employment, or of the employing of the money or property of the company or any unauthorized use, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine and imprisonment, at the discretion of the court; any person who shall wilfully injure or deface any of the works of the company, or throw or place any impediment in the way of the use thereof, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment, at the discretion of the court.

Sec. 8. Be it further enacted, &c., That when the company shall have laid off their rail road or any section thereof, they may file a plot thereof with the county surveyor of the county through which the same may run, and cause the same to be spread on the county map, after which they may bring suit in the county court to have condemned to their use a tract, fifty feet in width, including the line of their intended rail road, and in their petitions describing the land through which the road is intended to pass, (such as they shall not be able to obtain from the owners thereof, without suit,) by the names of the original grantees thereof, and shall cause their petition to be published for four successive weeks preceding the session of court, in some weekly newspaper published in the county, if there be such, and if there be none, then by posting at the court house door of the proper county, and by insertion in one of the nearest weekly newspapers, which publication shall be considered a citation to all interested in the lands through which the road is to pass: the court on hearing the petition shall cause to be empaneled a jury of twelve disinterested freeholders of the county, who shall take into consideration the advantage and disadvantage of the rail road to the owners of the land and assess the damages, if any, which the owners of the land will sustain by appropriating to the rail road the land required by the

company, the court shall thereupon decree to the company the land prayed for, with the condition, that before entering on the land, they shall pay into the court the amount of damages assessed against them, and that in case of the forfeiture of the charter, such land as shall remain unimproved by the company, shall revert to its original owners: the owners of the land may at any time thereafter, on motion in court, establish their right to their several parts, of the damages assessed to them.

Sec. 9. Be it further enacted, That the Harrisburg Rail Road and Trading Company, shall have privilege to import, free of duty, for their own use, rail road iron, spikes and bolts, cars and locomotive engines.

Sec. 10. Be it further enacted, That this charter may be forfeited by a failure to have the company organized, and the rail road commenced within eighteen months, and thirty miles in actual use within the term of five years, from and after the passage of this act.

Sec. 11. Be it further enacted, That none of the provisions of the foregoing charter shall in any manner authorize the exercise or confer the privileges of a banking company, nor shall they be in any manner allowed to issue change bills or promissory notes for the purpose of general circulation as a medium thereof.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 9th, 1841.

DAVID G. BURNET.

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## AN ACT

As to the payment of Taxes in the frontier Counties of the Republic.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That in all cases where it shall appear to the satisfaction of the sheriff of any frontier county, that any live stock or other personal property which has been returned on the assessment list, has been stolen, carried off, destroyed or irreparably injured by the public enemy, between the time of such return and the time of payment of the tax thereon, then and in that case, it shall be the duty of said sheriff to notify the county court at its next session thereafter, of the facts and circumstances of the case.

Sec. 2. Be it further enacted, That if upon such representation to the county court, said court shall be satisfied that such property was actually taken, carried away, destroyed, or irreparably injured by the public enemy, that then, and in that case, the person taxed shall be discharged from the payment of so much thereof, as was assessed against such property as was taken, carried away, destroyed, or irreparably injured by the public enemy.

Sec. 3. Be it further enacted, That the judgment of the county court, certified under the seal of said court, shall be a sufficient return on the part of said sheriff, to the proper receiver, officer or officers, as to the amount of taxes assessed against the individual, and discharged by the said judgment.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 12th January, 1841.

DAVID G. BURNET.

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### AN ACT

Confirming the Use and Occupation and Enjoyment of the Churches, Church Lots, and Mission Churches to the Roman Catholic Congregations, living in or near the vicinity of the same.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the churches at San Antonio, Goliad and Victoria, the church lot at Nacogdoches, the churches at the Mission of Conception, San José, San Juan, Espado, and the Mission of Refugio, with out-buildings and lots, if any belonging to them, be, and they are hereby acknowledged and declared the property of the present chief pastor of the Roman Catholic Church, in the republic of Texas, and his successors in office, in trust forever, for the use and benefit of the congregations residing near the same, or who may hereafter reside near the same, for religious purposes and purposes of education, and none other; provided, that nothing herein contained shall be so construed as to give title to any lands except the lots upon which the churches are situated, which shall not exceed fifteen acres.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 13th, 1841.

DAVID G. BURNET.

AN ACT

Supplementary to an act which was approved December twenty-second, one thousand eight hundred and forty, to repeal and amend certain parts of an act concerning Executions.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That nothing in the above recited act, of which this is a supplement, shall be so construed as to subject property levied upon under execution, to be sold, unless it bring two-thirds of its appraised value in cash.

Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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JOINT RESOLUTION

To provide for the better Collection of Monies due from Delinquent Agents and Officers of the Government.

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Secretary of the Treasury be, and he is hereby authorized and instructed to cause suits to be instituted against any government agents, collectors of customs, sheriffs, or any other person or persons, who may have received public monies, and are indebted to the government for the same.

Sec. 2. Be it further resolved, That every agent or collector, or any person or persons who have received public monies, refusing or neglecting to pay over the same to the Secretary of the Treasury, after being duly notified, shall be guilty of a high misdemeanor, and on conviction thereof, shall, at the discretion of the court, be fined in a sum not exceeding two thousand dollars, nor less than five hundred dollars, or shall be imprisoned for a term not less than six months, nor more than one year.

Sec. 3. Be it further resolved, That the Secretary of the Treasury shall instruct the district attornies of the republic to commence suits against such delinquent or delinquents, as may reside in their respective districts, and shall furnish said attornies with such evidence of indebtedness as may be in possession of his department, for the purpose of prosecuting such suits.

Sec. 4. Be it further resolved, That the district attornies shall give bond and security in the sum of ten thousand dollars, to be approved by the district judges of their respective districts, for the prompt payment to the Treasurer, of such sums of money as they may collect, under the provisions of this act.

Sec. 5. Be it further resolved, That whenever any judgment may be obtained against delinquents to government, execution shall issue against said delinquents and their securities, and that the property of said delinquent and securities shall be sold for what it shall bring at the first exposure thereof for sale; provided, there be a public notice of said sale in some public gazette, for at least sixty days previous to said exposure, any law to the contrary notwithstanding.

Sec. 6. Be it further resolved, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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#### AN ACT.

Prescribing the mode of Organizing the House of Representatives.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That it shall be, and is hereby made the duty of the Secretary of State, or in his absence, the chief clerk in that department, to organize the house of representatives at the first meeting of each new congress, in the manner following: that is to say, he shall attend at the place and on the day fixed by law, for the meeting of the house; and after appointing a clerk to take the minute of the proceedings, who shall be the chief clerk of the house at the preceding session, if he be present; shall call over all the counties of the republic in alphabetical order; and should the member

or members elect appear, it shall be the duty of the Secretary or Clerk, as the case may be, to administer to each, the oath required by law.

Sec. 2. Be it further enacted, That the Secretary or Clerk, in calling over the counties, shall call for the member or members elect, from the several counties, as shall appear from returns made to the office of the Secretary of State, but should no return have been made, he shall nevertheless call; if there be any member from such county, and any person presenting himself with a certificate from under the hand and seal of the proper returning officer, that the said person had received the highest number of votes, or had been elected in accordance with law, the oath shall be administered to him and he shall be entitled to a seat, as though a return of his election had been made to the Secretary of State.

Sec. 3. Be it further enacted, That when a quorum shall have been qualified in the manner prescribed above, the House shall proceed to its further organization by the election of a Speaker and such other officers as it may deem proper, and should a quorum not attend on the first day, it shall be the duty of the Secretary or Clerk, to attend from day to day until a quorum shall attend and be qualified as above.

Sec. 4. Be it further enacted, That nothing in this act shall be so construed as to prevent a number of members less than a quorum from taking such measures to compel the attendance of absent members as they are now authorized by law.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,

President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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## AN ACT

To increase the Bonds of the Sheriff of Harris County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Sheriff of Harris County shall be required to give bond with four or more securities, to be approved by the Chief Justice, the clerks of the District and County courts, or a majority of them, in the sum of fifty thousand dollars, for the faithful and prompt discharge of his duties as Sheriff of said county.

Sec. 2. Be it further enacted, That all laws now in force as to the amount of the number of securities and the mode of approval of the bond of the Sheriff of Harris County, be, and the same are hereby repealed, and this act shall go into effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved 18th January, 1841.

DAVID G. BURNET.

### AN ACT

Granting the Alamo Church to the use and benefit of the Catholic Church.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Church of the Alamo, in the city of San Antonio, be, and the same is hereby yielded and granted, for the use of the Catholic Church, upon the same terms and conditions as the Churches of Conception, San José, San Juan and others.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 18th, 1841.

DAVID G. BURNET.

### AN ACT

To make provision for the Vice President, while performing the duties of President.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Vice President of of the Republic, so long as he performs the duties of President, shall receive the same compensation as is allowed by law to the President of the Republic, to be paid out of any monies in the Treasury, not otherwise appropriated.



Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 18th January, 1841.

DAVID G. BURNET.

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AN ACT

To complete the Organization of the Militia.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, the Major General, Brigadier Generals and Colonels of Militia, be, and they are hereby authorized to appoint the necessary staff officers, appertaining to their respective grades, in accordance with law.

Sec. 2. Be it further enacted, That in all cases where the Militia of any beat shall fail or refuse, upon due notice being given, to hold elections for company officers, that commanding officers of regiments, be, and they are hereby authorized and required to appoint the same.

Sec. 3. Be it further enacted, That the commandants of regiments, be required immediately to complete the organization of their regiments, and to have made out duplicate muster rolls of companies and consolidated regimental returns, one copy of each to be forwarded to their respective brigadiers and one to the Secretary of War, at the seat of government.

Sec. 4. Be it further enacted, That all those portions of the county of Brazoria, Fort Bend, Austin and Washington, east of the Brazos, be, and they are hereby attached to the first brigade; and all militia officers elected therein, shall immediately report to the proper officers of that brigade.

Sec. 5. Be it further enacted, That the county of Liberty, be, and is hereby attached to the second brigade.

Sec. 6. Be it further enacted, That the brigadier generals, be, and they are hereby authorized to make such alterations in the regimental boundaries from time to time, as the increase or diminution of population may require, and that they may when they deem the public interest may require it, create new regiments and designate the boundaries.

Sec. 7. Be it further enacted, That the commandants of regiments, be, and they are hereby authorized and required to make such alterations in the boundaries of company beats as the in-

crease or diminution of population may require, and that they may, when a proper organization may make it expedient, create new beats and designate the boundaries thereof.

Sec. 8. Be it further enacted, That all officers who may have been properly elected or appointed, or who shall hereafter be appointed or elected, shall by this act, have the same authority as officers, as though they had received the commissions in due form.

Sec. 9. Be it further enacted, That in case of a call by draft on the militia, by order of the President, he shall be authorized to receive volunteers in lieu of drafted men, and that the said volunteers be authorized to elect their own officers, and report themselves by companies, battalions or regiments, as the case may be.

Sec. 10. Be it further enacted, That hereafter the county of Harrison shall be included in the third brigade of Texas Militia, and the counties of Bowie, Red River, Lamar, Fannin and Harrison, shall each constitute one regiment.

Sec. 11. Be it further enacted, That all persons who shall leave the country, or move about within the limits of the same, for the purpose of evading a participation in the defence of the country, who shall refuse to participate in it, or who shall give aid or assistance to the enemy in any way whatever, they shall forfeit all rights of citizenship, together with all rights, titles, or interests to any lands they may hold in the Republic, agreeable to the eighth section of the general provisions of the Constitution; Provided, That nothing in this act shall be so construed as to authorize the President to call out, either militia or volunteers, except to suppress insurrection or repel invasion.

Sec. 12. Be it further enacted, That all volunteers, when they are mustered into service, may organize themselves into companies, battalions, regiments and brigades, and when any mixed troops are called out, part volunteers and part drafted men, and shall apply to the commander-in-chief, or to the commandant of the expedition, so ordered out, they shall be permitted to elect their own officers; and any companies which shall be called into service and not enough to form a battalion, the commandant of the expedition, shall have power to attach them to any other battalion or regiment; and that this act take effect from and after its passage, any law to the contrary notwithstanding.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 18th, 1841.

DAVID G. BURNET.

## AN ACT

To Charter the Houston and Austin Turnpike Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That a company be incorporated under the name and style of the "Houston and Austin Turnpike Company" to be governed by the rules and regulations hereafter mentioned, and under this title may transfer their rights by succession or assignment, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and answered unto, defending and being defended, in all courts and places whatsoever, and that they and their successors may have a common seal, and change and alter the same at pleasure; And also that they and their successors by the same name and style, shall be in law capable of holding, purchasing and conveying any estate, real, personal or mixed, for the use of said corporation, and doing and performing all things which are necessary and common for companies of a similar nature to do, not contrary to the provisions of this charter as hereinafter enacted, or to the Constitution of this Republic.

Sec. 2. Be it further enacted, That said company shall have the right to construct a Turnpike road from the city of Houston to the city of Austin; said Turnpike Road shall commence at the city of Houston and run on the straightest and most practical route so as to strike and cross the Brazos river at any point not more than five below nor eight miles above the town of San Felipe De Austin, from thence on the most practical route.

Sec. 3. Be it further enacted, That the capital stock of said company shall be one hundred and twenty-five thousand dollars, to be divided into six hundred and twenty-five shares of two hundred dollars each.

Sec. 4. Be it further enacted, That the management of the affairs of the said company shall be conducted by a board of seven directors each of whom shall own at least five shares of the capital stock of said company; and a majority of said directors shall constitute a quorum to do and perform all the business necessary to the successful operations of said improvements, a majority of said directors shall appoint a president from one of their own number, and shall fill such vacancies as may from time to time take place from death, resignation, or otherwise; and after the first election of directors all subsequent elections of said directors shall take place in the city of Houston, on the first Monday of June of each year after one thousand eight hundred and forty-one;

and in case of failure so to elect said directors, the corporation shall not be dissolved for that cause, but the president and directors for the time being shall continue in office until there shall be an election, provided also that it shall be the duty of the said directors to call a meeting of the stockholders at an early day to elect the directory so omitted to be done at the regular period.

Sec. 5. Be it further enacted, That each stock-holder shall have one vote for each share that he may own, and may vote in person or by proxy.

Sec. 6. Be it further enacted, That on application for shares, five dollars for each share applied for shall be deposited with the commissioners created hereafter in this act; and the balance shall be paid at such times and upon such terms as the president and directors may designate; provided that not more than ten dollars on each share shall be required at any one time, and after public notice in two newspapers, one published at the city of Houston and one at the city of Austin, be given for sixty days, and in case that any of the stock-holders neglect to pay any of the instalments after being thus advertised, at the expiration of said term, the shares, as also the previous or subsequent instalments which may have been paid, shall be forfeited for the benefit of the said company, and a new subscription may be opened, or said shares may be sold to cover any deficit occasioned by the non-payment of the instalment due on said shares.

Sec. 7. Be it further enacted, That the President and Directors of said company shall have authority to adopt all such rules, regulations and by-laws as they may consider necessary to carry out the objects contemplated by this act of incorporation.

Sec. 8. Be it further enacted, That the book for the subscription of the capital stock of said company shall be opened under the superintendence of the following commissioners, as follows: at the City of Houston, under the superintendence of John D. Andrews, G. Robinson, and William Carper; at the city of Galveston, under the superintendence of Jno. S. Sydnor, and Gail Borden, jr.; at the town of San Felipe, under the superintendence of John H. Money, and N. H. Munger; at the town of La Grange, under the superintendence of Joseph Shaw, and Doctor William B. Meriwether; at the town of Bastrop, under the superintendence of Theodore Bissell, N. Boyce, and G. Noessel; and at the city of Austin, under the superintendence of Doctor Moses Johnson, and William N. Thompson; and shall remain open until the whole number of shares shall be subscribed for.

Sec. 9. Be it further enacted, That the commissioners of Galveston, San Felipe, La Grange, Bastrop, and Austin City,

shall, and it is hereby made their duty, to make returns of all subscriptions taken by them, to the commissioners at the City of Houston, whenever they may be required to do so by the said commissioners at the City of Houston; and whenever one hundred shares shall have been subscribed for, it shall be the duty of the commissioners, at Houston, to give thirty days' notice in one or more newspapers, at Houston and Austin, requiring the stock-holders to meet in the City of Houston, to close, by a majority of the votes of the subscribers, by ballot, to be delivered in person, or by proxy duly authorized, seven Directors, a Treasurer, and such other officers as they may think necessary to conduct the business of said company for one year, or until their successors shall be elected, agreeable to this act.

Sec. 10. Be it further enacted, That it shall be the duty of the President and Directors, immediately after their appointment, as provided for in this act, to commence the work, and in detached parcels, if they should deem it advisable: the said company shall have the right to establish a ferry across the Brazos river, and eventually a bridge; provided, it shall not obstruct navigation: said company shall have the right to erect toll gates, and charge tolls, to be regulated by law; provided, that they shall not have more than two toll-gates in any forty miles of said road.

Sec. 11. Be it further enacted, That the said company shall have the right to run said road upon any vacant and unappropriated land; and the same, for one hundred feet parallel with said road, is hereby specially reserved for the use of said road; and in case of any disagreement between said company and any person or persons through whose land they may wish to run said road, or any heirs, non-residents, or persons who cannot be come at, owning land through which said company may wish to run said road, in all such cases said company shall apply to the county court in which such land may lay; and the said court shall appoint five disinterested citizens of such county, whose duty it shall be to proceed to examine the land, and condemn the same for the use of said road, for one hundred feet in width, parallel with said road, and shall assess the damage upon the same, which shall be paid by said company.

Sec. 12. Be it further enacted, That this charter shall exist for twenty-five years, and no longer; and the said company shall keep the said Turnpike Road at all times in good repair and order; and in case of a failure so to do, they shall forfeit all tolls during the continuance of said road out of repair.

Sec. 13. Be it further enacted, That if any person or persons shall obstruct, demolish, or injure in any way, said Turn-

pike road, on any part thereof, shall forfeit and pay to said company any sum adjudged against them as damages, by any justice of the peace, or court having jurisdiction of the same: and if any person or persons shall pass round or through the gate, or gates, authorized to be set up by said company respectively, with intent to evade the payment of toll, he, she, or they, shall, for every such offence, forfeit and pay to the said company, thrice the amount of toll authorized to be received by said company, recoverable before any justice of the peace having jurisdiction of the same.

Sec. 14. Be it further enacted, That Congress may remove, revise, or alter, any of the provisions of this charter, as they may from time to time deem advisable; and a violation of any of the provisions of this charter, shall work a forfeiture of said charter.

Sec. 15. Be it further enacted, That said Turnpike shall be commenced within twelve months, and completed within five years, otherwise this charter shall be null and void.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 19th, 1841.

DAVID G. BURNET.

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## AN ACT

Creating a system of Bankruptcy and regulating the Collection of Foreign Debts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That any citizen of this Republic or resident therein, if a male, being twenty-one years old, or if a feme sole, being eighteen years old, or over, desiring to yield his or her estate for the satisfaction of creditors, and obtain exoneration from existing debts and pecuniary liabilities, may do so [in] observance of the following rules.

Rule 1. He or she may present his or her petition to the Chief Justice of the county of his or her residence, stating as nearly as recollected, the names and additions of his or her creditors, and sums payable to them, (which statement shall not avail as an admission of the validity or amount thereof,) and praying the benefit of this act; thereon shall be an oath, or affirmation,

signed by the petitioner, and to be taken before the said Judge, in these words: "I, ———, swear (or affirm) that my preceding petition is preferred in good faith, in order to a just transfer of my estate, to my creditors; that I have not aliened, given, lent, leased, encumbered, covered or secreted any of my estate, real, mixed or personal, or in possession, expectancy or action, with intent to delay, defeat or defraud my creditors; that there is not in the possession of any person or persons, natural or conventional, and known to me, any of my estate on secret or collusive trust, condition or contingency, directly or indirectly, for my present or future benefit; and that the deed of transfer now executed to my trustees in bankruptcy, contains a full exhibition of all such of my estate, as now known to or remembered by me." If this be false when taken, the petitioner shall be subject to prosecution and punishment for perjury.

Rule 2. This petition shall be preceded by a notice, three weeks successively published in some gazette of the said county, or of the next nearest county having a gazette, in substance thus: "Before the Chief Justice of ——— county, on the ——— day of ———, I will apply for discharge in bankruptcy." The printer's certificate of the due publication, with one insertion subjoined, shall accompany the petition, and be sufficient evidence of publication.

Rule 3. On the day notified, or second or third day next afterwards, if circumstances require, the said oath or affirmation shall be administered to the petitioner by the said Chief Justice, on his solemn explanation of its terms, import and effects; and concurrently the petitioner shall sign, seal and deliver, before the Chief Justice, a deed in this form and substance;—"Deed of conveyance and assignment by me ——— to ———, trustees for the use of my creditors in bankruptcy; I convey to said trustees and their successors, all my estate, real, mixed and personal, whether in possession, expectancy, action or trust, to be held, collected, applied and distributed by them in satisfaction of all my creditors, according to the rules, conditions, and limitations of the act creating a system of bankruptcy; and this conveyance and assignment embraces whatever of such my estate as may not be recollected and herein enumerated. The estate transferred is the following: [here let it be described.] Yet, out of the above, I am allowed to except, and do reserve for my support, the following: [here the reservation allowed in the fourth rule, is to be specified.] And I, with said trustees, hereunto set my name and seal, the ——— day of ———." A majority of the designated creditors, may nominate in writing, the three trustees to be appointed; or otherwise they shall be selected by the said Chief Justice,—the

deed being signed, sealed and delivered, before the said Chief Justice, and certified by him, shall be considered as delivered for registration in the said Chief Justice's court on the day of its date; shall be recorded by the register within three months next afterwards, and shall be effectual from its date, as against subsequent creditors, purchasers or donees.

Rule 4. The reservation to the petitioner, shall be, if a married man, with wife and a child or children, or a wife only, or a child or children only to support, or if a feme sole, with or without a child or children, in full property, his or her homestead, with fifty acres of his or her lands, if he or she have so much, and if not, then all of his or her lands, with the improvements thereon, the fifty acres, (if so much there be,) to be selected by him or her; also one year's provisions, one or more of the cows and calves, not exceeding three, and one or more of the horses, not exceeding two, mules or stock sufficient to work the reserved premises, one or more beds and bedding, and a sufficiency of household and kitchen furniture and farming utensils, according to the number and condition of the family; and at the allotment of the said Chief Justice, also in full property, the apparel of the family, and the professional books or tools, and implements of the art or trade of the petitioner—always reserving the family Bible, and giving to the wife or feme sole in separate property, her musical instruments. If the petitioner be a single man without a child to support or grand child, he shall have only one year's occupation of his homestead, one year's provisions, and horse, saddle and accoutrements, his apparel, professional books or tools, and implements of his art or trade. If any of the things reserved, be not of the estate, there is to be no equivalent, except, only in respect to the year's provisions, if not on hand, to be fixed by the Chief Justice. This reservation shall be exempt from existing debt and pecuniary liability, and from future levy, distress or attachment, unless it be charged by the act of the owner specially. If, at the reservation, there be any lien on the estate by judgment or decree, without being rendered specific by levy, it shall be discharged, and the creditor by judgment or decree, shall be remitted to priority of satisfaction out of the estate transferred in bankruptcy. If there be on any of the estate a specific lien by levy, the reservation shall be formed out of such of the estate as is not so bound.

Rule 5. When the oath shall have been taken, and deed delivered, the Chief Justice shall grant to the petitioner a discharge, thus: "Republic of Texas, \_\_\_\_\_ county, \_\_\_\_\_ before me \_\_\_\_\_, Chief Justice of said county, this \_\_\_\_\_ day \_\_\_\_\_, has made conveyance and assignment to \_\_\_\_\_, trustees in bank-



ruptcy of his (or her) estate: wherefore he (or she) is fully and forever discharged from all of his (or her) existing debts and pecuniary liabilities, and exonerated from any suit, arrest, proceeding, levy, distress, attachment, hindrance or molestation by, or from any one, more or all of his or her present creditor or creditors. Witness my name and the seal of my court, this \_\_\_\_\_ day of \_\_\_\_\_," and this discharge shall have the effect it declares, in all courts, in all places, with and before all officers and persons, and to all intents and purposes. It shall be recorded by the register, and on affidavit of the loss of the original, a certified copy by the register, shall be of equal force.

Rule 6. The said deed shall impart to the trustees, any two or one of them, power to take possession and fiduciary ownership of all the tangible estate of the bankrupt wheresoever situated or found, to demand, receive, and acquit for any thing, or debt of such estate in the hand of any person, and to the end of obtaining possession, and the exertion of the delegated fiduciary control over the same, shall have the like power, privileges and rights which the principal had prior to the transfer; — If a suit be requisite, it shall be in the name, "The Trustees of a bankrupt."—In the event of a succession in the commission, there need be no suggestion or revivor. On the death, dismission, resignation, removal or vacancy in the commission, the Chief Justice shall appoint a successor or successors by noting and signing the appointment on the margin of the record of the deed, and on the deed itself, if presented; and the certificate of the Chief Justice, or of the register, of the succession, shall be sufficient evidence thereof. In the like name, and without suggestion of succession or revivor, the trustees may be impleaded and defined, if sued in respect of any of the trust estate. The trustees thus may sue to recover any of such estate, whether mentioned in the deed and withheld, or not enumerated therein by accident, or fraudulently, collusively or colorably, conveyed, assured, assigned, given, bound or bargained, or in any manner encumbered or covered, with intent to hinder, delay, defraud or defeat the creditors of the bankrupt, and all such fraudulent, collusive, or colorable disposition, shall be held utterly void. If in any suit prosecuted or defended by the trustees, they wish the usual appeal, it shall be granted without security. They are not to be chargeable out of their own proper estates, for any costs or moneys adjudged against them in any such suit, but payment thereof shall be adjudged to be made out of the trust fund, namely: of the costs entirely, and of any pecuniary recovery on a claim against the bankrupt to be paid rateably. The trustees or any of them may be sued individually, for culpable neglect or

mismanagement of the trust estate, or any fraudulent waste, conversion or embezzlement thereof, if desired by a majority of the designated creditors, and such suit shall be in the name, "The creditors of ——— a bankrupt," without using their personal names, and the recovery shall be for the rateable benefit of all the creditors, according to the principles in this act, prescribed for distribution: and shall be levied of the proper estate of the trustee or trustees sued and inculpated.

Rule 7. The designated creditors of the bankrupt may agree unanimously in giving written directions to the trustees concerning the management, sale, or disposition of the transferred estate, only postponing distribution until after the lapse of one year, for the exhibition of claims against the same, and as much longer as may be requisite for the admission or adjudication thereof, and a just participation of the valid claimants. In the absence of such directions, the trustees on the first sale day of the sheriff of the county, where the real or tangible estate is situated, after the lapse of three months for perishable estate, and of six months for slaves and lands, shall, at the court house, within the sheriff's hours of sale, make public each vendue of the trust estate, by tracts, lots, parcels or particulars, as is lawful and requisite to valid sheriff's sales, including in the sale in the proper county, the landed reservation as subject to the occupation of the bankrupt, which is not to be interrupted, making conveyance or assignment of the bankrupt's title to the vendee, they presenting for signature the proper deeds. If a bid be not promptly paid, there is to be a re-sale on that or the next day; and any deficit in the re-sale, shall be paid by the first vendee, otherwise he shall be immediately sued thereon: all subsequent sheriff's sale days shall be regular days for sales by the trustees of farther trust estate coming to their hands.

Rule 8. If, between the grant of commission, and any of such days of sale there shall be, in consequence of changes in the condition and circumstances of the country, as shall manifestly so enhance the value of estates as to render it probable that the trust estate will be more than sufficient to satisfy the creditors thereof, and the bankrupt, or his personal representative or heirs shall so desire, he or they may apply to the Chief Justice, granting the commission, for a rule on the trustees to sell only a sufficient portion of the trust estate, who, on five days' citation to the trustees, or any two of them, may make such order thereon as may seem just and equitable. If, upon a partial sale or sales, the debts of the bankrupt and the expenses of the commission shall be satisfied, the residue of the trust estate shall revert in the bankrupt or his proper legal representative, and shall be restored.

Rule 9. On the grant of their commission, the trustees shall publish, three weeks successively, in a gazette of their county, or the next nearest county having a gazette, a notice thus: "The Chief Justice of \_\_\_\_\_ county, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, committed to us the estate of \_\_\_\_\_, a bankrupt: therefore, after three, and six months, at the sale days of the sheriff, our sales will be had. If claims against the trust estate be not presented to us within one year next after the above date, they will be barred. The printer's certificate, as in the second rule, shall be full evidence.

Rule 10. The trustees may recognize as valid and payable, any claim under the signature or written recognition of the bankrupt, or whose justness is known to them, provided, the creditor allow any just discount, set off, payment or equity against it, if any, and in adjusting a debt due to the trust fund, they may allow any such discount, set off, payment or equity, or in either case, if not fully satisfied with such mode of liquidation, they may resort to or require suit, and therein the principle of compensation and defalcation shall be applied. No signature or admission of debt or liability, made by the bankrupt subsequent to the commission, shall be received in either mode. The trustees shall make a list of the designated and other disclosed creditors; and when the balances or amounts payable to them shall be ascertained by adjustment or adjudication, shall enter them on the list. At the end of one year next after the commission, after paying the costs and expenses of the commission and reserving five per centum on the amount collected for their compensation, they shall distribute the residue on hand, among the ascertained ratio creditors, ratably, according to the respective balances or amounts ascertained to be due, reserving like proportions to meet the claims still in litigation, paying to each its share, on being established, and retaining the shares of rejected claims for further distribution among those established. Thus they shall proceed at the end of the succeeding year, when all claims shall have been adjusted, and the debts collected, and tangible estate reduced to money, full and final distribution as aforesaid, shall be made. The only preference claims, are, the costs and necessary expenses of the commission, the compensation of the trustees, then the pecuniary recoveries had against the bankrupt prior to the commission, and not rendered specific by levy, as aforesaid; then any debt or debts due to the republic by judgment or decree, or for taxes; but this priority of the government shall be only such as now exists according to the laws in force, and in the relative application thereof; the dates of the admissions of the claims of the general creditors by the trustees,

and the adjudication of the others of such claims shall be regarded equally as the dates of adjudication or priority in regard to such claim of the government among the general creditors; except as excepted, there is to be no preference, but they are to be satisfied out of the residuum, ratably, in proportion to the ascertained amounts due to them. If there be a surplus after paying all, it shall be refunded to the bankrupt.

Rule 11. The trustees, from time to time, may be ruled by the Chief Justice granting the commission, by citation or attachment, out of, and returnable into his county court, on five days' service thereof, to render such account as may be deemed requisite, touching the commission; and at the close thereof, a general exposition to be recorded, and so on such process and service he shall have full power to adjust controversies, as between the trustees, to suspend or remove any one or more of them, appointing successors, or requiring security, if it shall seem proper; and in all things to exert such judicial supervision over the commission as shall be needful to keep its operation within the intent and scope of this act.

Rule 12. The action of the said Chief Justice, in his court, or in vacation, touching the commission, shall be entered on the minutes, or other memorials of the probate branch of his court, the deed excepted, which is to be registered as aforesaid: the commission shall have its number, file, and index, in the series, and according to the time of occurrence, among the estates of decedents and wards; and the office fees and charges on the commission shall be those for analogous services, proceedings and items, in the probate department and registry of deeds.

Sec. 2. Be it further enacted, That no suit, proceeding, judgment or decree, shall be brought, prosecuted, or sustained in any court or judicial magistracy of this republic, on any judgment or decree of any court or tribunal of any foreign nation, state or territory; this republic, not being bound by any international law or comity to give credence or validity to the adjudication of foreign tribunals, whose measures of justice and rules of decision are variant and unknown here; but this provision is in no degree to affect the validity or obligation of contracts, engagements, or pecuniary liabilities originating abroad, or the original evidence, testimony, or proof to establish the same; neither shall this provision extend to or embrace any foreign judgment or decree for specific property or recovery, introduced as the basis of a public sale, for the transmission of title, or the record, or memorial of any link or muniment of title to specific estate; all of which shall depend upon the present laws and usages of the republic; and this provision shall not in any man-

ner relate to or affect the determinations of courts of admiralty and maritime jurisdiction abroad, proceeding in rem, and according to the laws of nations.

Sec. 3. Be it further enacted, That nothing contained in this act shall be so construed as to allow any person to retain in bankruptcy, more than one town or city lot.

Sec. 4. Be it further enacted, That this act be in force and take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 19th January, 1841.

DAVID G. BURNET.

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## AN ACT

The better to define the Boundaries of the County of Galveston.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the boundaries of Galveston County shall hereafter begin on the shores of the Gulf of Mexico, at the south east corner of Martin Dunman's league of land; thence due north to East Bay Bayou; thence down said Bayou to East Bay; thence following the shores of said East Bay, to Red Fish Bar; thence following said Bar from east to west, to the western shores of Galveston Bay; thence in a northerly direction, with the shores of said Bay to the mouth of Clear Creek; thence up said Creek to the crossing of the road, leading from Lynchburg, to Dr. Moore's place on Chocolate Bayou; thence from said crossing, by a direct southerly line, to the head of Dickenson's Bayou; thence southerly direction, to a point on West Bay, at equal distance between Chocolate Bayou, and Highland Bayou; thence following with the Bay and through the pass dividing Galveston Island and San Luis; thence eastwardly along the Gulf shores, to the place of beginning.

Sec. 2. Be it further enacted, That all laws previously made, relative to the boundaries of the county of Galveston, are

hereby repealed, and this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 20th January, 1841.

DAVID G. BURNET.

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### AN ACT

To amend an act entitled "An act to Incorporate the city of Richmond, and the towns of San Felipe De Austin, and La Grange," approved November eighteenth, one thousand eight hundred and thirty-seven.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That an act entitled An act to incorporate the city of Richmond and the towns of San Felipe De Austin and La Grange, approved November the eighteenth, one thousand eight hundred and thirty-seven, be so amended that the Board of Aldermen for the town of San Felipe De Austin shall consist of five freeholders or householders only.

Sec. 2. Be it further enacted, That the powers, rights and property heretofore granted to the citizens of the town of San Felipe de Austin, under the grant from the Mexican authorities, and by the above mentioned act of incorporation, are hereby confirmed; and that the powers and jurisdiction of said corporation, shall extend over the whole territory belonging to the same, and that the said corporation of San Felipe De Austin may dispose of all the land and property belonging to it in any manner and upon such terms as the Mayor and Board of Aldermen shall think proper.

Sec. 3. Be it further enacted, That if the office of constable or other inferior officer of said corporation shall become vacant, by death, resignation or otherwise, the Mayor may appoint, to fill vacancies, till elections shall be held, if he deem it necessary.

Sec. 4. Be it further enacted, That in future the name and style of said corporation shall be, "The corporation of San Felipe," under which name it may sue and be sued, implead and be impleaded, sell, alien, and dispose of property, and do all other acts and things necessary or incidental to the conducting the affairs of the same.

Sec. 5. Be it further enacted, That the act of incorporation heretofore passed as above recited, so far as relates to the town of San Felipe De Austin, and is inconsistent and contrary to the meaning and intention of this act, be, and the same is hereby repealed.

Sec. 6. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 20th, 1841.

DAVID G. BURNET.

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AN ACT

To repeal in part the thirty-seventh section of the Act to regulate the proceedings in Civil Suits, approved February fifth, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That after the passage of this act, the appellant at the hearing of the cause in the court of appeals, shall furnish to the court three copies of the report of the facts agreed on, or certified by the Judge of the court below: Provided, They are required by a majority of the Judges; Provided however, That this act shall not prejudice any suit now pending in the Supreme Court.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 21st January, 1841.

DAVID G. BURNET.

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AN ACT

To discontinue and abolish certain Ports of Entry and to establish instead thereof, a Port of Entry, to be called Port Calhoun.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the collectoral districts or ports of entry heretofore known

as and called the Matagorda and La Vaca collectoral districts, be, and the same are hereby discontinued and abolished.

Sec. 2. Be it further enacted, That the following designated district shall be a port of entry, commencing at the mouth of the San Antonio river and following the coast of the Gulf eastwardly, to the mouth of Cedar Lake, embracing all the creeks, landings or other places where goods may be landed within said limits, which district shall be called the collectoral district of Port Calhoun.

Sec. 3. Be it further enacted, That the herein named port of entry or collectoral district, to wit;—Port Calhoun, shall be conducted by a collector, and all other boarding officers now allowed by law to aid collectors in the discharge of their duties.

Sec. 4. Be it further enacted, That the collector who may be appointed under the provisions of this act, shall be authorized, and he is hereby required to establish the Custom House of the aforesaid collectoral district or port of entry at the town of Calhoun on St. Joseph Island.

Sec. 5. Be it further enacted, That the collector of the Port of Calhoun, be required to dispatch all vessels which may arrive at said port destined to the anchorage near the towns of Matagorda or Linnville, forthwith to their place of destination, and to place an officer on board of said vessel to deliver the cargoes; and for the further dispatch of business, that the aforesaid collector, be authorized and required to appoint for each of the above mentioned towns, (Matagorda and Linnville,) an agent or deputy collector, who shall act under the direction and control of the said collector, and whose duty it shall be to store and deliver goods, receive monies and perform all other services and duties of collectors and deputy collectors, for their respective towns, as now defined by law: and it is further provided, that the aforesaid agents or deputy collectors, be required to give bond and security to the collector of the district as heretofore provided by law: and that they receive an annual salary or compensation not to exceed twelve hundred dollars in Texas promissory notes, and such fees of office as the law now provides.

Sec. 6. Be it further enacted, That the collector who may be appointed under the provisions of this act, shall be required to reside at the port so established, and to observe all the laws now in force regulating the securing the revenues of this Republic accruing from the importation of merchandize.

Sec. 7. Be it further enacted, That the collector so appointed is hereby authorized and required to establish a temporary office at port Caballo, for the carrying into effect the provisions of this act, for the term of six months; and the Secretary of the Treas-



ury is hereby required to have erected as soon as possible, such buildings as may be necessary for the Custom House officers at port Calhoun, and should said buildings be completed in less time than six months, the collector shall remove his office to the same.

Sec. 8. Be it further enacted, That all laws contravening the provisions of this act, be, and the same are hereby repealed, and that this act take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

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## AN ACT

To establish the county of Spring Creek for Judicial purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all that portion of the counties of Montgomery and Harris, comprised within the following limits, to wit;—Beginning at the south west corner of a survey on which Matthew Burnet lives; thence due east for fourteen miles; thence in a direct line to Joseph Dunman's; thence due north to the San Jacinto; thence up the San Jacinto to the mouth of Lake Creek; thence up Lake Creek to the crossing of the public road leading from Montgomery Court House to the city of Houston; thence due west a sufficient distance to form the north west corner of said county, due north of the most westerly source of Spring Creek; thence from said corner due south to the said westerly source; thence southwardly to the junction of the road leading from Abram Robert's to San Felipe with the Tusca-cito trace: thence eastwardly to the beginning, be, and the same is hereby constituted a separate district or territory for Judicial and all other purposes and privileges enjoyed by the inhabitants of the several counties of this Republic, except that of separate representation in Congress, which shall be regulated as heretofore.

Sec. 2. Be it further enacted, That the above described territory, shall be known and styled by the name of "Spring Creek," and that William Pierpont, Isaac Deeher, James Cooper, G. W. Cropper, Abram Roberts, Archibald Smith, are appointed commissioners, to select two sites for the county seat, and the place

thus selected which shall receive the greatest number of legal votes, shall be the place where the district and county courts shall be holden, and shall be styled "Greenville," and the above named commissioners shall have the right to purchase or receive by donation any quantity of land, not exceeding six hundred and forty acres, as will be to the interest of said territory, in erecting public buildings, and such other expenses as are incident to the same, and a majority of said board of commissioners shall have the right to act in all cases, and to fill whatever vacancies may occur in said board, until otherwise provided for by law.

Sec. 3. Be it further enacted, That the district court in the above county, shall be held on the ninth Mondays after the first Mondays in March, and September, and continue one week, and the county court shall meet on the first Mondays of June, October and February.

Sec. 4. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

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### AN ACT

Requiring the Chief Justice of Bastrop County, to perform certain duties therein mentioned.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Chief Justice of the county of Bastrop, be, and he is hereby required to transmit to the commisioner of the General Land Office, a copy of the books belonging to the several boards of land commissioners for said county, containing the proof required to be taken by said boards upon issuing certificates for land, and that this act take effect from and after its passage.

Sec. 2. Be it further enacted, That if, upon examination of the copy of the records of the board of land commissioners for said county of Bastrop, and comparing the same with the return made by the board of travelling commissioners, created by "An act to detect fraudulent land certificates, &c.," together with the certificate presented for patent, it should appear to the Commis-

sioner of the General Land Office, that any errors exist in the numbers of such certificates upon said returns, that he be, and is hereby authorized to correct such errors, and issue patents accordingly; Provided, That in no case shall more land be patented, than shall have been recommended by said travelling board, upon such certificates, nor shall a patent issue upon any other certificate, than those that shall appear to have been recommended.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 28th January, 1841.

DAVID G. BURNET.

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### AN ACT

Prohibiting forced Sale of Slaves under Execution.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That hereafter no slave or slaves or indentured free person or persons, in the possession and ownership of the bona fide master, or heir or heirs, legatee or legatees of any intestate or deceased person, shall be subject to forced sales, by virtue of any writ of venditioni exponas, fieri facias, or execution of any kind; Provided, always, That the provisions of this act shall not be construed to extend to sales under or by virtue of any final decree or judgment of the courts of competent jurisdiction, where the same has been made or obtained in conformity to law, ordering the sale and distribution of the property of any intestate or deceased person's estate upon petition, as directed, being filed, praying for the same; Provided, Nothing herein shall protect said property in the possession or ownership of defaulters to this Republic.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 27th, 1841.

DAVID G. BURNET.

## AN ACT

## Incorporating the Travis Guards.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That M. P. Woodhouse, Wm. H. Abell, T. G. Forster, R. F. Brenham, J. M. Swisher, H. J. Jewett and Jas. M. Ogden, of the county of Travis, together with their associates and successors, be, and they are hereby constituted a body politic and corporate under the name and style of the "Travis Guards," with the same powers and privileges, as are conferred by an act of Congress, incorporating the "Milam Guards," of the city of Houston, approved February 5th, 1840.

Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 23rd, 1841.

DAVID G. BURNET.

## AN ACT

Supplementary to "An act Establishing the Jurisdiction and powers of the District Courts."

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the judges of the district courts of their respective districts shall have power to change the venue for the trial of any suit, civil or criminal, on good and sufficient cause set forth and duly supported by oath or affirmation of three disinterested citizens of the Republic, the sufficiency of which evidence, shall be determined by the presiding judge, and when a change of venue shall be allowed in any suit, the trial thereof shall be adjourned to the nearest adjoining county, which is free from the like exceptions; Provided, That such change of venue, shall in no instance be allowed more than once to each party in the same cause or suit.

And in all criminal prosecutions, the right of the change of venue, shall be confined to the party prosecuted.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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### AN ACT

To protect the Rights of the Heirs and next of kin, to the members of the Georgia Battalion, and other Volunteers from foreign countries who have fallen in the battles of the Republic, or otherwise died in the limits of the same.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That no administration shall be granted on the estate of any person who served in the Georgia Battalion, or any other volunteer from a foreign country, who may have fallen in the battles of the Republic, or otherwise died in the limits of the same, to any person who shall not show himself entitled to the same, as next of kin, or shall not produce an authority from the heirs or next of kin of such deceased soldier, authorizing him to take administration of the same.

Sec. 2. Be it further enacted, That where administration has heretofore been granted on the estates of deceased soldiers, to other than the heirs, or next of kin of such soldiers, it shall not be lawful for such administrator to sell the lands of such deceased, without the consent or approbation of the heirs of such deceased soldier; the document relied on as evidence of such consent of said heirs, to be recorded by the probate judge, he being satisfied of the genuineness of the same, before granting a decree of sale to the administrator.

Sec. 3. Be it further enacted, That this act shall be in force and take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

## AN ACT

Defining the time of holding the Courts in the First Judicial District.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the District Court for the first Judicial District, shall be holden hereafter, in the county of Galveston, on the first Mondays of March and September, and may continue three weeks; in the county of Liberty, on the fourth Mondays after the first Mondays of March and September, and may continue one week; in the eastern district of Liberty on the fifth Mondays after the first Mondays in March and September, and may continue one week;—in the northern district of Liberty, on the sixth Mondays after the first Mondays of March and September, and may continue one week; in the county of Montgomery, on the seventh Mondays after the first Mondays in March and September and may continue two weeks;—in the county of Spring Creek, on the ninth Mondays after the first Mondays of March and September, and may continue one week;—in the county of Harris on the tenth Mondays after the first Mondays of March and September, and may continue until the business is disposed of.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 27th, 1841.

DAVID G. BURNET.

## AN ACT

To regulate Bills of Exceptions.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage or approval of this act, when any cause wherein an appeal, writ of error, or supersedeas, lies to a higher court, may be tried before any judge of the district court in vacation, or in term time, and a counsel or attorney may present to the judge a bill of exceptions to any charge or instructions which he may have given to the jury, or shall present such

a bill on account of any opinion, decision, or any improper conduct on the part of the judge: it shall be the duty of the judge to sign the same, if the truth of the cause be fairly stated, and cause the same to be filed with the papers of the cause, as a part of the record. If, however, he conceives it to be untrue, he shall certify at the foot of the bill wherein it is false, and state fully his reasons for withholding his signature from it, and cause the same to be filed with the papers of the cause, as a part of the record.

Sec. 2. Be it further enacted, That if the judge refuse to sign a Bill of Exceptions, which contains the truth, the party injured thereby shall be permitted to prove its truth, by the deposition of two or more credible bystanders, having previously given to the judge and the opposite party, a reasonable notice in writing, of the time and place at which the depositions were to be taken, and the facts thus proved, shall be as availing upon the trial of the cause in the Supreme Court, as if they had been certified to by the judge of the District Court: and these depositions may be taken before the Chief Justice of the County Court, or any two justices of the peace.

Sec. 3. Be it further enacted, That this act take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 28th, 1841.

DAVID G. BURNET.

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## AN ACT

Granting District Attorneys power to Challenge Jurors.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, it shall be lawful in any criminal prosecution of a capital nature, instituted in any District Court of any county of this republic, for the District Attorney of such court to challenge five jurors peremptorily; and in all prosecutions for any crime or misdemeanor, to challenge three jurors peremptorily.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 28th, 1841.

DAVID G. BURNET.

## AN ACT

To Organize a part of the Counties of Red River, Bowie, and Lamar, for Judicial and other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all that portion of the territory of the counties of Bowie, Red River, and Lamar, lying south of the Sulphur fork, be, and the same is hereby constituted and set apart as a separate district, or county, for judicial and other purposes and privileges enjoyed by the several counties of this republic, except that of separate representation in Congress: and the citizens included in said territory shall vote with the county of Red River for representation in Congress.

Sec. 2. Be it further enacted, That the said district or county shall be known by the name and style of Paschal; and shall be organized in conformity with an act organizing the inferior courts, and defining the powers and jurisdictions of the same; and the Chief Justice of said county shall order an election on the second Monday of April next, for a county surveyor, and other officers, whose elections may be authorized by this act.

Sec. 3. Be it further enacted, That the county courts for said district or county, shall be holden on the fourth Mondays of February, May, August, and November.

Sec. 4. Be it further enacted, That all suits which may be pending, after the adjournment of the Spring courts of Red River, Lamar, and Bowie counties, wherein the citizens of said territory may be a party defendant, shall be forthwith transferred to the docket of Paschal county or district, and shall be there finally adjudicated.

Sec. 5. Be it further enacted, That said county or district of Paschal, shall constitute and form a part of the seventh judicial district; and the district court thereof shall be holden on the third Mondays of March and September, and may continue one week, and no longer: and the district court of Bowie shall be holden on the fourth Mondays of March and September, and continue one week, and no longer; any law to the contrary notwithstanding.

Sec. 6. Be it further enacted, That Stephen Peters, O. H. King, John H. Broadnax, Ebenezer Frazier, and Robert Hewes, senr., are hereby constituted and appointed commissioners to select a site for the seat of justice of said district or county, and shall be authorized to receive by donation, or purchase, not ex-



ceeding three hundred and twenty acres of land, to be laid out in lots, and sold, and the proceeds applied to the erection of public buildings, and the necessary expenses attending the same; and the seat of justice so selected shall be known by the name and style of Dangerfield. And should said commissioners select a site for the seat of justice on the public domain, they are hereby authorized to have six hundred and forty acres of the same surveyed and disposed of for the benefit of said county, as the said commissioners may direct.

Sec. 7. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 28th, 1841.

DAVID G. BURNET.

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## AN ACT

To Regulate the Proceedings of the District Courts when sitting as Courts of Admiralty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the District Courts of this republic shall possess all the powers and jurisdiction of Courts of Admiralty, under the law of nations; and the proceedings in all civil causes of maritime jurisdiction shall be conducted according to the rule of the civil law, by libel, answer, monition, attachment, and other process, necessary to carry into effect their orders and decrees pronounced and rendered in such cases.

Sec. 2. Be it further enacted, That all libels in admiralty, whether the same be in instance or in prize causes, shall be by petition in writing, setting forth the facts upon which the libellant relies, in support of his prayer, and upon the filing of which, in the clerk's office of the court where the suit is to be tried, it shall be the duty of the clerk to issue a monition, containing in substance, the material allegations of the petition, citing and admonishing all persons interested therein, to appear at the term of the court to which the same is made returnable, to show cause, if any they can, why the prayer of said petition should not be granted: a copy of which monition shall be served personally upon

any person appearing by said libel, to be interested in opposing the same, if such person be within the jurisdiction of the court, and shall also be published in some newspaper printed at the place where said court ordinarily holds its sessions, if there be any such paper, at least fifteen days before the trial of such cause.

Sec. 3. Be it further enacted, That if there be no newspaper published at the place where the courts are held in which proceedings in admiralty are sued out, publication of the monition shall be perfected by posting up a copy of the same, at the court house door, and at two other public places, one of which shall be on the mainmast of the vessel, if a vessel be libeled in said petition.

Sec. 4. Be it further enacted, That the judges of the District Court of this republic be, and they are hereby authorized to hold special terms for the trial of maritime causes; and in all cases where a cause is to be tried in admiralty, at any term other than a regular term of the court, as provided for by law: it shall be the duty of the judges to endorse upon the petition of the libellant, the time when the monition shall be made returnable; provided, that no cause shall be tried until the monition shall have been published at least fifteen days before the sitting of the court.

Sec. 5. Be it further enacted, That no attachment shall be issued on any libel either in personam or in rem, except upon the written order of the judge, granting the same: nor shall such order be granted, unless the truth of the facts set forth in the petition shall have been sworn to by the libellant: and in cases where the libel is in personam, no order shall be made for arresting the party against whom the same is prayed, until the party praying the same shall have filed in the clerk's office, bond and security, in such sum as the judge shall prescribe, conditioned to pay all costs and damages which the person to be arrested may sustain, by reason of the unlawful or unjust suing out of the same.

Sec. 6. Be it further enacted, That upon the arrest of any person by attachment, sued out upon a libel in personam, such person shall be discharged from custody by entering into stipulation, with security, to be approved by the sheriff, in double the sum demanded, and sworn to in said libel, for his appearance at the court to which the monition is made returnable, to answer the allegations of the libel, or to abide by and perform the decree which may be rendered in the cause, in case of his non-appearance, to answer as aforesaid.

Sec. 7. Be it further enacted, That in all cases where property may be levied upon and seized, by virtue of an attachment sued out upon a libel in rem, it shall be lawful for the claimant of such property, or the person from whose possession it was taken, to replevy the same by entering into stipulation with sufficient security, to be approved by the sheriff, in a sum equal to the appraised value of such property, to return the same when lawfully required, or to abide by, and perform any decree which may be rendered in the cause, and in such cases: it shall be the duty of the judge granting the attachment, or of the clerk, in the absence of the judge, upon the application of such claimant, or person from whose possession the property was taken, to appoint three competent and disinterested appraisers, to appraise upon oath, and ascertain the value of said property.

Sec. 8. Be it further enacted, That all property levied upon as aforesaid, and not replevied upon stipulation, shall remain in the custody of the sheriff, until a final decree shall have been rendered in the cause: provided, the same be not of a perishable nature; but if the same be likely to perish, or sustain serious injury by being kept in custody, it shall be lawful for the judge, upon application of either party, to grant an order to sell the same, at such time and place as to him shall seem best for the interest of all concerned; and the monies arising from such sale shall be paid into the registry of the court, to be held subject to its final order and decree.

Sec. 9. Be it further enacted, That it shall not be necessary for the respondent to any libel in admiralty, to put in his claim or answer under oath, unless the facts set forth in the libel have been sworn to by the libellant; and in all cases the cause shall be decided by the judge upon its merits, as disclosed and established by the testimony.

Sec. 10. Be it further enacted, That in salvage causes, when no claimant or respondent appears, to answer the libel, after due publication of the monition, proclamation shall be made at the door of the court house, with a loud voice, admonishing all persons claiming an interest in the subject matter of the suit, adverse to the libellants, to come forward and make it known: and if no claimant still appears, it shall be the duty of the judge to assign some proctor of the court to the defence of the interest of all absentees; and for services thus rendered, a reasonable fee shall be allowed by the court, to be paid out of the proceeds of the property libelled; and all the residue of such proceeds, after the payment of the salvage, cost, and expenses of the suit, shall be deposited in the registry of the court, subject to the claim of the rightful owner of the same, or his lawful agent;

provided, such claim be interposed within one year and a day after the rendition of the decree: and if no claim be interposed to such proceeds previous to the expiration of said time, the same shall be considered as abandoned, and shall be paid by the sheriff, clerk, or other officer, having the custody of the same, into the treasury of the republic, to be held as a fund for the erection of light houses, buoys, and other harbor improvements: provided, that notice of such deposite in the registry of the court, shall be published in some newspaper printed in the republic, for at least three months, commencing immediately after such deposite shall have been made.

Sec. 11. Be it further enacted, That in no case, either of civil or military salvage, shall a larger proportion than one moiety of the nett value of the property saved, be allowed as a compensation for services rendered in saving the same.

Sec. 12. Be it further enacted, That in all prize causes, the hearing shall, in the first instance, be had upon the ship's papers alone; and in no case shall further proof be allowed, when, from papers found in the ship, it shall appear that a fraud was intended to be practiced in making out the documents of the same.

Sec. 13. Be it further enacted, That the proceeds of all prizes captured by the public armed ships of this republic, shall be distributed in the following proportions; viz: one half of such proceeds shall be paid into the treasury of the republic, and the residue shall be allotted into equal shares, five of which shares shall be paid to the commander of the vessel making the capture; three to each lieutenant, surgeon, and purser of the same; one and a half to each warrant officer of the same; one share to each seaman and marine of the same; and half a share to each boy belonging to said vessel when the capture was made.

Sec. 14. Be it further enacted, That ten per centum of the proceeds of all prizes captured by private armed ships, sailing and capturing under the flag of Texas, by the authority of the government, shall be paid into the treasury of this republic, and the residue of the proceeds of such captures shall be distributed among the captors, in such proportions as by the terms of their association may have been agreed upon and determined by themselves.

Sec. 15. Be it further enacted, That all seizures for violations of the revenue laws when made at sea, or upon waters navigable from the sea, by vessels of ten or more tons burthen, shall be considered as causes of admiralty jurisdiction, and shall be subject to all the rules of admiralty proceedings; and all other seizures for similar violations, when made on land, or on water

not so navigable, shall be considered as of common law jurisdiction, and shall be tried as other cases at common law.

Sec. 16. Be it further enacted, That appeals may be sued out and taken in all civil causes of admiralty and maritime jurisdiction, from the district courts to the supreme court of the republic, upon the same terms, conditions, limitations, and restrictions as are provided for by law, in other cases of appeal.

Sec. 17. Be it further enacted, That this law shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONÈS,  
President pro tem. of the Senate.

Approved 23d January, 1841.

DAVID G. BURNET.

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## AN ACT

To Repeal and Amend certain parts or portions of an act entitled an "Act concerning Executions."

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That when the day of sheriff's sale shall have arrived, it shall be the duty of the chief justice of the county court, or in case of his absence, any disinterested magistrate of the beat where such sale may take place, or of an adjoining beat, at the request of the sheriff, coroner, or constable, to appoint three discreet men, citizens, freeholders, or householders of the county, to appraise the property levied on by virtue of execution, at a fair cash price, which valuation shall be reduced to writing, and signed by [the] appraisers, or a majority of them, and returned to the sheriff.

Sec. 2. Be it further enacted, That the property so levied on and appraised, shall then be offered for sale to the highest bidder; and if the same (be it real or personal property) shall not bring two-thirds of the valuation returned by the appraisers, there shall be no sale, and the execution shall bind the property.

Sec. 3. Be it further enacted, That the property so offered and unsold, may, at any time subsequent, be exposed again to sale, at the instance of the plaintiff, upon previous notice of twenty days being given, in the manner pointed out by law.

Sec. 4. Be it further enacted, That if there be no sale of the property executed in the manner pointed out in the third section of this act, the plaintiff shall pay the costs of said last mentioned exposure to sale; provided always, that either party shall be entitled to have a new appraisement of the property once in every six months after the first attempt to sell the same.

Sec. 5. Be it further enacted, That the proviso contained in the fourth section of an act entitled "An Act concerning Executions," approved the fifth day of February, one thousand eight hundred and forty, be, and the same is hereby repealed.

Sec. 6. Be it further enacted, That the provisions of the foregoing act shall be construed to relate also to constables' sales, under executions.

Sec. 7. Be it further enacted, That the twenty-fourth section of an act entitled "An Act concerning Executions," approved February fifth one thousand eight hundred and forty, be, and the same is hereby repealed, so far as it may relate to an act entitled "An Act to exempt certain property therein named, from Execution," approved January twenty-sixth, one thousand eight hundred and thirty-nine; and said act is hereby declared to be in full force and effect.

Sec. 8. Be it further enacted, That a constable shall not have power to act in civil cases out of the beat to which he belongs, except in cases of attachment; provided, that the constables residing in incorporated towns, shall be authorized to act within the limits of said town.

Sec. 9. Be it further enacted, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed; and that his act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved December 22d, 1840.

DAVID G. BURNET.

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## AN ACT

To Repeal certain Acts therein named.

Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the eighth section of "An Act regulating Estrays," approved twenty-

second of December, one thousand eight hundred and thirty-six, and the seventh section of "An Act to amend an Act Regulating Estrays, passed twenty-second of December, one thousand eight hundred and thirty-six," approved fifth of February, one thousand eight hundred and forty, be, and the same are hereby repealed.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONÈS,  
President pro tem. of the Senate.

Approved 24th December, 1840.

DAVID G. BURNET.

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### AN ACT

Supplementary to "An Act Prohibiting the Location of Fraudulent Land Claims," approved February the fifth, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, it shall be lawful for any legally authorized surveyor within the republic, to receive locations for, and survey any lands pointed out by the holder of a land certificate issued by any of the boards of land commissioners for the counties of Fannin, Red River, Jefferson, Liberty, Harris, Galveston, Montgomery, Houston, Robertson or Harrison, until the county surveyor of the county where such certificates may be proposed to be located, shall be informed by the commissioner of the General Land Office, that the board of commissioners created by "An Act to Detect Fraudulent Land Certificates," &c., passed January, one thousand eight hundred and forty, have completed their investigation of land certificates, in the county where such certificates so proposed to be located, were issued; and upon the reception of such information so furnished the county surveyor as aforesaid, it shall be, and is hereby made his duty immediately to notify each of his deputies of the same; and any surveyor receiving a location for, or surveying upon any land certificate after the reception of the notice or information aforesaid, without the same being certified to as required by the act to which this is a supplement, shall suffer the pains and penalties of that law.

Sec. 2. Be it further enacted, That it shall be the duty of the Commissioner of the General Land Office, so soon as he shall receive a report from the boards of land commissioners aforesaid, as required by the "Act to Detect Fraudulent Land Certificates," &c., passed January, one thousand eight hundred and forty, forthwith to notify the county surveyor of each county of this republic, of the same.

Sec. 3. Be it further enacted, That this act shall be in force and take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 18th, 1841.

DAVID G. BURNET.

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### AN ACT

To authorize and require the Commissioner of the General Land Office to commence the issuing of Land Patents, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Commissioner of the General Land Office is hereby authorized and required, forthwith to make out patents upon all claims which have been, or may hereafter be returned as genuine and justly entitled by the different boards of land commissioners, appointed under "An Act to Detect Fraudulent Land Certificates," whether the same has been obtained in strict accordance with law or not; and the Commissioner of the General Land Office is hereby authorized to employ two additional clerks, who shall be allowed the same salaries and pay as other clerks of the land office.

Sec. 2. Be it further enacted, That no patent shall be issued upon any claim, unless a map of the county in which the same is situated, shall have been returned to the General Land Office by the county surveyor of the county.

Sec. 3. Be it further enacted, That there shall be paid by the patentee for each and every patent issued to him under the provisions of this act, to the Commissioner of the General Land Office, for the use of the government, for each patent for one league or more, the sum of fifteen dollars; for any less amount,



and over one-third of a league, the sum of ten dollars; and for one-third of a league or any less amount, the sum of five dollars, in each case in Texas promissory notes.

Sec. 4. Be it further enacted, That the county surveyors of the various counties be required to forward the field notes of all surveys returned to their offices, to the Commissioner of the General Land Office; any law to the contrary notwithstanding.

Sec. 5. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 19th, 1841.

DAVID G. BURNET.

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## AN ACT

To Organize a part of the Counties of Matagorda and Colorado,  
for Judicial and other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all that part of the counties of Matagorda and Colorado comprehended within the following limits, beginning at the lower corner of league number twelve, on the San Bernardo, granted to Seth Ingram; thence along the lower line of said league, and continuing same course to the south-west corner of a league of land granted to Mr. Edwards; thence in a direct line south, sixty west, crossing the Colorado river, and continuing the same course for a distance of ten miles after crossing the river; thence north-westwardly, in a direct line to a point ten miles south, forty-five west, from the upper corner of a league of land granted to one James Nelson, on the north side of the Colorado river; thence along the upper line of said league to its north-west corner in the prairie; thence north fifty east, to the main San Bernardo; thence down the same to the place of beginning, be, and the same is hereby constituted a separate district or territory, for judicial and all other purposes and privileges enjoyed by the inhabitants of the several counties of the republic, except that of separate representation in congress, which privilege shall be exercised by them as heretofore; that is to say, that portion taken from the county

of Matagorda shall vote with the same; and that part taken from the county of Colorado, shall vote with the same.

Sec. 2. Be it further enacted, That the above described territory shall be known and styled by the name of "Ward," and shall be organized in conformity with "An Act Organizing the Inferior Courts, and Defining the Powers and Jurisdiction of the same;" and the inferior or county courts shall be holden in the same, on the second Mondays of March, June, September and December, in each year.

Sec. 3. Be it further enacted, That the Chief Justice of said territory shall, so soon as he may be notified of his appointment, order an election for a seat of justice for the same; provided, the same shall not be located at a greater distance than five miles from the centre, unless it be done by a majority of two-thirds of the voters of said territory.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 19th, 1841.

DAVID G. BURNET.

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## AN ACT

### To Regulate Public Sales.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all public sales in the republic, by sheriffs, constables, administrators, and other persons, may be held at the residence of the owner of the property, or at the late residence of a deceased person, or at any other place, by consent of the parties interested, which will be most advantageous to the sale of the property: provided always, that real estate and slaves shall be sold at the court house of the respective counties, unless an order of the court be had to sell at some other place, any law to the contrary, notwithstanding.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

AN ACT

To Amend "An Act to regulate the Proceedings in Civil Suits," approved February fifth, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the second section of the above recited act, be so amended that it shall not be lawful for any officer to serve a writ and petition, subpoena, notice, or other process whatsoever, to be served on any person, by leaving a copy thereof at the residence of such person, but shall serve such process on the body of such person or persons.

Sec. 2. Be it further enacted, That any defendant may certify, in writing, under his signature, on the back of, or annexed to the petition of the plaintiff, that he acknowledges that the petition has been duly served on him: in such case the clerk shall not charge for a copy, nor the sheriff for citation. And this act shall take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved 18th January, 1841.

DAVID G. BURNET.

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AN ACT

Authorizing the Chief Justice of Milam County to have Land Appraised and Condemned for Public use, and to remunerate the owner or owners thereof for the same.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the chief justice of Milam county is hereby authorized and required to summon William W. Hill, Aaron Colvin, Gabriel Jackson, Michael Boren, and James Addison, who shall proceed to the spot which has been selected for the county seat, by the commissioners appointed under "An Act to annex a part of Washington county to the county of Milam, and for other purposes," approved February 4th, 1840; and who, upon oath, shall

appraise and condemn three hundred and twenty acres of land, for the use and benefit of the county for which the said site has been selected and permanently established.

Sec. 2. Be it further enacted, That the value of the land so assessed and condemned, shall be collected from the sales of the lots laid off and sold in the county site town; and it is hereby made the duty of the sheriff of the county of Milam, to collect the same, and deliver it over to the chief justice, who shall pay the amount so delivered, to the owner or owners thereof, whenever he, she, or they, shall come forward and make a fee simple title to the chief justice and his successors in office, for the amount of land so assessed and condemned for public use.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

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## AN ACT

Supplementary and Amendatory of certain Acts therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That whenever any vacancy shall occur in the office of associate justice of the county court, either from the expiration of his official term, resignation, or otherwise, it shall be the duty of the several justices of the peace of said county, upon notification from the chief justice, to assemble, and elect from among their own body, an associate or associate justices, to supply said vacancy.

Sec. 2. Be it further enacted, That in all cases in which the chief justice of any county in this republic shall be interested, absent, or unable to perform his duties, the associate justices of the county court shall be authorized and empowered to act in his stead.

Sec. 3. Be it further enacted, That in all prosecutions of slaves before the county court, under the "Act for the Punishment of Crimes and Misdemeanors committed by slaves and free persons of color," approved December 14th, 1837, the chief

justice before whose court the trial is had, shall appoint an attorney to prosecute on behalf of the county; and in every case of conviction, said attorney shall be entitled to twenty dollars, Texas promissory notes, to be taxed in the bill of costs.

Sec. 4. Be it further enacted, That in every case of conviction, the slave shall be hired out under the direction of the chief justice, until all the costs of the prosecution are satisfied: but if there be no conviction, the costs shall be taxed against the person lodging the information, and execution shall issue accordingly.

Sec. 5. Be it further enacted, That so much of the first section of "An Act organizing the Inferior Courts, and Defining the Powers and Jurisdiction of the same," as requires the associate justices of the county courts to be selected at the beginning of each and every year, be, and the same is hereby repealed.

Sec. 6. Be it further enacted, That this act be in force and take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 22nd, 1841.

DAVID G. BURNET.

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### AN ACT

To legalize the Acts of the Board of Land Commissioners of Harrison County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all certificates of headrights issued by the board of land commissioners of Harrison County on the twentieth, twenty-first, twenty-second, twenty-seventh and twenty-eighth days of April last to legal claimants, shall be as good and valid as though the same had been issued by said board previous to the passage of the law limiting the further action of the different boards of land commissioners, passed at the last session of congress.

Sec. 2. Be it further enacted, That all surveyors and officers of the Republic shall respect the said certificates, as though the same had been issued by the said board of land commissioners at their regular session; provided, however, that the provisions of this act, shall not give validity to any claim which would not

have been otherwise valid, had the same been issued in conformity with law.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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### AN ACT

Supplementary to An act for the Punishment of Crimes and Misdemeanors.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That if any writ or process shall at any time hereafter be sued forth, or prosecuted by any person or persons, in any of the courts of this Republic, or by any judge or justice therein, whereby the person of any public Minister of any foreign Prince, State or Government, authorized and received as such by the President of this Republic, or any domestic or domestic servants of any such public Minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized or attached, such writ or process shall be deemed and adjudged to be utterly null and void to all intents, construction and purposes whatsoever.

Sec. 2. Be it further enacted, That if any person or persons shall sue forth or prosecute any writ or process, such person or persons, and all attorneys or solicitors, prosecuting in such cause, and all officers granting or executing any such writ or process, being thereof convicted, shall be deemed violators of the laws of nations and imprisoned not exceeding one year, and fined at the discretion of the court; provided nevertheless, that no citizen or inhabitant of this Republic, who shall have contracted debts prior to his entering into the service of any public Minister, which debt shall be still due and unpaid, shall have, take or receive, any benefit of this act, nor shall any person be proceeded against by virtue of this act for having arrested or sued any other domestic servant of any public Minister unless the name of such servant be first registered in the office of the Se-

cretary of State, and affixed by him, the said secretary, in some public place in his office.

Sec. 3. Be it further enacted, That if any person shall violate any safe conduct or passport, duly obtained and issued under the authority of the Republic, or shall assault, strike, wound, imprison or in any other manner infract the law of nations, by offering violence to the person of a public Minister, or shall by slanderous words, maliciously written or spoken, attempt to bring such public Minister into disgrace or contempt with the people, such person so offending, on conviction shall be imprisoned not exceeding six months, and fined at the discretion of the court.

Sec. 4. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 22d January, 1841.

DAVID G. BURNET.

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## AN ACT

For the relief of the Purchasers of Lots in the City of Austin  
and on the tract adjoining.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That when any instalment may hereafter fall due upon any lot in the city of Austin, or out lot, on the tract adjoining said city, purchased at any sale previous to the passage of this act, the purchaser of said lot, shall have an extension of time of twelve months, for making payment of said instalment; provided, he or his agent at the time each instalment shall fall due, shall execute his note payable to the Secretary of the Treasury, or his successors in office, for the amount of said instalment, to be paid at the expiration of the said twelve months, which said note shall be recoverable, whether the said lot be afterwards forfeited or not; and if said note be not paid at maturity, the lot for which the same was given shall be forever forfeited.

Sec. 2. Be it further enacted, That it shall be lawful to close and stop up any alley running through a square or block of lots in the city of Austin; provided, that the owners of all the lots in said square or block, shall give their consent in writing,

to the closing and stopping up of said alley; and it shall in like manner, be lawful to close and stop up any street or alley between the outlots in the city tract, except the streets running between the different divisions of said tract, as laid down on the map of survey of said tract, which last mentioned streets, shall forever remain open as public highways; provided, that no street or alley running through said tract, shall be closed or stopped, until all persons' lots fronting on any part of the street or alley proposed to be closed, shall have given their consent in writing, to closing or stopping the same; and provided further, that said consent in writing, shall be recorded in the clerks' office of the county court of Travis County, at the expense of the persons signing the same, previous to the closing or stopping up of any of said alleys or streets.

Sec. 3. Be it further enacted, That from and after the passage of this act, the public lots in or near the city of Austin, shall be sold for cash only, and in no instance shall any lots be sold as heretofore on time, and that the sales of city lots and out lots of the city of Austin, is hereby suspended until the first day of January, one thousand eight hundred and forty-two.

Sec. 4. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 12th, 1841.

DAVID G. BURNET.

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## AN ACT

Granting a Donation of Land to actual Settlers on or near the Military Road on the Northern Frontier.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That a tract or parcel of land twenty-four miles in width, twelve miles on each side of the military road, running from Red River to the Nuecès, as provided for by an act approved December, 1838, be, and the same is hereby reserved for the use of the government; provided, that nothing in this act shall be so construed as to interfere with lands now owned or claimed by virtue of a legal title, or any survey made by a legally authorized surveyor.



Sec. 2. Be it further enacted, That the President, with the advice and consent of the Senate, shall appoint a surveyor for the before mentioned reserve, who shall give bond with approved security, in the sum of five thousand dollars, for the faithful performance of the duties of his office; said bond to be taken by the Secretary of the Treasury, payable to the President and his successors in office. The surveyor so appointed, shall keep his office within the territory so reserved, and shall hold his office for two years; and in transacting the business of his office, be governed by such rules, regulations, and penalties, as are prescribed by law for the government of the official duties of the surveyors of the several counties of this republic.

Sec. 3. Be it further enacted, That any person wishing to settle within the limits of said reserved boundary, may apply to the surveyor thereof, or his deputy, who shall survey for him, six hundred and forty acres of land, if he be the head of a family; or three hundred and twenty acres of land, if he be a single man of the age of seventeen or upwards; and if said applicant reside thereon, and cultivate a part of the same for the term of five years, he shall receive at the expiration of said five years, a patent for the same; provided, that actual occupancy shall be the only proof of ownership.

Sec. 4. Be it further enacted, That the before mentioned military road shall be the base line from which all surveys within the reserve shall be made: the surveys shall be made as nearly square as practicable, excepting those on the road, which shall front one half the square, (if previous lines will permit;) and in no instance shall any survey run across the said military road.

Sec. 5. Be it further enacted, That it shall be unlawful, hereafter, for any surveyor of this republic, to survey or locate any lands lying further north of said road than the twelve miles as contemplated in this act, or any lands lying west of the river Nueces, (and the same are hereby reserved for the use of the republic,) to be disposed of as Congress may hereafter direct, and any survey or location made after the passage of this act, contrary to the provisions of the same, are hereby declared null and void, and this act shall be in force from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

## AN ACT

To Organize a certain part of the county of Liberty for Judicial and other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all that portion of the county of Liberty comprised in the following limits, to wit; commencing on the west side of the Neches River, where the Houston county line strikes said river; thence west along said line of Houston, to the line of the Northern division of Liberty county; thence due south along said line twenty-five miles; thence due south to Village creek; thence down said creek with the line of Jefferson county, to the Neches river; thence up said river to the place of beginning, be, and the same is hereby constituted a separate district or territory, for Judicial and other purposes and privileges enjoyed by the inhabitants of the several counties of this republic, except that of separate representation in congress, which privilege shall be exercised as heretofore.

Sec. 2. Be it further enacted, That the above described territory shall be known and styled by the name of "Menard," and shall be organized in conformity with an act organizing the inferior courts, and defining the powers and jurisdiction of the same, and the inferior courts shall be holden in the same, on the first Mondays of February, June and December, in each year.

Sec. 3. Be it further enacted, That Robert Barclay, John Carson, Josiah Wheat, Addison Sapp, Benjamin Berk, are authorized to select two sites, which shall be proposed to the people, and the place receiving the greatest number of legal votes, shall be the site where the district and inferior courts shall be holden, and the above named commissioners shall have the right to purchase or receive by donation any quantity of land, as will be to the interest of said territory, in erecting public buildings, and such other expenses as are incident to the same, and a majority of said board of commissioners, shall have the right to fill vacancies should any occur in said board, until otherwise provided for by law.

Sec. 4. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 22d, 1841.

DAVID G. BURNET.

AN ACT

To Incorporate the Galveston University.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That there be erected, and hereby is erected, and established in the County of Galveston in this republic, a University, for the education of youth.

Sec. 2. Be it further enacted, That the said University shall be under the management, direction, and government of a number of trustees, not exceeding forty, or a quorum or board thereof; not less than seven vacancies to be filled by the board.

Sec. 3. Be it further enacted, That the first trustees of the said university shall be the following persons, viz: M. B. Lamar, D. G. Burnet, W. L. McColla, Levi Jones, Mosely Baker, C. M. Gahagan, A. Turner, Anson Jones, A. B. Shelby, W. H. Jack, Sam. Houston, Willis Roberts, J. P. Henderson, A. H. Phillips, S. P. Andrews, A. A. M. Jackson, Wm. Y. Allen, B. C. Franklin, Joel T. Case, Jas. F. Perry, Jas. Love, M. S. Smith, A. J. Yates, C. Van Ness, John McCollough, John Hemphill, John B. Jones, Alexander Somervelle, Abner S. Lipscomb, H. Stuart, John S. Menifee, J. S. Sydnor, Francis Moore, J. P. Coyt, A. S. Johnson.

Sec. 4. Be it further enacted, That the president of the university shall be ex-officio president of the board of trustees; seven trustees shall constitute a quorum to do business; and in questions relating to the fiscal affairs of the institution, the president shall be precluded from voting.

Sec. 5. Be it further enacted, That the present organization, elections, appointments and proceedings, being consistent with the Constitution and laws of this republic, and with this instrument, be, and are hereby ratified and confirmed.

Sec. 6. Be it further enacted, That they be allowed to meet on their own adjournments; and if a quorum be wanting, those who are present may adjourn in the prospect of obtaining a quorum.

Sec. 7. Be it further enacted, That they shall appoint stated times for regular annual and semi-annual meetings: provided, that the president be authorized, in cases of emergency, with due notice, to call extraordinary meetings.

Sec. 8. Be it further enacted, That the said trustees shall, in their corporate capacity, be liable for all the contracts, acts and liabilities of those who have heretofore acted as trustees of said institution: provided, said acts shall have been consistent with the good of the institution.

Sec. 9. Be it further enacted, That this institution shall be entitled "The Galveston University," by which name, style, and title, it shall become and be a corporation or body politic, in law and in fact, to have continuance by the name, style and title aforesaid.

Sec. 10. Be it further enacted, That it shall have full power to make, have, and use a common seal, with such device and inscription as they shall deem proper; and the same to break, alter, and renew, at their pleasure.

Sec. 11. Be it further enacted, That by the name, style, and title aforesaid, it shall be capable to sue and be sued, plead and be impleaded, in any court or courts, before any judge or judges, justice or justices, in all manner of suits, complaints, pleas, causes, matters and demands, whatsoever, in as full and effectual a manner as any other person or persons, bodies politic and corporate within this republic may or can do.

Sec. 12. Be it further enacted, That the said institution by the name, style, and title aforesaid, shall be able and capable in law, according to the terms and conditions of this instrument, to receive and hold all manner of property, right or title, that may be granted or bequeathed to the said university, to be disposed of according to the objects, articles and conditions, of the donors, any mis-nomer notwithstanding.

Sec. 13. Be it further enacted, That the said board and faculties shall be authorized and empowered to make rules, by-laws, and ordinances, suitable to their several departments, and to do every thing needful for the good government and support of the affairs of the corporation: provided always, that the said by-laws, rules, ordinances, be not repugnant to the Constitution and laws of this republic, or this instrument.

Sec. 14. Be it further enacted, That all lands, public buildings, and other property belonging to the Galveston University, are hereby declared to be free from any kind of public tax for five years after the date of this act.

Sec. 15. Be it further enacted, That the funds and property belonging to the said university, aside from the buildings, library and apparatus, shall at no time exceed in value the amount of two hundred and fifty thousand dollars.

Sec. 16. Be it further enacted, That the trustees of said university, when acting in a corporate capacity, shall be required to confine themselves solely to the advancement of literature, together with the arts and sciences, studiously avoiding all undue connections with any religious or political denominations.

Sec. 17. Be it further enacted, That the management and control of the said university shall be subject to any directory

enactment that Congress may pass; and to the Congress of this republic is reserved the right, at discretion, of appointing committees, or visitors, to said university, who shall have free access to the premises and records of the institution.

Sec. 18. Be it further enacted, That every trustee elected or appointed by the provisions of this act, shall, before entering upon the duties of his office, take and subscribe the following oath, before a justice of the peace: "I do solemnly swear, (or affirm,) that I will faithfully discharge the duties assigned me as trustee, to the best of my skill and abilities, without partiality or affection."

Sec. 19. Be it further enacted, That they shall take effectual care that all students receive fair, generous, and impartial treatment, and that means be used to examine and promote the attainments for which the institution is established; and they shall have power to confer the degrees of Bachelor of Arts, Master of Arts, Doctor of Medicine, and Doctor of Law.

Sec. 20. Be it further enacted, That whenever any law, rule or regulation, may be passed or adopted by the board of trustees, at a regular or stated meeting of said board, it shall not be lawful for any call meeting of said board to repeal or rescind such law, rule or regulation.

Sec. 21. Be it further enacted, That no professor, tutor or steward of the university, shall be eligible to the office of trustee of said university: and should any trustee be chosen a professor, tutor or steward, he shall thereby vacate his office in the board.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 30th January, 1841.

DAVID G. BURNET.

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## JOINT RESOLUTION

Authorizing the Sale of Lots in the Town of Calhoun.

Whereas, a law passed and approved January twenty-first, eighteen hundred and thirty-nine, authorizing and requiring the Secretary of the Treasury to advertise the town of Calhoun for sale, has not been carried into effect by reason of a joint resolution passed at the last session of Congress:

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the sale of lots in the town of Calhoun shall commence in said town on the first Monday in June, eighteen hundred and forty-one, and continue from day to day until one-fourth, and no more, of the whole number of said lots, are disposed of at public sale.

Sec. 2. Be it further resolved, That all other provisions of the act herein before recited, not conflicting with this resolution, shall be observed by the Secretary of the Treasury, in disposing of the lots aforesaid, at public sale.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 28th January, 1841.

DAVID G. BURNET.

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#### AN ACT

To Incorporate the Texas Trading, Mining, and Emigrating Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That George W. Bonnell, Alexander McDonald, John C. Watrous and Edwin Morehouse of Texas, and Jonathan Ikin and Arthur Ikin of London, be constituted a body corporate and politic, under the name and style of the "Texas Trading, Mining and Emigrating Company," to be governed by the rules hereinafter mentioned, and such by-laws as the company may pass, not inconsistent with the Constitution and laws of this Republic, and under this title, may transfer their rights by succession or assignment, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, and that they and their successors, may have a common seal, and may change and alter the same at pleasure; and also, that they by the same name and style, shall be in law capable of holding, purchasing and conveying any estate, real, personal, or mixed, for the use of said corporation, and doing and performing all things which are necessary and common for companies of a similar nature to do, not contrary to the pro-

visions of this charter, nor the Constitution and laws of this Republic.

Sec. 2. Be it further enacted, That the said company, may have the right to purchase lands, and settle emigrants upon the same, or of selling it for the use of the corporation, and that they may have the power to erect all necessary buildings for the use of the corporation, and to introduce goods on such terms as Congress may, from time to time establish by law, and to open and work mines upon such terms as other citizens.

Sec. 3. Be it further enacted, That the capital stock of said company, shall be five hundred thousand dollars, to be divided into five thousand shares, of one hundred dollars each.

Sec. 4. Be it further enacted, That the business of said company, shall be conducted by a board of five directors, a majority of whom, shall constitute a quorum, to do and perform all the business necessary to the successful operation of said company. A majority of said directors, shall appoint a president from their own number, and fill such vacancies as may from time to time occur from death, resignation, or otherwise. The term and services of said president and directors, to be regulated by the by-laws of said corporation.

Sec. 5. Be it further enacted, That the company may have the right of establishing trading houses, and carry on a trade with the Mexicans or Indians; provided, that they introduce no contraband articles, nor do any other thing which is prohibited by the Constitution and laws of this Republic.

Sec. 6. Be it further enacted, That the said corporation shall have the power of raising and retaining in service three hundred troops for the purpose of establishing and protecting trading houses; provided, that said troops shall be commanded by officers who have taken the oath of allegiance to the Republic of Texas, and be governed by the laws and regulations for the government of her own troops.

Sec. 7. Be it further enacted, That should the aforesaid troops be called into the service of the Republic, they shall receive the same pay and emoluments as other troops of like grade receive, in the service of the Republic.

Sec. 8. Be it further enacted, That this act shall continue in force for twenty years from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved 30th January, 1841.

DAVID G. BURNET.

## AN ACT

## Incorporating the Galveston Artillery Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That there may be established and organized in the city of Galveston, a volunteer company, to be known and designated as the "Galveston Artillery Company," shall not consist of more than one hundred, nor less than thirty-two men, and so soon as thirty-two names shall be enrolled, the company shall proceed to elect a captain, one first and one second lieutenant, and the captain when elected may appoint four sergeants, four corporals, and six gunners, six bombardiers, one drummer and one fifer.

Sec. 2. Be it further enacted, That it shall be the duty of said company to protect the harbor and city of Galveston, and to be always subject to the order of the Mayor of said city, to suppress riots or enforce the administration of the laws.

Sec. 3. Be it further enacted, That said company shall not be liable or subject to any draft of the government, by which they will be called from the Island, except in cases of emergency, and that the members of said company shall be exempt from all military duty, except such as is contemplated by this charter.

Sec. 4. Be it further enacted, That said company shall have power to adopt such by-laws in accordance with the Constitution and laws of this Republic, as they may think necessary for the government of said company.

Sec. 5. Be it further enacted, That this act shall be in force from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 30th, 1841.

DAVID G. BURNET.

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 AN ACT

The better to define the Boundaries of the County of Fort Bend.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the first section of "An act creating the county of Fort



Bend," approved December twenty-ninth, one thousand eight hundred and thirty seven, be so amended as to run with the line of Harris county, from the crossing of Buffalo Bayou, to the main road leading from the city of Houston to San Felipe de Austin; thence in a straight line to the upper corner of a league of land granted to A. Roberts, on the east bank of the Brazos river; thence across said river, and down the west bank of the same, to the mouth of Sixteen Mile creek; thence up said creek to its source; thence in a westwardly direction to the northern boundary line of a league of land granted to O'Conner; thence with said line to the San Bernard river; thence down said river to the original line, and with the same as heretofore.

Sec. 2. Be it further enacted, That all laws and parts of laws heretofore passed, defining the boundaries between the counties of Austin and Fort Bend, and contravening the intent and meaning of the first section of this act be, and the same are hereby repealed.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 28th, 1841.

DAVID G. BURNET.

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## AN ACT

To change the Name of certain persons therein mentioned.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the name of Mariah L. Rousseau, be changed to that of Mariah Rousseau Smith, and that the name of Margaret Ann Rousseau, be changed to that of Margaret Rousseau Smith.

Sec. 2. Be it further enacted, That the said Mariah and Margaret, mentioned in the foregoing section, be, and they are hereby declared heirs at law of James Smith of the county of Bastrop, and capable of inheriting his property in the same manner as if they were heirs of his by descent.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 15th, 1841.

DAVID G. BURNET.

## AN ACT

Regulating the time of holding the District Courts of the Seventh Judicial District.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the district courts for the seventh judicial district, shall be holden in the county of Harrison, on the first Mondays in March and September, and may continue two weeks; in the county of Bowie, on the third Mondays in March and September, and may continue two weeks; in the county of Red River, on the fourth Mondays after the first Mondays in March and September, and may continue two weeks; in the county of Lamar, on the seventh Mondays after the first Mondays in March and September, and may continue one week; in the county of Fannin, on the eighth Mondays after the first Mondays in March and September, and may continue until the business is disposed of.

Sec. 2. Be it further enacted, That this act shall be in force from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 18th, 1841.

DAVID G. BURNET.

## AN ACT

To regulate the Granting and Trial of Injunctions, and to empower the Judges of the District Courts to submit issues of fact to a Jury in Chancery cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all petitions for and answers to writs of injunction, shall be upon oath or affirmation; and any injunction may be dissolved at the first term after they were granted, on good cause shown.

Sec. 2. Be it further enacted, That upon the dissolution of any injunction staying an execution of a judgment, the court shall add damages at the rate of ten per cent. to the amount of the judgment: provided, it be satisfied that the injunction was obtained merely for delay.

Sec. 3. Be it further enacted, That upon the dissolution of an injunction upon an interlocutory order of the court, and after such interlocutory order of dissolution, the bill of petition shall be continued over for hearing as an original bill, it shall be the duty of the court before whom such case is pending, to require of the defendant or defendants to such petition or bill of injunction, bond and security, payable to the complainant or complainants, in double the amount of the sum enjoined on the judgment, conditioned to refund the money, interests and costs, to the complainant or complainants, in the event of such injunction being made perpetual on the final hearing.

Sec. 4. Be it further enacted, That the bond and security taken as aforesaid, in the event of said injunction being perpetuated on the final hearing, shall have the force and effect of a judgment, and execution may issue thereon against the principal and security; and the decree making the injunction perpetual, shall be conclusive evidence of a forfeiture of any such bond: and every bond executed for the purpose of obtaining an injunction, shall, on the dissolution of said injunction, have the force and effect of a judgment: and the party or parties whose judgment may have been enjoined, may take out execution against all the obligators in the bond, for the amount of the judgment enjoined, together with interest thereon, and also for the costs incurred by the injunction.

Sec. 5. Be it further enacted, That no injunction commanding the stay of an execution obtained in any court of this republic, except on judgments in actions of detinue, shall be granted for any other or greater sum than what the complainant or complainants shall on oath declare to be just; and not until such complainant or complainants shall have entered into bond, with sufficient security, as before directed, before the clerk of the court whence the injunction issues, for the payment into court of the sum complained of, and all costs upon the dissolution of the injunction.

Sec. 6. Be it further enacted, That no injunction to stay an execution shall issue but within four months after the judgment is obtained, unless it shall appear from the oath of the complainant or complainants, to the judge applied to, that such application has been delayed in consequence of the fraud or false promises of the plaintiff in the judgment practised, or made at the time of, or after obtaining the judgment, or unless it shall appear on oath that the complainant or complainants was or were out of the republic at the time of entering up judgment, so that application could not be made within the time aforesaid.

Sec. 7. Be it further enacted, That on all claims or de-

mands belonging to chancery jurisdiction as understood and practised in England, the judge of the district court before whom such case is pending, besides trying the same according to the principles of equity, may order issues of fact to be made up and submitted to a jury, empaneled for that purpose, for his information and aid in making such decree therein, as shall be just and equitable.

Sec. 8. Be it further enacted, That no writ of quia timet, attachment, or any other original writ or process, whereby the property of any citizen of this republic shall be ordered to be seized or taken into custody, shall be issued by any civil officer of this republic, or by order of any judge of the same, unless the party applying for such writ or process shall first make affidavit in writing of the truth of the matter set forth in his or her petition, and shall file in the clerk's office of the court, where the same is to be sued out and entered, a bond, with good security, in a sum at least double the value of the property to be seized and taken, or of the debts or damage claimed to be due; conditioned to pay all cost and damages which the party against whom such suit or process may be sued out, shall sustain, by reason of the wrongfully and unjustly suing out the same: provided that this section shall not be construed to prevent the issuing of attachments by justices of the peace, under the provisions of any statute authorizing such attachments: and provided also, that it shall not be so construed as to prevent the issuing of any writ or process to compel the attendance of defaulting witnesses or jurors in any court or tribunal to which they may have been legally summoned, or to any writ or process authorized by law in criminal cases.

Sec. 9. Be it further enacted, That the rule adopted by the supreme court, authorizing the granting of a peremptory mandamus upon an ex parte hearing, is contrary to law; and the several judges of this republic, in issuing writs of mandamus, are hereby directed to observe the rules which govern writs of mandamus at common law, as modified by the statutes of this republic; and that all writs of mandamus sued out against the heads of any of the departments or bureaus of the government shall be made returnable before the district court at the seat of government: and any peremptory mandamus granted without notice, shall be deemed and considered as void; and the officer against whom it issues shall not be bound to obey the same.

Sec. 10. Be it further enacted, That it shall not be lawful for the judge of any district court of this republic, to make any decree or order which shall be final in its character, or which shall operate to divest any citizen of this republic of his property

or rights, until such citizen shall have been duly served with process notifying him that an application for such decree or order will be made, and he shall have had an opportunity of appearing in person, or by attorney, and of being heard in opposition to such decree or order.

Sec. 11. Be it further enacted, That any judge of a district court against whom any aggrieved party may wish to institute a suit, or for any other cause when the amount claimed is beyond the jurisdiction of a justice of the peace, may be sued before any district court of this republic, other than the court of the district in which he presides as judge; and all original and misne process sued out in such case, shall be directed by the clerk of the court issuing the same to the sheriff of the county in which such judge resides, and shall be executed by said sheriff, and returned to the office from whence it issued, with the service endorsed thereon, either by mail, or in such other way as the said sheriff shall find most convenient.

Sec. 12. Be it further enacted, That an appeal may be taken from a final decision made by any county court to the district court of the county in which such decision was made; and that an appeal may be taken from the final decision of any district court, to the supreme court of the republic, when the amount in controversy shall be one hundred dollars or upwards.

Sec. 13. Be it further enacted, That causes may be taken up from any inferior to a superior court, by writ of error, as well as by appeal; but no writ of error shall, in any case, issue, except upon the order of the chief justice of the supreme court, or one of the district judges; and no writ of error shall operate as a supersedeas, unless the party suing out the same shall give bond and security as fully as would be required on appeal.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 25th, 1841.

DAVID G. BURNET.

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## AN ACT

For the Relief of certain Free persons of Color.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That William Ashworth, Abner Ashworth, David Ashworth, Aaron Ashworth, Elisha Thomas, and all free persons of color, together

with their families, who were residing in Texas on the day of the declaration of independence, are, and shall be exempt from the operation and provisions of an act of Congress, entitled "An Act concerning Free Persons of Color," approved fifth of February, A. D. one thousand eight hundred and forty; and that the above named persons, with their families, are hereby granted permission to remain in this republic; anything in the laws of the country to the contrary notwithstanding.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

DAVID G. BURNET,  
President of the Senate

Approved December 12th, 1840.

MIRABEAU B. LAMAR.

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### AN ACT

To define in part the boundaries of the county of Washington, and to create the county of Navasoto.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, the Brazos river shall form the eastern boundary of the county of Washington.

Sec. 2. Be it further enacted, That all that territory included within the following limits, to wit; beginning mid-channel of the Brazos river, at the junction of the Navasoto river with the same, and running thence up said Navasoto along the mid-channel of the same to the crossing of the old San Antonio road, or road leading from Nacogdoches to San Antonio; thence westwardly with said road, to a point to be selected on the same due south of the late residence of Leander Harl, deceased; thence on a direct line to the crossing of the Brazos river at or near Tenoxticlan; thence down said river following the mid-channel of the same, to the place of beginning, be, and the same is hereby created a new county to be known and called by the name of Navasoto.

Sec. 3. Be it further enacted, That the said county shall be organized in conformity with "An act organizing the inferior courts, and defining the powers and jurisdictions of the same," except so far as relates to the first election of county officers, which shall be holden on the first Monday in March, one thousand eight hundred and forty one, under the authority and direction

of the Chief Justice of the county of Navasoto, and the county courts of said county shall commence on the second Mondays of January, April, July and October, in each and every year, and may continue in session until the business is disposed of, and that the respective courts of said county shall be holden at the house of J. Furguson, until otherwise directed under the provisions of this act.

Sec. 4. Be it further enacted, That the said county of Navasoto shall be included in and form a part of the third judicial district and the district courts of said county shall commence and be holden on the first Mondays after the fourth Mondays in March and October, and may continue in session one week.

Sec. 5. Be it further enacted, That all suits which have been commenced either in the counties of Washington or Robertson, shall be continued and adjudged in the same manner as though no such new county had been created.

Sec. 6. Be it further enacted, That John Milican, John H. Janes, Mordecai Boon, sen'r., J. Furguson and E. Seals, be, and they are hereby appointed commissioners, to select a suitable site for the location of the seat of justice of said county, and the said commissioners shall have full power and authority, or any three of them, to select said site, and obtain at such selection by donation or otherwise for the use of said county, not less than one hundred nor more than three hundred and twenty acres of land, unless obtained by donation, which selection so made shall be within five miles of the centre of said county as near as can be ascertained, and upon which the seat of justice shall be located.

Sec. 7. Be it further enacted, That it shall be the duty of the county court, at its first session after said selection is made, to appoint five discreet county commissioners, who after giving bond and security such as the court may require and being duly sworn, well and truly to perform the various duties assigned them, immediately to proceed to the taking of titles to the said lands, superintend the surveying or laying out of a town or county site, or out lots, selling the same, taking bonds, making titles, letting out public buildings, and in short performing all such other public duties as should of right be done or performed by said commissioners, under the direction of said court, who shall receive such compensation for their services as the court may direct.

Sec. 8. Be it further enacted, That so soon as the said county commissioners shall have procured a house in the place so selected for the purpose of holding court in, upon information of the same being given to the Chief Justice of said county, he shall require the clerks of the various courts, immediately to re-

move all the records, documents and papers of their respective offices, to the aforesaid selected place, and all succeeding courts, shall be holden at the said selection.

Sec. 9. Be it further enacted, That the county site of the said county of Navasoto, when located, shall be known and called by the name of Boonville.

Sec. 10. Be it further enacted, That from and after the passage of this act the county of Washington, shall be entitled to one representative in congress and no more, and the said county of Navasoto, shall be entitled to one representative, and shall be annexed to and form a part of the senatorial district, composed of the counties of Washington and Montgomery.

Sec. 11. Be it further enacted, That Alexander McDade, Green B. Coleman, Horatio Crisman, James Clements and Thomas P. Shepherd, be, and they are hereby appointed commissioners to locate the county seat or seat of justice of Washington county, who shall select said site within three miles of the geographical centre of said county of Washington, who after being duly qualified as above, the commissioners, county court, Chief Justice, clerks of the respective courts, &c., shall in all respects in relation to the county of Washington, saving and excepting as to distance from the centre of the county be governed by the previous powers and requirements, set forth in sections sixth, seventh and eighth, in relation to the county of Navasoto, and that in all cases relating to the county commissioners of either county a majority of said commissioners shall be competent to perform any and all duties required to be done by them respectively; provided always, that in neither case shall the commissioners appointed by this act, have the power, to obligate their respective counties, to pay more than three dollars per acre for any lands purchased by them under the authority of this act, and the amount so obligated, shall be paid out of the county Treasury of the proper county.

Sec. 12. Be it further enacted, That this law shall take effect from and after the passage of the same.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 30th January, 1841.

DAVID G. BURNET.



JOINT RESOLUTION

To repeal so much of An act entitled "An act compensating officers of the Civil List," passed and approved on the ninth day of December, one thousand eight hundred and thirty-six, as relates to Chief Justice of the Republic.

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the annual salary of the Chief Justice of the Republic of Texas for the next regular term of four years, be three thousand dollars, and no more, any thing in the law to the contrary notwithstanding.

Sec. 2. Be it further resolved, That this act be in force and take effect from its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
DAVID G. BURNET,  
President of the Senate.

Approved 5th December, 1840.

MIRABEAU B. LAMAR.

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AN ACT

To Incorporate the "German Union" for Texas.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That George Fisher, Henry Levenhagen, Theodore Miller, Henry F. Fisher, John Koop, Robert Levenhagen, Charles Gerlach, H. C. Jaeger, Charles Bowman, C. Kesler, H. A. Kuchenthal, Charles Fisher, J. Herman, C. Franke, F. Lemsy, Ullrich Fisher and Gustar Erichon, their associates and successors, be, and they are hereby constituted and declared to be a body politic and corporate by the name and style of "the German Union for Texas."

Sec. 2. Be it further enacted, That the said body corporate, be, and the same is hereby authorized and empowered to sue and be sued, plead and be impleaded, defend and be defended by the aforesaid name and style, to hold real and personal estate to an amount not exceeding ten thousand dollars in value, and to use a common seal with such inscription and devices as it may adopt and at pleasure change.

Sec. 3. Be it further enacted, That the said body corporate, be, and the same is hereby authorized and empowered to form its own by-laws, rules and regulations for its own government, not contrary to the laws and Constitution of this Republic, and to enforce the same against its members.

Sec. 4. Be it further enacted, That this charter may be altered, revised, changed or amended as congress may from time to time deem necessary.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 21st January, 1841.

DAVID G. BURNET.

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## AN ACT

### Granting Land to Emigrants.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That every head of a family who has emigrated to this republic since the first of January, one thousand eight hundred and forty, or who may emigrate before the first of January, one thousand eight hundred and forty-two, with his family, and who is a free white person, shall be entitled to six hundred and forty acres of land: provided, he settle and actually reside on the same for the term of three years, and cultivate an amount of the same not less than ten acres: and further provided, he shall have his land surveyed and plainly marked, so as to include his improvements.

Sec. 2. Be it further enacted, That each single man over the age of seventeen, who has or may emigrate as provided in the first section of this act, shall be entitled to three hundred and twenty acres of land, upon the same conditions and restrictions as the heads of families.

Sec. 3. Be it further enacted, That in no instance shall a patent be issued under the provisions of this act, unless the party produce the official certificate of the chief justice of the county where he may reside, that he, the said applicant, has proven by two respectable and creditable witnesses, that he has resided on the land for which he wishes to receive a patent, and that he has cultivated the quantum of land required by this act, for the term

of three years, and that he has done and performed all the duties required of other citizens; and that he has taken the oath of allegiance to this republic: provided always, the applicant shall be required to make oath or affirmation, that he has complied with the requisitions of this act; which oath or affirmation shall be properly authenticated.

Sec. 4. Be it further enacted, That the President of the republic be, and he is hereby authorized to make a contract with W. S. Peters, Daniel S. Carroll, Alexander McRed, Rowland Gibson, Robert Espie, William H. Oldmixon, Daniel Spillman, Robert Hume, John Salmon, W. Byrne, Henry Richards, Robert D. Stringer, W. C. Peters, John C. Bansamen, John Peters, William Scott, Phineas J. Johnson, H. S. Peters, Timothy Cray, and Samuel Browning, collectively, for the purpose of colonizing and settling a portion of the vacant and unappropriated lands of the republic, on the following conditions, to wit: the said contractors, on their part, agree to introduce a number of families, to be specified in the contract, within three years from the date of the contract: provided however, they shall commence the settlement within one year from the date of said contract.

Sec. 5. Be it further enacted, That the said contract shall be drawn up by the Secretary of State, setting forth such regulations and stipulations as shall not be contrary to the general principles of this law and the Constitution, which contract shall be signed by the President and the party or parties, and attested by the Secretary of State, who will also preserve a copy in his department.

Sec. 6. Be it further enacted, That the president shall designate certain boundaries, to be above the limits of the present settlements, within which the emigrants under the said contract must reside: provided however, that all legal grants and surveys that may have been located within the boundaries so designated previously to the date of said contract, shall be respected; and any locations or surveys made by the contractors or their emigrants on such grants and surveys, shall be null and void.

Sec. 7. Be it further enacted, That not more than one section of six hundred and forty acres of land, to be located in a square, shall be given to any family comprehended in said contract; nor more than three hundred and twenty acres to a single man over the age of seventeen years.

Sec. 8. Be it further enacted, That no individual contract made between any contractor and the families or single persons which he may introduce, for a portion of the land to which respectively they may be entitled, by way of recompense for passage, expense of transportation, removal or otherwise, shall be

binding, if such contract embrace more than one half of the land, which he, she, or they, may be entitled to under this law; nor shall any contract act as a lien on any larger portion of such land: nor shall any emigrant be entitled to any land, or receive a title for such land until such person or persons shall have built a good and comfortable cabin upon it, and shall keep in cultivation, and under good fence, at least fifteen acres on the tract which he may have received.

Sec. 9. Be it further enacted, That all the expenses attending the selection of the land, surveying, title, and other fees, shall be paid by the contractor to the persons respectively authorized to receive them: provided, however, that this provision shall not release the colonist from the obligation of remunerating the contractor in the amount of all such fees, so soon as it can be done, without a sale of their land: and further, the President may donate to every settlement of one hundred families made under the provisions of this act, one section of six hundred and forty acres of land, to aid and assist the settlement in the erection of a building for religious public worship.

Sec. 10. Be it further enacted, That the President may allow the contractors a compensation for their services, and in recompense of their labor and expense attendant on the introduction and settlement of the families introduced by him, ten sections for every hundred families; and in the same ratio of half sections for every hundred single men introduced and settled; it being understood that no fractional number less than one hundred, will be allowed any premium.

Sec. 11. Be it further enacted, That the premium lands must be selected from the vacant lands within the territorial limits defined in the contract: and further, all fees incidental to the issue of patents for lands acquired under the provisions of this law, shall be paid to the Commissioner of the General Land Office, for the use and benefit of the public treasury.

Sec. 12. Be it further enacted, That a failure on the part of the contractors, and a forfeiture of their contract, shall not be prejudicial to the rights of such families and single persons as they may introduce, who shall be entitled to their respective quotas of land, agreeable to the provisions of this law.

Sec. 13. Be it further enacted, That the contractors shall be required to have one-third of the whole number of the families and single persons for which they contract, within the limits of the republic before the expiration of one year from the date of the contract, under the penalty of a forfeiture of the same: and it shall be the duty of the Secretary of State forthwith, after the expiration of such term, and failure on the part of the contractors

to comply with this provision, to publish and declare said forfeiture; unless the President, for good and sufficient reasons, shall extend the term six months, which he can do; and all substitutions of families living within the limits of the republic, by the contractors, shall not entitle them to any premium for such families, nor shall it operate in favor of them, for the number of families which they are bound to introduce. And this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 4th, 1841.

DAVID G. BURNET.

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### JOINT RESOLUTION.

For certain purposes therein named.

Resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Secretary of the Treasury be authorized and required to issue a sufficient amount of the government bonds to the members and officers of the present Congress for services rendered during the year eighteen hundred and forty; and the aforesaid bonds are hereby appropriated.

Sec. 2. Be it further resolved, That this resolution take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved February 6th, 1841.

DAVID G. BURNET.

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### AN ACT

Appropriating Eight Thousand Dollars for purposes therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the sum of eight thousand dollars of the eight per cent.

bonds of the government be, and the same is hereby appropriated to meet the drafts drawn by the Quartermaster of Col. Wm. G. Cooke's command, for supplies furnished the troops now on the frontier, under the command of the said Col. Wm. G. Cooke.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved February 1st, 1841.

DAVID G. BURNET.

### AN ACT

To annex the Port of San Luis to the Collectoral District of the Brazos.

Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the port of San Luis be, and the same is hereby annexed to the district of Brazos, and that the northern boundary of said district, shall be the same as that established for the northern boundary of the county of Brazoria, by an act passed the sixteenth day of December of the fourth session of Congress, and that all laws heretofore passed, which contravene the provisions of this act be, and the same are hereby repealed.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

DAVID G. BURNET,  
President of the Senate.

Approved December 10th, 1840.

MIRABEAU B. LAMAR.

### AN ACT

To organize a part of the County of Houston, for Judicial and other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, all that portion of territory comprised within the following limits, to wit: begin-

ning at the mouth of Caney Creek, where it empties into the river Neches, and continue up said creek to the crossing of the road, from Bennett's Fort to Fort Houston; thence due west to the Trinity river; thence up said river with its meandering, far enough to embrace sufficient territory to form a constitutional county; thence in a parallel line to the Neches river; and down said river to the place of beginning, be, and the same is hereby constituted a separate district or territory, for judicial and other purposes and privileges enjoyed by the inhabitants of the several counties of this republic, except that of separate representation in Congress, which privilege shall be exercised by them as heretofore.

Sec. 2. Be it further enacted, That the above described territory shall be known and styled by the name of "Burnet," and shall be organized in conformity with "An Act Organizing the Inferior Courts, and Defining the Powers and Jurisdiction of the same;" and the county courts shall be holden in the same, on the second Mondays in February, May, August, and November, in each and every year.

Sec. 3. Be it further enacted, That the town of Fort Houston shall be the seat of justice for the said county, until otherwise directed by law; and that the district court shall be held on the second Mondays in February and August, in each and every year, and may continue one week.

Sec. 4. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 30th, 1841.

DAVID G. BURNET.

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#### AN ACT

Relative to the Duties of the Collector of the District of Brazos.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That it shall be lawful for the collector of the district of Brazos to empower an inspector or other subordinate officer of the customs to administer the oath of entry, at Brazoria or Columbia, in said district, to any importer, consignee, or factor of merchandise,

destined, on importation, to be landed at those places: provided always, that an invoice of said merchandise, in the form required by law, has previously been presented to the collector at the custom house of said district, and there undergone the proper examination; and that the amount of duties due on the same has been there duly assessed.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 20th January, 1841.

DAVID G. BURNET.

### JOINT RESOLUTION

For the Relief of Persons who failed to give in a List of their Taxable Property to the County Assessor.

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all persons who have failed to give in a list of their taxable property to the county assessors for the year eighteen hundred and forty, be, and they are hereby exempted from double taxation: provided, the party so exempted, pay, or cause to be paid, into the hands of the proper officer, before the first day of June next, the amount of his taxes, as prescribed by an act approved January sixteenth, eighteen hundred and forty; this is to say, one half of one per cent. on the amount of property to be assessed.

Sec. 2. Be it further resolved, That this act take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January, 25th, 1841.

DAVID G. BURNET..



AN ACT

To Divide the County of Red River, and to Create and Establish the Counties of Bowie and Lamar.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, the territory now included in the county of Red River, and known as Red River county, shall be divided into three separate and distinct counties, with one representative in the Congress of the Republic of Texas, from each, and no more.

Sec. 2. Be it further enacted, That all the territory comprehended within the following limits, beginning on Red River at Hugh B. Shaw's Ferry; running from thence due south to the southern boundary line of Red River county; thence east with said line to the boundary line between the United States and Texas; thence with said line, north, to Red River; and up said river with its meanders, to the place of beginning, be, and the same is hereby taken from the county of Red River, and created a new county, to be called the "County of Bowie."

Sec. 3. Be it further enacted, That all the territory comprehended within the following limits, beginning at the mouth of Upper Pine Creek, above the pine hills on Red River; thence due south to Big Cypress; thence up said stream to its source; thence due west to Fannin county line; thence with that line to Red River; thence down Red River with its meanders, to the place of beginning, be, and the same is hereby taken from the county of Red River, and created a new county, to be called by the name of "Lamar."

Sec. 4. Be it further enacted, That all the balance of the territory of Red River county, not included within the boundaries of the counties designated and described above, shall still belong to Red River county, and continue to be called by the name of "Red River County," and remain as at present organized: but said county shall hereafter have but one representative in the congress of the republic of Texas; and the counties of Bowie and Lamar shall each be entitled to elect and send one representative.

Sec. 5. Be it further enacted, That the senatorial district now composed of the counties of Red River and Fannin, shall hereafter include the counties of Bowie, Lamar, Red River, and Fannin; but the territorial limits of the said district shall remain unchanged.

Sec. 6. Be it further enacted, That the chief justice of the counties of Bowie and Lamar, shall order an election in their respective counties, on the first Thursday in June, one thousand eight hundred and forty-one, for the permanent location of the seat of justice of said counties; the said seats of justice to be within five miles of the centre of territory embraced in said counties, lying between Red River and the Sulphur Fork; and the places having the highest number of votes, shall be the permanent seat of justice. Until the said election shall take place, the courts for the county of Bowie be held at the town of De Kalb; and for the county of Lamar, at the house of George W. Wright.

Sec. 7. Be it further enacted, That the counties of Bowie and Lamar shall be organized in conformity with "An Act Organizing the Inferior Courts, and Defining the Powers and Jurisdiction of the same;" and the county courts of Bowie county shall commence and be holden on the first Mondays of January, April, July and October, in each year; and the county courts of Lamar county shall commence and be holden on the fourth Mondays of January, April, July and October, in each year; and each term of the said courts may continue until the business before it is disposed of: provided, that no term shall continue for a longer time than two weeks.

Sec. 8. Be it further enacted, That the election for all the different county officers in the counties created by this act, shall be holden on the first Monday in February in the year of our Lord one thousand eight hundred and forty-one; and until chief justices are elected and duly qualified in said counties, the chief justice of the county of Red River shall perform all the duties of said office in the said counties.

Sec. 9. Be it further enacted, That all civil suits which have been instituted in the county of Red River, when the defendants reside within the limits of either of the two new counties created by this act, shall be transferred to the counties respectively, in which the defendant has his residence, and be completed in the same manner as if continued in the county of Red River: and it shall be the duty of the clerk of the district court of Red River county, as soon as the counties of Bowie and Lamar are organized, to transmit to them respectively, all the papers of every description, which, by the foregoing provisions of this section, belong to the cases transferred.

Sec. 10. Be it further enacted, That Frederick Zeidacum be, and he is hereby appointed to run and mark the boundary line between the counties of Red River and Bowie, from Red River to the Sulphur Fork for which he shall receive five dol-

lars in Texas promissory notes, per mile; one-third of which to be paid by the county of Red River, the balance by the county of Bowie.

Sec. 11. Be it further enacted, That Allen Urquehart be, and he is hereby appointed to run and mark the boundary line between the counties of Red River and Lamar, from Red River to the Sulphur Fork; for which he shall receive five dollars in Texas promissory notes, per mile; one-third of which shall be paid by the county of Red River, the balance by the county of Lamar.

Sec. 12. Be it further enacted, That the public debt due from the county of Red River, heretofore contracted for the benefit of said county, shall be paid equally by the said county of Red River and the new counties created by this act.

Sec. 13. Be it further enacted, That this act shall go into effect from and after the passage thereof.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved December 17th, 1840.

DAVID G. BURNET.

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### AN ACT

For the Benefit of Settlers residing near the Boundary Line of the United States, in the Counties of Red River and Harrison.

Whereas, citizens residing near the line of the United States, and north of the Sabine River, by the laws and treaties heretofore existing, have been prevented from proving their emigration to this republic, and have consequently been unable to procure from the proper authorities, an order of survey for the amount of said land, which they are entitled to under the laws granting lands to emigrants; and whereas, it is now understood, that the line between this government and the United States, is about to be run, therefore,

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That so soon as said line shall be run and marked by the commissioners on the part of the two governments, it shall, and may be lawful for any settler residing near the boundary line, wishing a certificate of headright or any order of survey, to make ap-

plication to the district court, setting forth the time of his or her emigration, and place of his or her residence, which, together with the proof necessary to procure such certificates, shall be submitted to a jury of good and lawful men, who shall determine the fact whether such applicant is entitled to a certificate, and it shall be the duty of the district judge, when the jury shall find in favor of the applicant, to issue to him an order of survey, such as was issued under former boards of land commissioners; provided, the applicant shall take the same oath, and make the same proof as has heretofore been required in like cases.

Sec. 2. Be it further enacted, That any person entitled to lands under the provisions of this act, who shall be an actual settler and occupant of the soil, shall be entitled in the location of his land to include his improvement; provided, that the said location, shall not interfere with any grant or survey legally made or obtained previous to such settlement; and provided, that nothing herein contained, shall prejudice the right of any person holding in his possession, a good and genuine certificate or order of survey.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved January 20th, 1841.

DAVID G. BURNET.

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## AN ACT

To Incorporate the Franklin Association, in the City of Houston.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the present share-holders in said association, together with such others as may be by them admitted hereafter, be, and they are hereby created and made a corporation and body politic, with twenty-five years succession, and shall hereafter be known by the name and style of "Franklin Association;" and shall be capable, in their corporate capacity, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, to answer and be answered, defend and be defended,

in any court of competent jurisdiction in this republic, and pass, ordain, establish, and enforce such by-laws, ordinances and regulations as said association shall from time to time deem necessary and expedient, for their government: provided, they are not incompatible with the Constitution and laws of this republic.

Sec. 2. Be it further enacted, That the said association is hereby made capable to receive donations, and shall apply them to the express purpose intended by the donor or donors, and shall be capable of holding estate either real or personal, at their own disposal.

Sec. 3. Be it further enacted, That the members of said association shall meet at their library room or some other house contiguous, annually, on the third Tuesday of January, for the purpose of transacting such business as may come before them, and to elect officers: they shall choose a chairman and clerk to preside at the same, and shall then proceed to elect by ballot, not more than seven nor less than three trustees, one treasurer, one librarian, and such other officers as they may deem necessary, who shall severally be sworn to be true to their trust while they continue in office, and shall serve for one year, and until their successors be chosen and qualified: a majority of the trustees shall have power to enforce all by-laws, ordinances, and regulations, and to transact all business appertaining to said association, and to fill all vacancies which may occur by death, resignation, or otherwise: they shall have a common seal, which they may alter and renew at pleasure.

Sec. 4. Be it further enacted, That all by-laws, ordinances and regulations, shall be passed at the annual meetings by a majority of votes of the members present; provided, that absent members shall be allowed to vote by proxy.

Sec. 5. Be it further enacted, That as a further inducement to persons of liberality, willing to promote the objects of the association, each member shall be entitled to and vote for each share he may possess.

Sec. 6. Be it further enacted, That the said association at their annual meetings, may increase or diminish the number and price of shares; but until the first annual meeting, the price of shares shall be ten dollars, and so soon as fifty shares are subscribed for and paid in, the association may proceed to the election of officers.

Sec. 7. Be it further enacted, That N. W. Travis, Henry R. Hardy, and C. W. Buckley, are hereby appointed Trustees to receive subscriptions, and to grant evidences of membership, until said fifty shares are taken and no longer, unless they are elected to said offices by the share-holders.

Sec. 8. Be it further enacted, That this act shall be in force from and after the passage thereof.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 21st, 1841.

DAVID G. BURNET.

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### AN ACT

The better to define the Boundary Line between the Counties of Matagorda and Victoria.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That hereafter the boundary line between the counties of Matagorda and Victoria, shall be as follows: commencing one league in the Gulf, thence in a direct line to the Pass Cavallo, with the main channel of the same: thence to the main channel of La Vaca Bay, to the western boundary of Matagorda county.

Sec. 2. Be it further enacted, That this act shall be in force from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved 25th January, 1841.

DAVID G. BURNET,

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### AN ACT

To Amend "An Act Organizing Justices' Courts, and Defining the Powers and Jurisdiction of the same."

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That no road shall be surveyed or laid out upon or across any farm, lot or enclosure, without first obtaining the written consent of the owner or owners of the same.

Sec. 2. Be it further enacted, That if such written consent should be refused, it shall then be the duty of the county or commissioners' court to appoint five disinterested free-hold citizens of the county, as commissioners, to review and report upon the same.

Sec. 3. Be it further enacted, That if, in the judgment of the court, from the report of the commissioners as aforesaid, the said road should be of sufficient importance, they may order the survey of the same: provided, that the owner or owners of said farm or enclosure, shall be fully compensated for the damages done by the surveying or laying out of said road.

Sec. 4. Be it further enacted, That the damages contemplated by this act shall be assessed by three disinterested citizens, to be appointed by the county court of the proper county; and the damages thus assessed, to be paid by the county interested in the same.

Sec. 5. Be it further enacted, That the county courts throughout this republic shall require the owner or owners of the ferries established in their respective counties, to give bond with good and sufficient security, in the sum of one thousand dollars, payable to the judge of the county court of the county where such ferry is established, and to his successors in office, conditioned that the person or persons giving such bond, shall keep the banks on each side of the water course, in good repair, and that the slope, or amount of rise from the water's edge of such banks, shall not exceed two feet for each rod: and if any ferryman, or the owner of any ferry, shall not comply with the conditions above mentioned, he shall forfeit and pay to the county treasurer of the county, ten dollars a day for each day that he shall so neglect to keep the said banks in repair: said money to be applied to the use of the county.

Sec. 6. Be it further enacted, That whenever any person or persons shall alter or change any public road by permission of the county court of the county, he or they shall be required to keep up for three successive months, at the point where such road is altered or changed, a sign-board, containing directions relative to the change so made: and any person neglecting to keep up a sufficient sign-board, as above directed, shall forfeit and pay ten dollars for each month that the sign-board is so neglected.

Sec. 7. Be it further enacted, That it shall be the duty of the chief justice of the county courts of the several counties of this republic, to erect and keep up at the crossing of all public roads in their respective counties, good and sufficient sign-boards,

containing written directions relative to the towns or villages with which such roads communicate.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved January 19th, 1841.

DAVID G. BURNET.

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### JOINT RESOLUTION

To provide for the better Collection of Monies due from Delinquent Agents and Officers of the Government.

Sec. 1. Be it resolved by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the Secretary of the Treasury be, and he is hereby authorized and instructed to cause suits to be instituted against any government agents, collectors of customs, sheriffs, or any other person or persons who may have received public monies, and are indebted to the government for the same.

Sec. 2. Be it further resolved, That every agent or collector, or any person or persons who have received public monies, refusing or neglecting to pay over the same to the secretary of the treasury, after being duly notified, shall be guilty of a high misdemeanor, and on conviction thereof, shall, at the discretion of the court, be fined in a sum not exceeding two thousand dollars, nor less than five hundred dollars, or shall be imprisoned for a term not less than six months, nor more than one year.

Sec. 3. Be it further resolved, That the secretary of the treasury shall instruct the district attorneys of the republic to commence suits against such delinquent or delinquents, as may reside in their respective districts; and shall furnish said attorneys with such evidence of indebtedness as may be in possession of his department, for the purpose of prosecuting such suits.

Sec. 4. Be it further resolved, That the district attorneys shall give bond and security in the sum of ten thousand dollars, to be approved by the district judges of their respective districts, for the prompt payment to the treasurer, of such sums of money as they may collect under the provisions of this act.

Sec. 5. Be it further resolved, That whenever any judgment may be obtained against delinquents to government, execution shall issue against said delinquents and their securities;



and that the property of said delinquent and securities shall be sold for what it shall bring at the first exposure thereof for sale: provided, there be a public notice of said sale in some public gazette, for at least sixty days previous to said exposure; any law to the contrary notwithstanding.

Sec. 6. Be it further resolved, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved January 14th, 1841.

DAVID G. BURNET.

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AN ACT

To abolish certain Offices therein named, and to fix the Military and Naval establishments of the Republic.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the office of Secretary of the Navy, be, and the same is hereby abolished, and the duties heretofore devolving upon the Secretary of the Navy, shall hereafter be performed by the Secretary of War, who is hereby authorized and required, to attach to the War department, a bureau, to be styled the Naval Bureau, and shall appoint a clerk for the same, and it shall be the duty of the present Secretary of the Navy, to deliver to the Secretary of War all books, documents and papers belonging to the Navy department.

Sec. 2. Be it further enacted, That the office of Postmaster General, be, and the same is hereby abolished, and the Secretary of State is hereby authorized and required to attach to the State department, a Bureau, to be styled the "General Post Office," and a clerk appointed by the Secretary of State, shall hereafter perform all the duties of that office, under the superintendence of the Secretary of State; and it shall be the duty of the Postmaster General to deliver to the Secretary of State, all books, documents and papers belonging to the said office.

Sec. 3. Be it further enacted, That the office of Stock Commissioner, be, and the same is hereby abolished, and the Secretary of the Treasury is hereby authorized and required to attach to the Treasury department, a Bureau, to be styled the Stock Office,

and a clerk appointed by the Secretary of the Treasury, shall perform all the duties of that office, and it shall be the duty of the present Stock Commissioner to deliver to the Secretary of the Treasury all the books, documents and papers belonging to that office.

Sec. 4. Be it further enacted, That the office of Second Auditor, be, and the same is hereby abolished, and all the duties heretofore devolving upon the Second Auditor, shall be performed by the First Auditor, who shall be styled, Auditor; and it shall be the duty of the Second Auditor to deliver to the First Auditor, all books, documents and papers belonging to that office.

Sec. 5. Be it further enacted, That the Commissioner of Revenue shall perform the duties of such office without the assistance of any clerk, unless it be for two months in each year, which said two months shall commence one month previous to the meeting of each annual congress, and continue for one month after such meeting of congress, during which time of two months, said Commissioner of Revenue may employ one chief clerk, who shall receive the same pay as chief clerks in the other departments of government.

Sec. 6. Be it further enacted, That the office of Colonel of Ordnance, be, and the same is hereby abolished, and the duties heretofore devolving upon that officer, shall be performed by an Armorer, with such assistance as may be necessary, under the direction of the Secretary of War.

Sec. 7. Be it further enacted, That the offices of Quartermaster General, Commissary General of Subsistence, Surgeon General, Adjutant and Inspector General, be, and the same are hereby abolished, and the duties heretofore performed by these several officers, shall be performed by the Secretary of War, who is authorized to employ two additional clerks.

Sec. 8. Be it further enacted, That the President be, and he is hereby required to reduce the number of officers in the Regular Army, to a number proportioned to the number of privates, and that all further recruiting be discontinued until a further action of congress.

Sec. 9. Be it further enacted, That the Naval establishment of this Republic shall be composed of one captain, one master commander, eight lieutenants, ten midshipmen, with such other warrant and petty officers, as may be necessary for the establishment upon the scale provided for by this act, with sixty seamen and marines, and one lieutenant of marines, one surgeon, one assistant surgeon and two pursers.

Sec. 10. Be it further enacted, That the offices of navy agent and naval store keeper, be, and the same is hereby abolished,

and the captain, who shall be commander in chief, shall have sole charge of the naval station at Galveston, including all the vessels, who shall be held accountable for the safe keeping of all the public property; he shall make all the purchases, and attend to all the duties heretofore performed by the navy agent and store keeper, and be subject to all the regulations and laws governing disbursing officers.

Sec. 11. Be it further enacted, That as soon after the arrival in port as may be practicable, the Texas Navy be laid up in ordinary, only excepting one schooner for active service and one ship for harbour service, but should the enemy invade our territory, or an armed Mexican vessel be found cruising on our coast, the President may employ in actual service any number of officers and seamen, that he may deem necessary for the public security.

Sec. 12. Be it further enacted, That this act shall take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved 18th January, 1841.

DAVID G. BURNET.

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## AN ACT

Making Appropriations for the support of Government, for the year one thousand eight hundred and forty-one.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the following sums, be, and they are hereby appropriated for the service of the year, one thousand eight hundred and forty-one, to wit:—

For the salary of the President of the Republic, ten thousand dollars.

For salary of the Vice President of the Republic, three thousand dollars.

For salary of secretary of State, three thousand five hundred dollars.

Of the secretary of the Treasury, three thousand five hundred dollars.

Of the secretary of War, three thousand five hundred dollars.

Of the Attorney General, three thousand dollars.

Of the Treasurer, two thousand five hundred dollars.

Of the Auditor, two thousand five hundred dollars.

For the Comptroller, two thousand five hundred dollars.

Of the Commissioner of the General Land Office, three thousand dollars.

Of the Commissioner of Revenue, two thousand five hundred dollars.

Charge d'Affaires, secretaries of Legation, Agent, &c., fourteen thousand dollars.

Of the President's private secretary, two thousand five hundred dollars.

Of the chief and two assistant clerks in the Treasury department, six thousand nine hundred dollars.

Of the chief and two assistant clerks in the State department, including extra clerk hire, eight thousand dollars.

Of chief and four assistant clerks in the War department, eleven thousand three hundred dollars.

Of chief and four assistant clerks in the General Land Office, eleven thousand three hundred dollars.

Of chief and two assistant clerks in the Auditor's Office, six thousand nine hundred dollars.

Of Chief and one assistant clerk in the Comptroller's office, four thousand seven hundred dollars.

Of chief clerk in the Treasurer's office, two thousand five hundred dollars.

For pay of heads of Bureaus and clerks not herein provided for, three thousand dollars.

For contingent expenses of the State department, one thousand five hundred dollars.

For contingent expenses of the War department, two thousand five hundred dollars.

For contingent expenses of the Treasury department, fifteen hundred dollars.

Of the Attorney General's office, five hundred dollars.

Of the General Land Office, including expenses for sketches and other data to be furnished by county surveyors, surveying land scrip, and running county lines; for county maps, including the maps furnished in the year 1840; for the purchase of blanks, patents and other expenses of the land office, thirty thousand dollars.

For contingent expenses of the Supreme Court, for the purchase of books of record, fuel, stationery, house rent, fifteen hundred dollars.

Of the Auditor's office, one thousand dollars.

Of the Comptroller's office, one thousand dollars.

Of the Treasurer's office, one thousand dollars.

Of the Commissioner of Revenue's office, one thousand dollars.

Of the Paymaster General's office, five hundred dollars.

Of Foreign Legation and Agents, fifteen hundred dollars.

For the Executive contingent fund, ten thousand dollars, for the disbursement of which the President shall take vouchers and hold them subject to the call of either house of congress.

For the salary of Chief Justice of the Republic, three thousand dollars.

For the salary of seven District Judges, at three thousand dollars each, twenty one thousand dollars.

For Sheriff's fees, fifteen thousand dollars.

Assessors and Collectors of Taxes, fifteen thousand dollars.

For fees of Clerk of the Supreme Court, one thousand dollars.

For fees of the District Courts, five thousand dollars.

For Justices fees, five hundred dollars.

For pay and mileage of witnesses, one thousand dollars.

For pay to the Members of the House of Representatives, thirty eight thousand four hundred dollars.

For contingent expenses and printing for the House of Representatives, six thousand dollars.

For pay to the Members of the Senate, thirteen thousand four hundred dollars.

For contingent expenses and printing for the Senate, four thousand dollars.

For mileage to forty members of the House of Representatives, at the rate of eight dollars for every twenty-five miles, ten thousand dollars.

For mileage at the same rate to fourteen Senators, three thousand five hundred dollars.

For salary of Chief Clerk of the House of Representatives, twenty-five hundred dollars.

For pay to the Clerks, Seargents-at-Arms, and Door Keepers of the Senate and House of Representatives, eight thousand dollars.

For printing the laws of the fifth congress, fifteen thousand dollars.

For expenses already incurred in printing the laws of the fourth congress, thirty-three hundred and eighty dollars.

For printing the journals of the fifth congress ten thousand dollars.

For extra printing, such as advertisements and proclamations, &c., one thousand dollars.

For translating and printing the laws in the Spanish language, ten thousand dollars.

For pay of seamen, officers and marines of the navy, including pay due for the year 1840, fifty thousand dollars.

For provisions, stores, clothing for the navy, including the amounts due for the year 1840, fifty thousand dollars.

For paying the Engineer for running the military road to Red River, five thousand dollars.

For the payment of Spies and Volunteers for frontier service under the acts of the present congress, to provide for frontier defence, seventy-five thousand dollars.

For the payment of pensions and annuities, five thousand dollars.

For expenses heretofore incurred, for stationery, engraving promissory notes, stock certificates, government bonds, &c., eleven thousand dollars.

For draft for medicines for the Texian Army accepted by the secretary of the Treasury, 30th of April, 1838, one thousand six hundred dollars.

Sec. 2. Be it further enacted, That the several sums herein enumerated, be, and they are hereby appropriated for the service of the government for the year 1841.

Sec. 3. Be it further enacted, That the secretary of the treasury, be, and he is hereby authorized and required to issue a sufficient amount of the promissory notes and eight per cent. Bonds of the government to meet the foregoing appropriations made by the present congress; provided, that no eight per cent. Bonds shall be issued after the first of March, 1841.

Sec. 4. Be it further enacted, That the secretary of the treasury, be, and he is hereby authorized and required to cancel or have cancelled and balance the unexpended balances of all appropriations that were made previous to the present session of congress, and no money shall be drawn from the treasury, based on any appropriation except that and those made by this congress.

Sec. 5. Be it further enacted, That the sum of twenty thousand dollars in the promissory notes or government bonds, be, and the same are hereby appropriated for the payment of supplies and services rendered in or for the army or supplies furnished in the years 1838, 1839 and 1840; provided, said accounts shall be duly authenticated.

Sec. 6. Be it further enacted, That the appropriations above specified in this bill are intended to be made in the promises of the government, except the appropriation of fifteen thousand five hundred dollars for the payment of Foreign Agents, and the contingent expenses attending the same, and if there is, or should be hereafter any other money in the Treasury of this Republic, than the promises of the government, it shall be held

subject to the disposition of congress; excepting always, the amount of fifteen thousand five hundred dollars above specified in this section.

Sec. 7. Be it further enacted, That the secretary of the treasury, be, and he is hereby authorized and required to pay to each one of the Judges of the Supreme and District Courts, the sum of one thousand dollars out of the first gold or silver, or par funds that may come into the Treasury, as a part of their annual salaries.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved February 5th, 1841.

DAVID G. BURNET.

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### JOINT RESOLUTION

For the relief of Persons who have failed to give in a list of their Taxable property to the County Assessor.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That all persons who have failed to give in a list of their taxable property to the county Assessors for the year eighteen hundred and forty, be, and they are hereby exempted from double taxation; provided, the party so exempted, pay or cause to be paid, into the hands of the proper officer before the first day of June next, the amount of his taxes, as prescribed by an act, approved January the sixteenth, one thousand eight hundred and forty, that is to say, one half of one per cent. on the amount of property to be assessed.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.  
ANSON JONES,  
President pro tem. of the Senate.

Approved February 4th, 1841.

DAVID G. BURNET.

## AN ACT

Supplementary to "An act to raise a public revenue by Impost Duties, approved fifth of February, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That the following duties shall be collected upon all imposts into the Republic, to wit:—upon all articles on which a specific duty is laid, there shall be levied and collected a duty double that now fixed by law, and the ad valorem duties of ten or fifteen per cent. as fixed by the act to which this is a supplement, shall be raised to forty-five per cent., except sugar, coffee, salt, iron and steel, which shall remain as heretofore.

Sec. 2. Be it further enacted, That this act shall go into effect from and after the first of April next.

DAVID S. KAUFMAN,

Speaker of the House of Representatives.

ANSON JONES,

President pro tem. of the Senate.

Approved February 5th, 1841.

DAVID G. BURNET.

## AN ACT

To amend an act entitled "An Act to raise a public Revenue by Direct Taxation," approved January sixteenth, one thousand eight hundred and forty.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, it shall be the duty of the sheriff of each county of this republic, on receiving the list provided for in the tenth section of "An Act to raise a Revenue by Direct taxation," approved the sixteenth of January, one thousand eight hundred and forty, to advertise at three or more public places in each captain's beat, that the tax due from the citizens of the county will be received at the precincts of said beats on two particular days to be mentioned: notice to be given at least ten days preceding: at which time and place he shall attend and remain for that purpose.



Sec. 2. Be it further enacted, That any citizen holding land or other property for himself, as agent, attorney, or administrator, in any other county than that in which he or she may reside, shall deliver to the assessor of the county in which they reside, a separate list of said land, and property, upon oath; a copy of which shall be forwarded to the clerk of the county court in which said land and property are situated, and shall pay the tax upon such land and property in the county where they reside: provided, that in all cases they shall pay tax for county purposes upon such land and property, and that the sheriff so receiving, shall pay over the same to the secretary of the treasury of this republic, to be paid over by that department to the sheriff of the county where the lands upon which such tax was paid, may be situated.

Sec. 3. Be it further enacted, That there shall be collected upon the land and property mentioned in the foregoing section an uniform tax for county purposes, which shall be laid at the highest rate the law allows.

Sec. 4. Be it further enacted, That every person owning land or other property in any other county than the one in which they reside, shall give in the same to the assessor of the county in which they reside, which shall be forwarded as provided for in the second section of this act.

Sec. 5. Be it further enacted, That that portion of the act to which this is a supplement, which requires the county surveyor and county recorder to make out and deliver to the assessor of the several counties, an abstract of land titles and field notes recorded in their respective offices, be and the same is hereby repealed.

Sec. 6. Be it further enacted, That no tax shall be levied or collected in any county on any pedler or vender of any goods, wares, or merchandise of any description whatsoever: provided the same be of the growth or manufacture of this republic.

Sec. 7. Be it further enacted, That in no instance shall the county tax exceed one-fourth of the tax paid to the republic.

Sec. 8. Be it further enacted, That after the passage of this act, only four horses, or four mules, be exempted from the provisions of the act to which this is a supplement.

Sec. 9. Be it further enacted, That it shall be the duty of the commissioner of revenue to transmit by the first of March, in each and every year, or as soon thereafter as practicable to the assessor for that year, and of the proper county, a certificate, where such is the fact, that there has been no assessment made in said county the year previous, nor taxes collected; upon the receipt of which, it shall be the duty of said assessor to proceed

to assess a tax for the year previous, as well as the year in which the assessment is made, and the sheriff shall collect the same.

Sec. 10. Be it further enacted, That should the Commissioners of Roads and Revenue for any reason fail to appoint an assessor for their county, by the first Monday in March of each year, it shall be the duty of the chief justice of the county to make the appointment within the time prescribed by the act to which this is a supplement: and should the chief justice of the county be unable to procure any individual to accept of the appointment of assessor, he shall offer said appointment to the clerk of the county court of said county, who is hereby required to accept of said appointment, and discharge the duties pertaining thereto; and on his failure to do so, he shall, on conviction thereof before the district court, be fined in a sum of not more than five thousand dollars, at the discretion of the court—be dismissed from office, and be forever thereafter incapable of holding any office of honor, profit, or trust, in this government.

Sec. 11. Be it further enacted, That any clerk, sheriff, assessor, coroner, or any other officer, who may resign his office for the purpose of evading a discharge of their duties, or who may neglect to discharge the same, shall be subject to indictment for a high misdemeanor, and on conviction thereof, shall be fined in a sum of not less than five thousand dollars, at the discretion of the court, and be dismissed from office.

Sec. 12. Be it further enacted, That no individual over the age of forty-five years shall be compelled to pay poll tax.

Sec. 13. Be it further enacted, That no corporation taxes shall exceed the amount of taxes raised for county purposes, and both shall be collected in the same currency as the general taxes.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

DAVID S. KAUFMAN,  
Speaker of the House of Representatives.

ANSON JONES,  
President pro tem. of the Senate.

Approved February 4th, 1841.

DAVID G. BURNET.

AN ACT

To complete the Organization of the Militia.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas, in Congress assembled, That from and after the passage of this act, the Major-General, Brigadier-Generals, and Colonels of militia, be, and they are hereby authorized to appoint the necessary staff officers appertaining to their respective grades, in accordance with law.

Sec. 2. Be it further enacted, That in all cases where the militia of any beat shall fail or refuse, upon due notice being given to hold elections for company officers, that commanding officers of regiments be, and they are hereby authorized and required to appoint the same.

Sec. 3. Be it further enacted, That the commandants of regiments be required immediately to complete the organization of their regiments, and to have made out duplicate muster rolls of companies, and consolidated regimental returns; one copy of each to be forwarded to their respective brigadiers, and one to the Secretary of War, at the seat of government.

Sec. 4. Be it further enacted, That all those portions of the counties of Brazoria, Fort Bend, Austin, and Washington, east of the Brazos, be, and they are hereby attached to the first brigade; and all militia officers elected therein, shall immediately report to the proper officers of that brigade.

Sec. 5. Be it further enacted, That the county of Liberty be, and is hereby attached to the second brigade.

Sec. 6. Be it further enacted, That the Brigadier-Generals be, and they are hereby authorized to make such alterations in the regimental boundaries, from time to time, as the increase or diminution of the population may require; and that they may when they deem the public interest may require it, create new regiments, and designate the boundaries.

Sec. 7. Be it further enacted, That the commandants of regiments be, and they are hereby authorized and required to make such alterations in the boundaries of company beats, as the increase or diminution of the population may require; and that they may, when a proper organization may make it expedient, create new beats, and designate the boundaries thereof.

Sec. 8. Be it further enacted, That all officers who may have been properly elected, or appointed, or who shall hereafter be appointed or elected, shall, by this act, have the same authority as officers, as though they had received their commission in due form.