

L A W S

PASSED BY

THE FIRST LEGISLATURE

OF

THE STATE OF TEXAS

PUBLISHED BY AUTHORITY.

AUSTIN.
1846

L A W S

OF

THE STATE OF TEXAS.

AN ACT

To provide for the election of Representatives to the Congress of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the limits of the following named counties, shall compose the first Congressional District of the State of Texas, until otherwise provided by law; and shall elect one Representative to the Congress of the United States, to wit: The counties of Fannin, Lamar, Red River, Bowie, Harrison, Shelby, Jefferson, Jasper, Rusk, Sabine, San Augustine, Liberty, Houston and Nacogdoches. First Congressional district.

Sec. 2. Be it further enacted, That all the territory comprised within the limits of the following named counties, shall compose the second Congressional District of the State of Texas, until otherwise provided by law; and shall elect one Representative to the Congress of the United States, to wit: The counties of Robertson, Brazos, Montgomery, Harris, Galveston, Brazoria, Fort Bend, Matagorda, Jackson, Victoria, Austin, Colorado, Fayette, Gonzales, Travis, Bastrop, Washington, Bexar, Goliad, Refugio, San Patricio and Milam. Second Congressional district.

Sec. 3. Be it further enacted, That immediately after the passage of this act, it shall be the duty of Elections ordered.

the Governor to issue his proclamation directed to the Chief Justices, or Sheriffs, should there be no Chief Justices, of the several counties in the first and second Congressional Districts aforesaid, requiring them to hold elections at the established precincts in their counties for a Representative from their respective districts to the twenty-ninth Congress of the United States, and said election shall be holden in each Congressional District on Monday, being the thirtieth day of March, 1846; and shall be conducted in conformity with the Constitution of the State, and the existing laws regulating elections.

Election re-
turns trans-
mitted.

Sec. 4. Be it further enacted, That it shall be the duty of the Chief Justices of the several counties, or in case of vacancy in their offices, of the Associate Justices, promptly to make duplicate sealed returns of the elections, one of which, shall be transmitted to the office of the Secretary of State, endorsed "Election returns of _____ county, for Representative to the Congress of the United States," and the other deposited in the Clerk's office of the County Court.

Election re-
turns opened.

Sec. 5. Be it further enacted, That on the twenty-third day of April, 1846, it shall be the duty of the Secretary of State, in the presence of the Governor and Attorney General, to open and count the returns for Representatives to Congress, received at the Secretary of State's office; and the Governor shall deliver a certificate of election to the person receiving, according to the returns, the highest number of votes in each district; provided, however, that if before the said 23rd day of April, the returns from all the counties in each Congressional District be received, then the votes may be counted and the certificates of election delivered as herein provided.

Failure of
election.

Sec. 6. Be it further enacted, That if from any cause the Chief Justices of counties, or their Associates, should fail to cause to be holden the elections herein provided for; the people of the precinct where such failure exists, are hereby authorized to choose managers, judges, and other officers to con-

duct said elections according to law, and make returns of the same.

Sec. 7. Be it further enacted, That if a vacancy should occur in the office of Representative to the Congress of the United States by death, resignation, or otherwise, it shall be the duty of the Governor to issue his proclamation at an early day, ordering an election to fill the vacancy.

Sec. 8. Be it further enacted, That the election of Representatives to Congress, after the first election and until the next apportionment, shall be held at the same time and places that the biennial elections for members to the Legislature are held; and that this act take effect from and after its passage.

Approved, February 28th, 1846.

AN ACT

To provide an appropriation for the payment of the mileage and per diem pay of the members of the Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars be, and the same is hereby appropriated for the payment of the mileage and per diem pay of the members of the Legislature of the State of Texas; also, for the payment of the per diem pay of the officers attendant thereon.

Sec. 2. Be it further enacted, That the Treasurer be, and he is hereby authorized and required to pay all drafts which shall be drawn by the Speaker of the House of Representatives, attested by the Chief Clerk of said House, and all drafts which may be drawn by the President of the Senate, attested by the Secretary of the same, for the payment of the mileage and per diem pay of the members of each House of said Legislature, and the per diem pay of the officers attendant thereon, out of any monies in the Treasury appropriated by this

act; and that this act take effect from and after its passage.

Approved, March 13th, 1846.

AN ACT

To postpone the holding of the District Courts in the several Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the regular terms of the District Courts be, and they are hereby postponed until further provided by law.

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

Approved March 14th, 1846.

AN ACT

Better to define the boundary of Fannin County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the county of Fannin be, and the same is hereby bounded as follows, to wit: Beginning on Red River at the mouth of Bois D'Arc Creek; thence up the same to the crossing thereof, at the late residence of Carter Clift deceased; thence south with the line established by John D. Black, County Surveyor of Fannin county, to the south-west corner of Lamar county; thence south eighty degrees west, to a point due south of the mouth of Choctaw Bayou; thence north to Red River at the mouth of said Bayou; thence, down Red River to the beginning.

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

Approved March 14th, 1846.

AN ACT

To create the County of Grayson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory included within the following limits in the county of Fannin, to wit: Beginning on Red River at a point when reduced to a straight line, thirty miles west of the eastern boundary line of Fannin county; thence south twenty-five miles; thence west thirty-five miles; thence north to Red River; thence down said river as it meanders to the beginning, be, and the same is hereby created a new county, to be known and called by the name of Grayson. ^{Territory defined.}

Sec. 2. Be it further enacted, That the inhabitants residing within said limits shall be entitled to all the rights, privileges, and immunities enjoyed by the inhabitants of the several counties in the State, except as to the right of separate representation and a separate land district, for which purpose the new county aforesaid shall be considered a part of Fannin county until entitled by numbers to separate representation. ^{Rights and privileges.}

Sec. 3. Be it further enacted, That the county of Grayson, shall exercise jurisdiction over all the territory embraced within the following limits, to wit: Beginning at the south-west corner of Grayson county; thence west to a point south of the source of the upper Washita; thence north to Red River; thence down the same to the north-west corner of said county of Grayson. ^{Jurisdiction.}

Sec. 4. Be it further enacted, That James Thompson, James B. Shannon, George C. Dugan, Richard McIntyre and Micajah C. Davis, be, and they are hereby appointed commissioners, whose duty it shall be to find the centre of said county, and select two places within three miles of said centre, having due respect to donations that may be offered of land, or other property for a town site for the use of said county. The commissioners shall then proceed to hold elections at the precincts ^{Commissioners appointed.}

Location of
county site.

in said county; and the place receiving the greatest number of votes, shall be the county seat of said county, and the place so selected shall be known and called by the name of Sherman; after which, the commissioners shall proceed to lay off a town, and sell the lots therein on a credit of twelve months; and after reserving one dollar per day each, for each and every day they may be required to serve as commissioners—appropriate the remainder of the proceeds arising from such sale to the erection of the necessary public buildings for the use of the county.

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

Approved 17th March, 1846.

AN ACT

To create the County of Leon.

Territory de-
fined.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included in the following bounds, and being in the limits of Robertson county, to wit: Beginning on the west bank of the Trinity river where the San Antonio road crosses the same; thence up the west bank of said river to the north-east corner of A. W. Cooke's and the south-east corner of D. M. Brown's survey, as represented on the map of the county of Robertson; thence south, sixty-one and a half degrees west, to the Navasota river; thence down the east bank of the said river with its meanderings to the point where the San Antonio road crosses the same; thence with said road with its meanderings to the place of beginning, be, and the same is hereby created into a new county to be known and called by the name of Leon.

Jurisdiction.

Sec. 2. Be it further enacted, That the inhabitants residing in the limits defined in the preceding section, shall be entitled to all the rights, privileges,

and immunities enjoyed by the inhabitants of the several counties of the State, except having a separate representation in the Legislature, and a separate land district; and the citizens of the said county of Leon, shall vote with the citizens of Robertson for Senators and members to the House of Representatives in the Legislature, until such time as the said county of Leon, shall be entitled to a separate representation; and that the said county of Leon shall pay the one-fifth part of the debt of the county of Robertson, and that debt to be ascertained by commissioners to be appointed by each county court.

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

Approved 17th March, 1846.

JOINT RESOLUTION

Concerning the protection of the Frontier.

Whereas, the State of Texas has an extensive and unprotected frontier; and whereas, Texas has merged her former independence and sovereignty in that of the United States, with the confident hope that the protecting arm of that great Republic would be freely extended over her citizens: Senators instructed and Representatives requested.

Therefore, Sec. 1. Be it resolved by the Legislature of the State of Texas, That the Senators in Congress from the State of Texas be, and they are hereby instructed, and the Representatives from said State are requested to use their best exertions to obtain appropriations sufficient to afford adequate protection to the frontier of the State.

Sec. 2. Be it further resolved, That the Governor transmit to each of our Senators a copy of the foregoing resolution.

Approved 19th March, 1846.

AN ACT

Defining the duties of State Treasurer.

Bond re-
quired.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first Treasurer of the State of Texas, shall, within twenty days from and after the passage of this act, and every subsequent State Treasurer, shall within twenty days after he shall have received notice of his election, and before he enters upon the duties of his office, give a bond payable to the Governor of the State of Texas, and his successors in office, for the use of the State, in the sum of seventy-five thousand dollars, with not less than six good securities to be approved of by the Governor of the State of Texas; conditioned that he will faithfully execute the duties of his office; and shall take and subscribe the oath prescribed by the Constitution, which, together with the bond shall be deposited in the office of the Secretary of State, which said bond shall not be void on the first recovery of part, or of the whole of the penalty; but shall thereafter continue in force, for the whole amount of the penalty thereof, and may be sued on from time to time, and shall be deemed to extend to the faithful performance of the duties of his trust, and until his successor shall be duly qualified and shall have entered upon the duties of his office.

Treasurer to
receive the
public funds.

Sec. 2. Be it further enacted, The Treasurer shall receive on the warrants of the Comptroller of public accounts, all monies, which shall from time to time be paid into the Treasury of the State, receipting for the same upon duplicate and triplicate warrants, which duplicate shall be deposited with the Comptroller, and the triplicate given to the person depositing such monies.

Shall pay war-
rants.

Sec. 3. Be it further enacted, The Treasurer shall countersign and pay all warrants drawn by the Comptroller of Public Accounts on the Trea-

sure, which are authorized by law, and no monies shall be paid out of the Treasury except on the warrants of the Comptroller.

Sec. 4. Be it further enacted, He shall keep true, ^{Keep ac-} regular and methodical accounts of the receipts and ex- ^{counts.} penditures of the public monies of the Treasury, and close his accounts annually on the 31st day of October, with the proper and legal vouchers for the same, distinguishing between the receipts and disbursements of each fiscal year.

Sec. 5. Be it further enacted, He shall provide at the ^{Procure} expense of the State, all necessary books for the proper ^{books.} keeping of the accounts of the Treasury; and he shall open therein an account in the name of the State of Texas, in which he shall enter the amounts of all monies, securities and other property in the Treasury, and which may at any time be received by him; and shall state distinctly, the several sources from which the revenue is derived, and the amount received from each.

Sec. 6. Be it further enacted, He shall also open an account in the Treasury for all appropriations of money made by law, so that the appropriations and the application in pursuance thereof, may clearly and distinctly appear.

Sec. 7. Be it further enacted, The Treasurer shall ^{Treasurer} exhibit to the Governor on the first Monday of Decem- ^{shall report to} ber, of each year, and at such other times as he ^{the Governor.} shall require, an exact statement of the condition and situation of the Treasury, and of the balance of money remaining therein to the credit of the State, with a summary of the receipts and payments of the Treasury during the preceding year, or for such other period of time as may be specially required; and shall exhibit all books, papers, vouchers, and all other matters pertaining to his office, for the examination of the Legislature, or either branch thereof; or any committee which may be by them appointed, whenever required by them so to do.

Sec. 8. Be it further enacted, The Treasurer shall, at the close of his term of office, deliver into the possession of his successor, the monies, securities, and all other property of the State, together with the books, vouchers, papers, and evidences of property in his possession, and all other matters and things which pertain to the office of State Treasurer.

Sec. 9. Be it further enacted, The Treasurer shall procure a strong iron safe or safes, in which shall be deposited all monies or dues received by him on account of the State.

Sec. 10. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved 19th March, 1846.

AN ACT

To direct the mode of voting in all popular Elections.

Section 1. Be it enacted by the Legislature of the State of Texas, That at all popular elections, holden hereafter in this State, each voter shall express his preference at the polls by a viva voce vote.

Sec. 2. Be it further enacted, That all laws contrary to, or in conflict with this act, are hereby repealed, and that this act take effect and be in force from and after the first day of June next.

Approved 19th March, 1846.

AN ACT

Appropriating three thousand dollars for the contingent expenses of both Houses of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of three thou-

sand dollars be, and the same is hereby appropriated to pay the contingent expenses of both Houses of the Legislature.

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

Approved 19th March, 1846.

AN ACT

To create the county of Comal.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the limits hereinafter described, shall compose a new county, to be called the county of Comal, to wit: Beginning at a point on the east bank of the Cibolo river, Bexar county, where the lower line of N. Michilis' league (No. 114) crosses the same; thence running in a direct line to the south-west corner of survey No. 21, Class 3, made for the heirs of John Thompson; thence with the south line of said league, North 65 deg. East, to its lower corner, on the bank of the Guadalupe river; thence up said river with its meanders to the corner of Guadalupe county, on the east bank of said river; thence with the north line of the county of Guadalupe, to its corner, North 50 deg. West from the S. W. corner of Musgrove's survey; thence running North 50 deg. West, 70,000 varas; thence South 54 deg. West to the Guadalupe river; thence South to the Cibolo; thence down the same with its meanders to the place of beginning.

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

Approved, March 24th, 1846.

AN ACT

To establish the Seat of Justice of the county of Guadalupe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Seguin is declared the Seat of Justice of the county of Guadalupe.

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

Approved, 24th March, 1846.

AN ACT

To establish the County Seat of the county of Comal.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Braunfels, at the junction of the Comal and Guadalupe rivers, be, and the same is hereby established as the county seat of said county.

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

Approved, 24th March, 1846.

AN ACT

To locate the County Seat of De Witt county.

Section 1. Be it enacted by the Legislature of the State of Texas, That ——— Troy, James M.

Baker, L. B. Friar, James Blair, and Andrew Lockhart, be, and the same are hereby appointed commissioners, to locate the county seat of De Witt county.

Sec. 2. Be it further enacted, That the said commissioners shall select some place, not more than five miles distant from the centre of said county, which place so selected, shall be the county seat until otherwise provided for by law; and a majority of said commissioners concurring, shall be competent to transact all business for which said commissioners were created.

Sec. 3. Be it further enacted, The commissioners aforesaid, are hereby authorized and empowered to receive any lands that may be donated to said county, or purchase such lands as they may deem proper, for the location of said county seat, not to exceed six hundred and forty acres in quantity, which land shall be disposed of by the County Court for county purposes.

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

Approved 24th March, 1846.

AN ACT

To define the boundaries of the County of Fort Bend.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of the county of Fort Bend, shall hereafter be as follows: Beginning on Buffalo Bayou at the old crossing, where the counties of Harris and Austin, corner; thence, in a direct line to the south-east corner of William Cooper's tract of land on the Brazos river; thence, along the lower line of said tract to the Brazos river; thence, across said river

and up its right bank to the mouth of Sixteen-mile Creek; thence, up said creek to its source; thence, in a direct line to the south-east corner of Gabriel Cole's land, it being a part of the league originally granted to Charles Baird; thence, along the lower line of said land to the San Bernard river; thence, down said river to the north-west corner of the league of land, on the east bank of the Bernard river, granted to Prater; thence, along the upper line of said league, to its north-east corner; thence, down the back line of said league, to the north-west corner of the league of land granted to A. Durst; thence, along the upper line of said league, to its north-east corner; thence, in a direct line to the head of the south prong of Cow Creek; thence, down said creek to its mouth, crossing the Brazos river; thence, up the east bank of said river to the north-west corner of the league of land granted to F. Bingham; thence, along the upper line of said league to its north-east corner; thence, along the Brazoria county line, eastwardly to the distance of three leagues; thence, to the head of Bray's Bayou; thence, in a direct line to the place of beginning.

Sec. 2. Be it further enacted, That all laws conflicting with the provisions of this act, be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved March 24th, 1846.

AN ACT

To organize the County of Burleson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of territory, comprehended within the following limits: Beginning on the Brazos river, with the north-east

corner of a league of land in the name of H. E. Davis, known on the map of Milam county as league No. 6, below Nashville, running from thence, south, sixty degrees west, to the eastern line of Bastrop county; thence, with the line of Bastrop county, in a south-easterly direction to the old San Antonio road; thence, along said road in a north-eastwardly direction to the Southern or third fork of the Yegua; thence, down said stream to its junction with the eastern forks of the Yegua; thence, down the Yegua to its junction with the Brazos; thence, up the Brazos with the boundaries of the counties of Brazos and Robertson, to the beginning, be, and the same is hereby declared to be a separate county, to be known and styled the county of Burleson.

Sec. 2. Be it further enacted, That the town of Caldwell, which is now the temporary county seat of Milam county, shall be the county seat of Burleson county; and all liabilities due on contracts, made by authority of Milam county, for the town of Caldwell, or creating any public improvements thereon, shall be paid by the county of Burleson, and all debts, dues for town property or privileges in said town now due to Milam county, shall be payable to the county of Burleson.

Sec. 3. Be it further enacted, That the Chief Justice of Milam county, and in case of his failure to act, the Associates, or in case of their failure, the Sheriff shall order and cause to be holden an election for county officers, at such time as general elections may be ordered by law, for like officers in other counties, and the officers of Milam county shall continue their jurisdiction over the territory of Burleson, until the officers of Burleson county shall be installed into office.

Sec. 4. Be it further enacted, That the county Surveyor of Milam, shall run and mark the line between the county of Burleson and Milam, for which he shall receive such compensation as is

now fixed by law, one half to be paid by each of the two counties respectively.

Approved 24th March, 1846.

AN ACT

To create a new County out of part of the Counties of Gonzales, Victoria and Goliad, to be called the County of De Witt.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the limits hereinafter prescribed, shall form and compose a new county, to be called the county of De Witt, to wit: Beginning at the lower corner of a survey of one fourth of a league of land, granted to Jesse McCoy, standing on the north-east bank of the Guadalupe river, in Gonzales county; thence, running north, fifty-one degrees east, seven thousand three hundred varas; thence, running south, thirty-nine degrees east, forty-seven thousand varas; thence, running south, fifty-one degrees west, seventy-two thousand varas; thence, running north, thirty-nine degrees west, forty-seven thousand varas; thence, running north, fifty-one degrees east, to the place of beginning.

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

Approved March 24th, 1846.

AN ACT

To define the boundaries of the County of Brazoria.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of

the county of Brazoria shall hereafter be as follows: Beginning at the entrance of Cedar Lake into the Gulf of Mexico; thence, up said lake to the upper line of the league of land, granted to G. Harrison; thence, west to Linnville Bayou; thence, up said Bayou to its source; thence, in a direct line to the north-west corner of a league of land granted to Carson; thence, along the upper line of said league, to the south-west corner of a league of land granted to Shipman and Charles; thence, up the back line of said league to its north west corner; thence, along the upper line of said league, to the south-west corner of a league of land, granted to Garrett; thence, up the back line of said league to its north-west corner; thence, along the upper line of said league to the San Bernard river; thence, up said river to the north-west corner of the league of land on the east bank of said river, granted to Prater; thence, along the upper line of said league to its north-east corner; thence, down the back line of said league, to the north-west corner of the league of land granted to A. Durst; thence, along the upper line of said league to its north east corner; thence, in a direct line to the head of the south prong of Cow Creek; thence, down said creek to its mouth, crossing the Brazos river; thence, up the east bank of said river to the north-west corner of a league of land granted to Bingham; thence, along the upper line of said league to its north-east corner; thence, in a direct line to a point where Clear Creek, near its source, crosses the upper line of a tract of land granted to W. R. Perry; thence down Clear Creek to a point where it crosses the lower line of a league of land granted to W. D. C. Hall; thence, in a direct line to the head of Dickinson's Bayou; thence, to a point on West Bay, at an equal distance between Chocolate Bayou and Highland Bayou; thence, following with the bay and through the pass dividing San Luis and Galveston Islands to the Gulf of Mexico; thence, westwardly along the shore of the Gulf to the place of beginning.

Sec. 2. Be it further enacted, That all laws conflicting with the provisions of this act, be, and the same are hereby repealed, and this act shall

take effect and be in force from and after its passage.
Approved, March 24th, 1846.

AN ACT

To create the County of Anderson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of territory comprised in the following limits, constitute a new county to be called the County of Anderson, to wit: Beginning at a place in the county of Houston, known as Houston Mound, about one mile north of Murchison's prairie; thence, westwardly by a direct line running through the old Ionie village, on the North Elkhart Creek, to the Trinity river; thence, beginning again at Houston's Mound, continuing said direct line eastwardly to the Neches river; thence, up said river with the meanders thereof, to the north-east corner of John Ferguson's league of land; thence, by a direct line parallel to the first above named line, to the Trinity river; thence, down said river with the meanders thereof, to the intersection of said first named line with the Trinity river.

Sec. 2. Be it further enacted, That the inhabitants of said county shall be entitled to all the privileges and immunities in common with other counties of this State, except the right of electing a separate county surveyor, the right of having a separate land district, and the right of separate representation, until entitled by numbers.

Sec. 3. Be it further enacted, That Samuel G. Wells, Esq., be, and he is hereby authorized and required as soon as practicable after the passage of this act, to order an election for the Commissioners, giving at least ten days notice thereof, in writing, to be posted up at two or more of the most public places in each magistrate's jurisdiction, the election

to be held and managed according to law, and the three individuals voted for, having the highest number of votes, shall be authorized to fill said commission.

Sec. 4. Be it further enacted, That the said commissioners when so elected, shall have power to select a place for the location of the county seat for said county, having due regard to the general interest of the people of said county, and to receive donations for county purposes, to purchase if necessary for the use of said county, a tract of land not exceeding one hundred acres, on which to place the public buildings for said county; to have laid off, and dispose of any portion of said lot of land, the proceeds to be applied to the building of a court house and jail; and after paying the incidental expenses, said buildings and the county fund thus raised, to be under the direction of the county court, to whom the fund thus raised shall be turned over by the commissioners.

Sec. 5. Be it further enacted, That the county officers of said county, shall be elected in accordance with the law on this subject made and provided.

Sec. 6. Be it further enacted, That the said county of Anderson, shall be held responsible for the payment of its equitable proportion of the now existing debt of the county of Houston, from which said county is stricken.

Sec. 7. Be it further enacted, That in no event shall the county seat of said county be located more than three miles from the centre of said county, and that this act take effect from and after its passage.

Approved, March 24th, 1846.

AN ACT

To enable the County Surveyor of Rusk county to make a complete map of said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Surveyors

of the counties of Shelby and Nacogdoches, are required to furnish the County Surveyor of the county of Rusk with a copy of the field notes of so much of their respective counties, as has been taken for the purpose of creating the county of Rusk.

Sec. 2. Be it further enacted, That the Commissioner's Court of the county of Rusk be, and is hereby authorized and compelled to pay out of any unappropriated monies that may be in the treasury of said county, a reasonable compensation to the surveyors of Shelby and Nacogdoches counties, for making out and handing over to the surveyor of Rusk county, a transcript of said field notes and surveys.

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

Approved, March 24th, 1846.

AN ACT

To provide for fixing the Seat of Justice of the county of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second Saturday of May, one thousand eight hundred and forty six, be fixed as the day for holding an election in the county of Austin, for the selection of a suitable place for the permanent location of the county seat of justice of said county, and it shall be the duty of the Chief Justice of said county to give public notice of the same, in writing, to be posted up at the different precincts, immediately after the passage of this act, and to issue writs of election to the different precincts at least ten days prior to said election.

Sec. 2. Be it further enacted, That it shall be the duty of the said Chief Justice to receive and make public, in writing, posted up at the different

precincts, such propositions as may be offered by the citizens of the county, as inducements in favor of the selection of places recommended as suitable locations for the county seat of said county.

Sec. 3. Be it further enacted, That the propositions submitted to the Chief Justice, in compliance with the second section of this act, shall be in the shape of penal bonds, and shall be collected at the suit of said Chief Justice, or his successor in office, in the District Court, for the use of the county, and the proceeds applied to the erection of county buildings.

Sec. 4. Be it further enacted, That the election for said county seat, shall be conducted in conformity with the existing laws regulating elections, and the returns made to the Chief Justice, in ten days after the election, who shall declare the place receiving the highest number of votes to be the legal seat of justice of said county: Provided, any one place shall have received a majority of all the votes polled at said election; but in the event no one place shall have received the majority as aforesaid, then, and in that case, it shall be the duty of the Chief Justice to proceed to order another election, after giving notice as in the first instance, (putting in nomination the two places that have received the greatest number of votes,) which shall be conducted, and returns made as heretofore provided, and the place then receiving the highest number of votes shall be declared the county seat of justice.

Sec. 5. Be it further enacted, That John P. Sheldbourne, J. Harris Catlin, John W. Collins, William Bradberry, R. R. Peebles, William Cooper, Louis Kleberg, Oliver Jones and Doctor William Matthews, of whom three may constitute a quorum to do business, shall be, and they are hereby appointed commissioners to lay out and sell lots, if necessary, and to superintend the carrying out of such propositions as may have been made in behalf of the location selected, and report to the Chief Justice whether or not the bonds containing proposition, in favor of said selected place, have been strictly complied with by the makers and obligors of the same.

Sec. 6. Be it further enacted, That as soon as the county buildings are received by the commissioners and reported to the Chief Justice, the Clerks of the District and County Courts, Sheriff and County Surveyor, shall remove their offices and papers to the place selected as the county seat, and all Courts, thereafter, shall be held at the said county seat.

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

Approved, March 25th, 1846.

AN ACT

To create the County of Hopkins.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the counties of Lamar and Nacogdoches, to wit: Beginning at the south-west corner of Lamar county, on the line of Fannin county, as established by John D. Black, County Surveyor of Fannin county, thence, south thirty miles—thence, east to a point due south of the east boundary line of Lamar county — thence, north thirty miles—thence, west with the southern boundary of Lamar county to the beginning, be, and the same is hereby created a new county, to be known and called by the name of Hopkins.

Sec. 2. Be it further enacted, That the inhabitants residing within said limits shall be entitled to all the rights and privileges enjoyed by the inhabitants of the several counties in this State, except as to the right of separate representation and a separate land district. The inhabitants of said county shall severally be considered as attached to the county from which they were taken until entitled by numbers to separate representation.

Sec. 3. Be it further enacted, That James E. Hopkins, Robert Hargrove, James Ward, William

Wilkins and ——— Barker, be, and they are hereby appointed commissioners, whose duty it shall be to find the centre of said county, and select two places within three miles of said centre, having due respect to donations that may be offered by individuals, of land or other property, for a town site for the use of the county. The commissioners shall then proceed to hold an election, and the place receiving the greatest number of votes shall be the county seat of said county; and the place so selected shall be known and called by the name of Tarrant. After which the commissioners shall proceed to lay off a town and sell the lots therein at public auction, on a credit of twelve months; and all the proceeds arising from the sale of lots, or other donations, shall be applied by the commissioners herein created, to the erection of public buildings for the use of the county, reserving to themselves one dollar per day each, for each and every day they may be required to serve as such commissioners.

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

Approved, 25th March, A. D. 1846.

AN ACT

Authorizing the Governor of the State of Texas to cede and transfer to the United States all of the property of what description soever embraced in and contemplated by the joint resolution of both Houses of the Congress of the United States, approved 1st of March, 1845, and the 8th section of the 13th article of the Constitution of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor thereof be, and hereby is, authorized and fully empowered to cede, transfer and deliver over to the United States, or any agent or agents by them appointed,

by such instrument, in writing or other means, as he may deem proper and necessary, all the public edifices, fortifications, barracks, ports and harbors, navy and navy yards, docks, magazines, arms and armaments, and all other property and means, pertaining to the public defence, belonging formerly to the Republic, now the State, of Texas.

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

Approved, March 25th, 1846.

AN ACT

To authorize parties to suits to appear therein in person.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all suits hereafter pending in any Court in this State either plaintiff or defendant shall be permitted to appear therein in person and prosecute or defend the same.

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

Passed, March 31, 1846.

AN ACT

Creating the County of Dallas.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the following limits, in Robertson and Nacogdoches counties, to wit: Beginning on the southern boundary line of Fannin county, three miles east of the eastern boundary of Peters' colony grant; thence, south thirty miles; thence, west

thirty miles; thence, north thirty miles to Fannin county line; thence, east with said line to the beginning, be, and the same is hereby created a new county to be known and called by the name of Dallas.

Sec. 2. Be it further enacted, That the inhabitants residing within said limits, shall be entitled to all the rights and privileges enjoyed by the inhabitants of the several counties in the State, except as to the right of separate representation, until entitled by numbers to separate representation, and the rights of having a separate land district.

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

Approved, March 30th, 1846.

AN ACT

Creating the County of Polk.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory now belonging to Liberty county, included within the following limits, to wit: Beginning on the east side of Trinity river, at the mouth of Menard's Creek, and running from thence east, eighteen miles; thence, in a northerly direction to the south boundary line of Houston county, crossing the road leading from Swartwout to Bell's ferry, two miles west of Peter Cauble's; thence, west along the Houston county line to the Trinity river; thence, in the same direction until it strikes the eastern boundary line of Montgomery county; thence in a southerly direction along the Montgomery county line, to a point opposite the place of beginning; thence, east to the place of beginning, containing the territory known as the northern division of Liberty county, shall be known and called Polk county.

Sec. 2. Be it further enacted, That the inhabitants residing within the limits of said Polk county,

shall be entitled to all the rights, privileges and immunities enjoyed by the citizens of the several counties in this State, except as to the right of separate representation in the State Legislature, and a separate land district, which shall be as heretofore.

Sec. 3. Be it further enacted, That James W. Abbey, Frederick Rankin, A. S. Aynesworth, Benj. Hardin, John Stubblefield, and Arther Garner, be, and they are hereby constituted a board of commissioners, with power and authority (a majority of them concurring) to select two or more suitable points for the location of the county site for said county of Polk, one on each side of the Trinity river, and one within five miles of the centre of said county.

Sec. 4. Be it further enacted, That should said commissioners be equally divided in the selection of any particular place for said county site, they may call to their aid any respectable citizen of said county, a majority of them agreeing as to the individual, whose decision with any three of said commissioners, shall be final as to the place in question.

Sec. 5. Be it further enacted, That it shall be the duty of said commissioners, so soon as they shall have selected and agreed upon the points, or places for the location of said county seat, to cause an election to be holden at the several election precincts within said county of Polk, for the selection of a county seat, or seat of justice for said county, giving fifteen days notice thereof in writing posted up at each precinct, naming the places to be voted for as contemplated by this act, which election shall be holden in conformity with the law regulating elections, and returns made thereof to the presiding officer of said board of commissioners.

Sec. 6. Be it further enacted, That should said commissioners select and nominate more than two places to be voted for by the people as contemplated by this act, and it shall appear, after counting and comparing the polls of said election, that neither one of the points voted for, shall have received a majority of all the votes cast in said county, such election shall be void, and said commissioners shall proceed to order a second election in like manner

as the first, when the two places receiving the highest number of votes at the first election, only, shall be voted for; and the place receiving the highest number of votes at the said second election, shall be the permanent seat of Justice for said county; and said commissioners shall proceed to obtain by purchase upon the faith of the county, or receive by donation at the place so selected, a sufficient quantity of land for the erection of public buildings, and to defray such other necessary expenses as the interest of the county may require.

Sec. 7. Be it further enacted, That the land so obtained shall be appropriated by said commissioners from time to time, as they may think most advantageous to said county, reserving to themselves one dollar per day for the time they may be engaged in discharging the duties assigned them by this act; and said commissioners shall, before entering upon the duties assigned by this act, select from among themselves, some one to act as President of said board, and each of them shall take a solmen oath before some justice of the peace, to discharge the several duties herein assigned them, according to what they may conceive to be the interest of a majority of the people of said county, without any regard to personal or local interest.

Sec. 8. Be it further enacted, That a majority of said commissioners, shall constitute a quorum to transact the ordinary business pertaining to their duties, after the county seat shall be located as herein provided.

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

Approved, 30th March, A. D., 1846.

AN ACT

To authorize the Corporation of Galveston to levy a tax for the support of Free Schools.

Section 1. Be it enacted by the Legislature of the State of Texas, That the corporation of the city of Galveston, are hereby authorized to levy and collect a tax, not to exceed one-half of one per centum on the real estate within the limits of said corporation, for the establishment of public free schools.

Sec. 2. Be it further enacted, That the schools above provided for, shall be under the supervision of a board of trustees, three from each ward, who shall be the payers of the school tax, at the time of the municipal elections, (except the first board, who shall be elected under the proclamation of the Chief Justice of the county, within ten days after his reception of an official copy of this act,) and that the mayor of said corporation, shall be ex officio chairman of the board of school trustees.

Sec. 3. Be it further enacted, That at the same time when the first election for trustees, under the previous section is held, a poll shall also be held, at which the holders of real estate shall be permitted to express their assent to, or dissent from the provisions of this act, and if more than one-fourth of all the votes given at such poll, shall be against the same, this act shall be thereafter null, and of no effect.

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

Passed, April 2nd, 1846.

AN ACT

To create and organize the County of Panola.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the following limits, to wit: Beginning at the twenty-seventh mile post, on the line dividing the State of Texas from the State of Louisiana; thence, in a direct line to the mouth of Eight-mile Creek, on the Sabine river; thence, across and up said river, with its meanders to the Trammel Trace; thence, with said trace to where it crosses the west boundary line of J. W. Adams' league of land; thence, in a direct line to the old line that divided Harrison from Shelby county, before the passage of an act, entitled "an act to alter and establish the eastern boundary line of Rusk county, and for other purposes," approved December 31st, 1844; thence, with the line dividing the counties of Harrison and Shelby, to the line dividing the States of Texas and Louisiana; thence, with said line to the point of beginning, be, and the same is hereby made a new county, by the name of Panola.

Sec. 2. Be it further enacted, That the inhabitants of said county, be, and they are hereby invested with all the rights, privileges and immunities belonging to, and of right appertaining to citizens of other counties, except the right of separate representation, except also, the right of electing a separate county surveyor, or being a separate land district, which shall remain as it now is, until altered by law.

Sec. 3. Be it further enacted, That Jas. Rowe, Parson Herron, Dickson, James A. Pugh, Richard Golden, and James Williams, be, and they are hereby appointed commissioners, to select two eligible sites, neither of which shall be more than five miles from the centre of said county,

for the county seat of said county, which places shall be submitted to the legal voters of said county at public election, at such time and places as may be prescribed by law; and the place receiving a majority of the legal votes cast at said election, shall be the county seat of said county, and shall be known and called by the name of Carthage, unless at said election, some town or village now in existence in said county, be selected as the county seat; and said commissioners shall have power to purchase, or receive by donation for said county, such quantity of land, not to exceed _____ acres, as may be necessary for said county in erecting public buildings and other necessary expenses.

Sec. 4. Be it further enacted, That all civil suits which may have been instituted against any of the citizens of the county, created by this act, in either of the counties from which said county is taken, shall be transferred, together with all papers thereunto belonging, to the proper officers of said county, and be carried on in the same manner as if continued in the county in which they were instituted.

Sec. 5. Be it further enacted, That the inhabitants of said county, at present embraced within the limits of Harrison county, shall pay a proportionate part of the debt due and owing by the county of Harrison, at the time of the final passage of this act.

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

Approved, March 30th, 1846.

AN ACT

To create a new County out of part of the Counties of Gonzales and Bexar, to be caled the County of Guadalupe.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the following prescribed limits, shall form and compose a new county, to be called the county of Guadalupe, to wit: Beginning at the mouth of Nash's Creek, on the north-east bank of the Guadalupe river in Gonzales county; running thence, north thirty-four degrees east, to the river San Marcos; thence, up the river San Marcos, with its meanders, to the point where the old San Antonio and Nacogdoches road crosses the same; thence, running with said road in a western direction to the south-west corner of a survey made for J. A. Musgrove, fronting on said old road; thence, running north, fifty degrees west, two thousand five hundred varas; thence, running south, seventy-five degrees west, to the river Guadalupe; thence, down the river Guadalupe with its meanders, to the lower corner of survey, No. 21, in class, No. 3, made for the heirs of Thompson; thence with the lower line of said survey, south, sixty-five degrees west, to its south-west corner; thence running to a point on the river Cibolo, where the lower line of a survey of one league (No. 114,) made for V. Michili, crosses said river Cibolo in Bexar county; thence down the river Cibolo with its meanders, to a point from which a line running north, thirty-four degrees east, would strike the mouth of Nash's Creek; thence, running north, thirty-four degrees east, to the place of beginning.

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

Approved, 30th March, A. D. 1846.

AN ACT

To define the boundaries of the County of Matagorda.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of the county of Matagorda shall hereafter be as follows: Beginning at the entrance of Cedar lake into the Gulf of Mexico; thence up said lake to the upper line of a league of land granted to G. Harrison; thence west to Linnville Bayou; thence, up that bayou to its source; thence, in a direct line to the north-west corner of the league of land granted to Carson; thence, along the upper line of said league to the south-west corner of the league of land granted to Shipman and Charles; thence, up the back line of said league to its north-west corner; thence, along the upper line of said league to the south-west corner of the league of land granted to Garrett; thence, up the back line of said league to its north-west corner, on the lower line of the league of land, (No. 12) granted to S. Ingram; thence, in a south-westwardly direction, along the lower line of the league of land granted to Edwards, to the south-west corner of the league last mentioned; thence, south, sixty degrees west, four thousand five hundred varas; thence south-west to the north corner of a league of land granted to J. Hughston; thence along said league line to its south-east corner on Matagorda Bay; thence, in a direct line to Matagorda Pass, on the Gulf of Mexico; thence, eastwardly along the Gulf shore to the place of beginning.

Sec. 2. Be it further enacted, That all laws conflicting with the provisions of this act, be, and are hereby repealed, and this act shall take effect from and after its passage.

Approved, March 30th, 1846.

AN ACT

To authorize the Governor to make the necessary preparations to transfer to the United States, all Custom Houses and other places for the collection of impost duties and other foreign revenue, and to transfer the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized to make the necessary preparations for transferring, and to transfer the same to the United States, all custom houses and other places for the collection of impost duties and other foreign revenue, which belonged to the Republic of Texas, and now the property of the State of Texas; upon such terms and conditions as may be agreed upon by him and the government of the United States, or any agent or agents appointed by said Government: Provided, however, that nothing in this act, or in the deed or deeds made in pursuance thereof, shall be so construed as to prevent the execution of any process whatever, by the officers of this State, in the jurisdiction hereby authorised to be ceded.

Approved, March 30th, 1846.

AN ACT

The better to define and fix the boundaries of the County of Victoria.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of the county of Victoria, be, and the same are hereby established and fixed as follows, viz: Beginning at the mouth of Garcitas Creek on La Vaca Bay; thence, up said creek to the junction of the Aro-

noso Creek; thence, up said creek to the point at which the northern line of A. Dunlap's survey crosses it; thence, in a direct line to the south-west corner of the county of La Vaca; thence, with the line of said county, to the south-east corner of the county of De Witt; thence, with the southern line of said county, to the point at which it touches the Colletto River; thence, down said river to the south-east corner of the county of Goliad; thence, with the lower or southern line of said county, to the point at which it crosses the river San Antonio; thence, with said river to its junction with the River Guadalupe; thence, up said river to the point at which the upper line of the county of Calhoun touches said river, viz: the south-west corner of the survey of J. M. Rias; thence, with the upper or northern line of the county of Calhoun to the mouth of the Garcitas, the place of beginning.

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

Approved, 31st March, A. D. 1846.

AN ACT

To exclude from office, serving on juries, and from the rights of suffrage, all persons who hereafter may be convicted of bribery, perjury, subornation of perjury, forgery, counterfeiting, larceny, or other felony, or treason against this State or the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons who shall hereafter be convicted of bribery, perjury, subornation of perjury, forgery, counterfeiting, larceny, or other felony, or treason against this State or the United States, shall not hold any office of trust or profit in this State, nor shall such person

vote at any election, or serve on juries in any court within this State.

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

Approved, 2nd April, A. D. 1846.

AN ACT

To define the limits and boundaries of Jackson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the limits and boundaries of Jackson county shall hereafter be as follows; to wit: Beginning at the north-east corner of a survey made for J. Hughson, fronting on Matagorda and Carancahua Bays; thence, running with the north line of Hughson's survey west to its North-west corner, standing on Carancahua Bay; thence, running up said bay, with its meanders, to the upper corner of S. Houston's survey, standing on the west side of said Carancahua Bay; thence, with the line dividing S. Houston's and Keller's survey to the north-west corner of said Houston's survey; thence, running in a direct line to the north-east corner of Dimmitt's survey; thence, with the north line of Dimmitt's survey, in a west direction, to La Vaca Bay; thence, around said La Vaca Bay, with its meanders, to the entrance of the Garcitas Creek; thence, running up said creek, with its meanders, to the mouth of Aronoso Creek; thence running up said Aronoso Creek, with its meanders, to a point where the north line of A. Dunlap's survey crosses the same; thence, running in a direct line to the south-west corner of La Vaca county; thence, with the south line of La Vaca county, north fifty-one degrees east to the west line of Wharton county;

thence, with the west line of Wharton county to its south-west corner; thence, in a direct line to the beginning.

Sec. 2. Be it further enacted, That all persons residing in that portion of territory lying west of the La Vaca River, comprised in the foregoing limits, who were heretofore citizens of Victoria county, are hereby declared to be citizens of Jackson county, and entitled to all the privileges of other citizens of said county; and all laws, or parts of laws contrary to the provisions of this act are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, 3d April, A. D. 1846.

AN ACT

To create the County of Wharton.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory comprised within the following limits, shall be created a new county, to be called the county of Wharton, to wit: Beginning at the south-east corner, of the league of land No. 12, granted to S. Ingram, on the San Bernard River; thence, along the lower line of said league, and along the lower line of a league granted to Edwards, to the south-west corner of the league last mentioned; thence, in a direct line, south sixty degrees west, to the distance of forty-five thousand varas, crossing the Colorado River; thence, in a direct line, north forty-five degrees west, to the distance of fifty-two thousand eight hundred varas; thence, in a direct line to the lower corner of Cartwright's league of land, on the east side of the Colorado River; thence, along the lower line of said league to its north-east corner; thence, north, forty-five

degrees east, to the main San Bernard River; thence, down said river to the place of beginning.

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

Approved, 3rd April, A. D. 1846.

AN ACT

To locate the County Seat of Wharton County.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. J. E. Heard, Alexander Moore, Daniel Kinchels, Isam Thompson and John D. Newell, are hereby constituted commissioners to locate the county seat of Wharton county, and the place they may select shall be called Wharton, and shall be the seat of justice of said county, until otherwise directed by law; and a majority of said commissioners concurring, shall be competent to do all the business for which said commissioners are created.

Sec. 2. Be it further enacted, That said commissioners are authorized to receive any donations, or to purchase any lands not exceeding six hundred and forty acres, for the purpose of locating said county seat, which lands shall be disposed of by the county court for county purposes.

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

Approved, 3d April, A. D. 1846.

AN ACT

To enable the Governor to fill certain vacancies that may hereafter occur.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized to fill all vacancies that may occur during the recess of the Legislature in such offices as have been filled by joint vote of both Houses of the Legislature: also, that he be authorized to fill all vacancies that may occur by death or resignation during the recess of the Legislature, which require the consent of the Senate.

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

Approved, 3rd April, A. D. 1846.

AN ACT

To allow defendants to plead a partial failure of consideration.

Section 1. Be it enacted by the Legislature of the State of Texas, That the defendant or defendants in any action at law or equity, that may be hereafter instituted upon any bond, note, covenant, or other agreement in writing, in any court within this State, may plead a partial failure of consideration, where such bond, note, covenant, or other agreement in writing, shall remain in the possession of the original payee; or when it shall have been transferred or assigned after the maturity thereof, or when the defendant or defendants may prove a knowledge of such failure of consid-

eration on the part of the holder prior to said maturity.

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

Approved, 3d April, A. D. 1846.

AN ACT

To provide for the location of the County Site of the County of Calhoun.

Section 1. Be it enacted by the Legislature of the State of Texas, That Addison White, Henry Kitchens, H. Beck, James Cummins, and Thos. Duke, be, and they are hereby constituted a commission to locate the seat of justice of the county of Calhoun.

Sec. 2. Be it further enacted, That said commissioners, or a majority of them, shall so soon as convenient after the passage of this act, proceed to select a suitable place for the seat of justice, and to acquire by gift or purchase for the use of the county, a lot of land not to exceed one hundred and sixty acres, if the place chosen be not already laid off in town lots, and if it be so laid off, then a sufficient lot or lots for all county purposes.

Sec. 3. Be it further enacted, That the place so selected and declared by said commissioners to be the county seat of the county of Calhoun, shall remain the seat of justice of said county until otherwise provided by law.

Sec. 4. Be it further enacted, That this act take effect from and after the first day of April next.

Approved, 3rd April, A. D. 1846.

AN ACT

To create the County of Tyler.

Section 1. Be it enacted by the Legislature of the State of Texas, 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 county, to the line recently established as the eastern boundary of Polk county; thence, in a southwardly direction, with 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, containing the territory known as the eastern division of Liberty county, shall be known and called Tyler county.

Sec. 2. Be it further enacted, That the inhabitants residing within the limits of said county of Tyler shall be entitled to all the rights, privileges and immunities enjoyed by the citizens of the several counties within this State, except as to the right of separate representation and a separate land district, which shall be as heretofore.

Sec. 3. Be it further enacted, That Edmond Parsons, Jesse Fulgham, Ellis Green, Edward Turner, George Kirkwood and Wm. A. Ferguson, be, and are hereby appointed commissioners, with power and authority, a majority of them concurring, to select two or more sites within said county of Tyler, one within five miles of the centre of said county, to be voted for by the voters of said county of Tyler as hereinafter prescribed.

Sec. 4. Be it further enacted, That should the commissioners appointed by this act, in selecting the sites or places to be proposed to and voted for by the people, be equally divided, it shall be their

duty to call in an umpire, a majority of them agreeing as to the individual, he being a citizen of said new county, whose decision concurring with any three of said commissioners shall be final as to the place or places in question.

Sec. 5. Be it further enacted, That it shall be the duty of said commissioners, as soon as they shall have selected the points to be voted for as contemplated by this act, to report the same to the Chief Justice of Liberty county, whose duty it shall be forthwith to order an election at the several election precincts in said new county, (giving ten days notice thereof,) for Chief Justice of said county of Tyler and for the selection of a county seat or seat of justice for said new county, which election shall be holden and conducted in conformity with the constitution and laws of this State regulating elections for members of the Legislature, and make a return thereof to said Chief Justice, who if after counting and comparing the polls of said election, shall find that neither one of the sites voted for shall have received a majority of the whole number of votes given in, it is hereby made his duty, immediately, to order a second election for said county seat, when the two places receiving the highest number of votes at the first election, only shall be put in nomination, and the place receiving the highest number of votes at the second election shall be the seat of justice for said new county.

Sec. 6. Be it further enacted, That it shall be the duty of the commissioners appointed under the second section of this act, to proceed to obtain by purchase upon the faith of the county, or receive by donation, a sufficient quantity of land, at the place so selected by the people, as shall be sufficient for the erection of public buildings, and to defray such necessary expenses as may accrue in said county.

Sec. 7. Be it further enacted, That the Chief Justice elected under the provisions of this act shall qualify himself and proceed to order elec-

tions and organize said new county according to the provisions of this act.

Sec. 8. Be it further enacted, That this act take effect from and after its passage.

Approved, 3rd April, A. D. 1846.

AN ACT

To create the County of Collin.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory in Fannin county included within the following limits, to wit: Beginning on the south boundary line of Fannin county, twenty-five miles west of the south-east corner of said county; thence, west with said boundary line thirty-two miles; thence, north twenty-eight and one half miles; thence, east to the western boundary line of Fannin county; thence, south to the south-west corner thereof; thence, north, eighty degrees east, five miles; thence, south to the beginning, be, and the same is hereby created a new county, to be known and called by the name of Collin.

Sec. 2. Be it further enacted, That the county herein created, shall be entitled to all the rights, privileges and immunities, enjoyed by the several counties in this State, except as to the right of separate representation and a separate land office, or land district, for which, the county of Collin shall compose a part of Fannin county, until entitled by numbers to separate representation.

Sec. 3. Be it further enacted, That the county of Collin shall exercise jurisdiction over all the territory in Fannin county west of the county of Collin.

Sec. 4. Be it further enacted, That Jno. McGara, J. C. M. Hodge, Thomas Ratton, Ashley McKin-

ney, and Pleasant Wilson, be, and they are hereby appointed commissioners, whose duty it shall be to find the centre of said county, and select two places within three miles of said centre, (having due respect to donations that may be offered by individuals,) for a town site for the use of the county; the commissioners shall then proceed to hold an election, and the place receiving the greatest number of votes shall be the county seat, and the place so elected, shall be known and called by the name of Buckner; and the commissioners shall proceed to lay off said town and sell the lots therein, at public auction on a credit of twelve months.

Sec. 5. Be it further enacted, That the proceeds arising from the sale of lots in said town, or other donations, shall be applied by the commissioners herein created, to the erection of public buildings for the use of said county.

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

Approved, 3rd April, A. D. 1846.

AN ACT

To establish the County Seat of Milam County.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. D. Thomson, Isaac Standerferr, Winfred Bayley, J. Turnham, Daniel Munroe, Benjamin Bryant, and Augustus Sullivan, are hereby appointed commissioners to locate the county seat of Milam county, and a majority of the above named persons shall form a quorum to transact business, and shall locate such county seat, at the nearest convenient and suitable point to the centre of a constitutional county, to be formed hereafter with the northern boundary of

Burleson county and the Brazos River as permanent boundaries.

Sec. 2. Be it further enacted, That said commissioners shall have power to fix the name of such place, and to purchase not less than sixty, nor more than three hundred and twenty acres of land, or receive by donation any quantity of land for the use of such county, and immediately on obtaining the land, they shall proceed to have it laid off into suitable lots; and after reserving a sufficient number of such lots for county purposes, shall sell at public sale, having the same advertised at least twenty days, such a number thereof, and on such terms as may be deemed by them most beneficial to the interest of the county, the proceeds to be applied to the erection of public buildings.

Sec. 3. Be it further enacted, That the said commissioners shall immediately after said lots shall have been surveyed, proceed to contract for the erection of county buildings, and when they shall deem the necessary buildings prepared for the transaction of the county business, they shall notify the Chief Justice of Milam county, who shall cause the different county officers, together with the papers, documents, and records, belonging to Milam county to be removed to such county seat; and the authority of the commissioners appointed by this act, shall be transferred to such court of the county as shall have jurisdiction over the county revenue; and said commissioners shall receive for the time actually employed in the business imposed upon them by this act, such pay as members of the commissioner's court are entitled to.

Sec. 4. Be it further enacted, That from the time which, by an act organizing the county of Burleson, the officers of Milam county and the records of said county, shall have to be removed from Caldwell, the temporary county site of Milam, until the necessary buildings shall be erected in the county site created by this act, the county

business shall be done at Nashville, and shall be valid.

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

Approved, 4th April, A. D. 1846.

AN ACT

To locate the County Seat of La Vaca County.

Section 1. Be it enacted by the Legislature of the State of Texas, That Samuel Barry, James Brown, Beverly C. Greenwood, John Clark and Gabriel Zumwalt, be, and the same are hereby appointed commissioners to locate the county seat of La Vaca county.

Sec. 2. Be it further enacted, That the said commissioners shall select some place, not more than five miles distant from the centre of said county, which place, so selected, shall be the county seat of La Vaca county until otherwise directed by law, and a majority of said commissioners concurring, shall be competent to transact all business for which said commissioners were created.

Sec. 3. Be it further enacted, That said commissioners are hereby authorized to receive any lands that may be donated to said county, or purchase such lands as they may deem proper for the location of said county seat, not to exceed six hundred and forty acres in quantity, which land shall be disposed of by the county court for county purposes.

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

Approved, 4th April, A. D. 1846.

AN ACT

To create the County of Calhoun.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory formerly composing a part of the counties of Victoria, Jackson and Matagorda, included within the boundaries hereinafter specified, viz: Beginning at the extreme south-eastern point of pass Cavallo; thence, in a direct line to the south-eastern corner of J. Hughson's survey; thence, along the eastern line of said survey to its north-east corner; thence, along its northern line to its termination on Carancahua Bay; thence, up said bay, with its meanders, to the north-eastern corner of a survey made for Sam Houston, on the west side of said bay; thence, with the line dividing Houston's and Keller's surveys, to its north-west termination; thence, in a direct line to the north-east corner of Dimmitt's survey; thence, with the line between Dimmitt's and Mc'Guffin's surveys, to its termination on La Vaca Bay; thence, around said bay, with its meanders, to the north-east corner of V. Garcia's survey; thence, with the upper line of said survey, to its western termination; thence, in a direct line, to the south-east corner of J. M. Riaz's survey; thence with the lower line of said survey to the Guadalupe River; thence, down said river to Espiritu Santa Bay; thence, around the north and western margin of said bay to a point opposite to Cedar Pass or Bayou; thence, with said bayou or pass to the main gulf; thence, up the southern margin or beach of St. Joseph or Matagorda and Pelican Islands, to the point of beginning, be, and the same is hereby established and erected a new county, to be called the county of Calhoun.

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

Approved, 4th April, A. D. 1846.

AN ACT

To create the County of La Vaca.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the limits hereinafter described, shall form and compose a new county, to be called the county of La Vaca, to wit: Beginning seven thousand three hundred varas north, fifty-one degrees east, from the lower corner of a fourth of a league of land granted to Jesse McCoy, situated on the east bank of the Guadalupe River in Gonzales county; thence, running in a northern direction to the southwest corner of D. Burket's survey of one league, No. 7, in class No. 4, in Gonzales county; thence, running north, eighty-one degrees east, to a point on the main fork of the east Navidad River; thence, down said river with its meanders, to the upper or north-west corner of A. W. Breedlove's survey, standing on the east bank of said Navidad River; thence, with the upper or north line of said A. W. Breedlove's survey, east four thousand six hundred varas, to a point on said line; thence, running south, thirty-nine degrees east, forty thousand seven hundred varas; thence, running south, fifty-one degrees west, to a point south, thirty-nine degrees east of the place of beginning; thence, running north, thirty-nine degrees west, to the place of beginning.

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

Approved, 6th April, A. D. 1846.

AN ACT

Creating the County of Grimes.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of the territory of the county of Montgomery, comprised within the following limits, shall be known by the name of, and styled the county of Grimes, to wit: Beginning at the south-west corner of the county of Walker; thence, in a southwardly direction to the north-east corner of a league of land granted to W. Montgomery; thence, to the south-east corner of the same; thence, due south to the Harris county line; thence, with said Harris county line, to the head of Spring Creek, and from the head of Spring Creek to the head of Pond Creek; thence, by a straight line to the mouth of Beason's Creek on the Brazos River; thence, up said stream to the mouth of the Navisoto, and up the Navisoto to the crossing of the San Antonio road; thence, with said road to the north-western boundary line of Walker county, and down the said Walker county line to the place of beginning.

Sec. 2. Be it further enacted, That the said county of Grimes, shall be entitled to all the privileges granted to, or enjoyed by other counties in this State, with the exception of a separate representation and a separate land district.

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

Approved, 6th April, A. D. 1846.

AN ACT

To establish the County of Walker.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county be established to be known and distinguished by the name of Walker, the boundaries of which shall be as follows: Beginning at Robbins' ferry on the Trinity, where the San Antonio road crosses the same; thence, with the said road to the north-east corner of a survey of land in the name of L. G. Clepper; thence, in a straight line to the South Bedai Creek, to a point where the La Bahia road crosses the same; thence, in a straight line to the north-west corner of a survey of two-thirds of a league of land in the name of J. H. Collard; thence, in a straight line to a point on San Jacinto River, three miles below the mouth of East Sandy Creek; thence, east to the line of a new county to be called Polk; thence, with the lines of said county to the Trinity River; thence, up the middle of said river to the place of beginning.

Sec. 2. Be it further enacted, That the said county of Walker shall in all respects be placed upon the same footing as the other counties of this State, and the citizens thereof shall enjoy all the privileges and immunities as the citizens of other counties of the State except as to the right of separate representation, but shall remain as it now is until otherwise provided by law: Provided, also that said county shall be under the same restrictions as to separate land district and surveyor, that regulate the same in other new counties of this State.

Sec. 3. Be it further enacted, That the county seat of said county of Walker shall be located within the incorporated limits of the town of Huntsville, and the commissioner's court at its

first term is hereby required to appoint five commissioners, a majority of whom may act, who shall procure a deed or deeds to so much land as they may deem necessary for the erection of a court house and jail, which said deed or deeds shall be taken in the name of the chief justice of the county and his successors in office: Provided, that if the public square of said town can be procured without cost the court house may be located there; and, provided further, that the court [county] shall in no event be compelled to pay for any lands so to be conveyed for the purposes above.

Sec. 4. Be it further enacted, That the county of Walker shall pay its proportionate share of the debt due by the county of Montgomery, to be determined by the county court of Montgomery county and the county court of Walker county, to be paid to the parties who may hold such apportioned debt, in the manner in which said county courts may determine.

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

Approved, April 6th, A. D. 1846.

AN ACT

To authorize the commissioners of the General Land Office to issue patents in cases where land scrip has been located in two surveys.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the General Land Office, be, and he is hereby authorized and required to issue patents to the legal owners of land scrip in all cases where the same has been located in two surveys, where the same is bounded by other surveys: Provided, that in every case the patentee shall pay for one of the patents and one of the surveys.

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

Approved, 7th April, A. D. 1846.

AN ACT

To prohibit individuals from issuing bills, checks, promissory notes or other paper to circulate as money.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act no person or persons within this State shall issue any bill, promissory note, check or other paper to circulate as money in the same.

Sec. 2. Be it further enacted, That every person who may violate this act shall be subject to indictment therefor, by a grand jury, as for a misdemeanor, at any time within twelve calendar months after so offending, and shall be subject to a fine of not less than ten dollars nor more than fifty dollars for each and every bill, promissory note, check or other paper by them issued in violation of the first section of this act.

Approved, 7th April, A. D. 1846.

AN ACT

To incorporate the Grand Lodge of the Independent Order of Odd Fellows of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jacob De Cordova, Lawrence P. Sundberg, John Fitzgerald, James G. Claude, Andrew Kaufman, Isadore Dyer, James M. Conrad, William M. Carper, William William-

son, Jacob K. Beaumont, John Armstrong and B. H. Pollock, the present officers, representatives and members of the Grand Lodge of the State of Texas of the Independent Order of Odd Fellows and their successors, be, and they are hereby declared to be a community, corporation and body politic, by the name, style and title aforesaid, and by that name they and their successors shall and may at all times hereafter be capable in law, to have, receive and retain to them and their successors property real and personal; also, devises and bequests of any person or persons, bodies corporate or politic capable of making the same, and the same at their pleasure to transfer or dispose of, in such manner as they may think proper: Provided, always, that the said corporation or body politic shall not at any time hold or possess property, real, personal or mixed, exceeding in value the sum of twenty-thousand dollars, nor more than five acres of land: Provided, however, that if any real estate shall accrue to said corporation by donation or otherwise, they shall be allowed the term of one year to sell or dispose of the same.

Sec. 2. Be it further enacted, That the said corporation and their successors, by the name, style and title aforesaid, shall be forever thereafter capable in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all or any courts of justice, and before all or any judge, officers and persons whatsoever, in all and singular, actions, matters and demand whatsoever.

Sec. 3. Be it further enacted, That it shall and may be lawful for the said corporation to have a common seal for their use, and the same at their will and pleasure to change, alter and make anew from time to time as they may think best, and shall in general, have and exercise all such rights, privileges and immunities, as by law are incident or necessary to such corporations, and what may be necessary for the corporation herein instituted.

Sec. 4. Be it further enacted, That this act

shall take effect and be in force from and after its passage.

Approved, April 8th, A. D. 1846.

AN ACT

Creating the County of Smith.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, all that territory now included in the county of Nacogdoches, within the following limits, to wit: Beginning at a point on the Neches River due west of the south-west corner of the Neches Saline survey; thence, east, along the southern boundary line of said survey, to the south-east corner thereof; thence, due east to the western boundary line of Rusk county; thence, north, with said western boundary of said county of Rusk, to the north-west corner thereof; thence, up the Sabine River, with its meanderings, to a point thirty-six miles on a direct line from the corner of said Rusk county, on the Sabine River; thence, due south to the Cherokee boundary line; thence, south, with said line, to the Neches River; thence, down said river, with its meanderings, to the beginning, to be, and the same is hereby constituted a county.

Sec. 2. Be it further enacted, That the above described county shall be known and styled by the name of Smith.

Sec. 3. Be it further enacted, That William B. Duncan, James Hill, Elisha Lott, John Lawler, ——— Dewberry, be, and they are hereby appointed and constituted commissioners, who, or a majority of whom, shall proceed to run the lines as herein described, and to plainly mark the dry lines of the same, and also mark the several corners of said county.

Sec. 4. Be it further enacted, That the said

commissioners, or a majority of them, shall proceed to ascertain the center of the said county, as near as may be, and shall, at the said centre, or within three miles thereof, locate the county site at the most pleasant place within said bounds, having elevation and good water in consideration.

Sec. 5. Be it further enacted, That the said commissioners may, in the event that they cannot locate the said county site at the centre or within three miles thereof, they may locate the same within five miles of the centre, provided they can combine the said elevation and water so as to induce them to do so.

Sec. 6. Be it further enacted, That the said commissioners shall have the right to purchase or receive by donation, three hundred acres of land, including said location, or should the owner or owners of said land refuse to sell or donate the same, the said commissioners shall condemn one hundred acres, giving to the owner a fair consideration therefor, and proceed to lay off a town, and to sell the lots thereof to the highest bidder, reserving lots for a court house, jail, and such other public lots as they may deem necessary.

Sec. 7. Be it further enacted, That the said commissioners shall select from among themselves a presiding member who when so chosen shall have power to convene the said commissioners to transact any duties required of them in this act.

Sec. 8. Be it further enacted, That the said commissioners shall, before they enter upon the several duties herein required of them, be solemnly sworn by some acting justice of the peace to impartially discharge their duties as commissioners of the county of Smith.

Sec. 9. Be it further enacted, That the citizens of the said county of Smith shall be, and are hereby entitled to all the courts, officers and other privileges that the citizens of other counties of this State are, except separate representation and a separate land district.

Sec. 10. Be it further enacted, That the county site of said county of Smith shall be known and styled Tyler.

Sec. 11. Be it further enacted, That this act be in force from and after its passage.

Approved, April 11th, A. D. 1846.

AN ACT

To create the County of Denton.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the county of Fannin—Beginning at the south-west corner of Collin county; thence, west thirty miles; thence, north thirty miles; thence, east thirty miles; thence, south thirty miles, to the beginning, be, and the same is hereby created a new county to be known and called by the name of Denton.

Sec. 2. Be it further enacted, That the inhabitants residing within said limits shall be entitled to all the rights, privileges and immunities enjoyed by the inhabitants of the several counties in this State, except as to the right of separate representation and land district, for which purpose the inhabitants of Denton county shall be considered as attached to Fannin county until entitled by numbers to separate representation.

Sec. 3. Be it further enacted, That John W. King, Joseph W. Conner, Joseph Turner, John Ramsey and Jesse Gibson, be, and they are hereby appointed commissioners, whose duty it shall be to find the centre of said county and select two places within three miles of said centre, having due respect to donations that may be offered by individuals of land or other property, for a town site for the use of the county. The commissioners shall then proceed to hold an election, and the place receiving the majority of the legal votes shall be the county seat of said county; and the place so selected shall be known and called Pinckneyville; after which the commissioners shall proceed to lay off a town

and sell the lots therein at public auction, on a credit of twelve months. All the proceeds arising from the sale of lots or other donations shall be applied by the commissioners herein created, to the erection of public buildings for the use of the county.

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

Approved, 11th April, A. D. 1846.

AN ACT

To create the County of Hunt.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the counties of Fannin and Nacogdoches, to wit: Beginning at the south-west corner of Lamar county; thence, south thirty-eight and one-half miles; thence, west twenty-five miles; thence, north to the south-east corner of Collin county; thence, with the eastern boundary line of said county, to the southern boundary line of Fannin county; thence, north, eighty degrees east, to the beginning, be, and the same is hereby created a new county, to be know and called by the name of Hunt.

Sec. 2. Be it further enacted, That the inhabitants residing within said limits, shall have and exercise all the rights, privileges, and immunities enjoyed by the inhabitants of the several counties in this State, except the right of separate representation and a separate land district; and the inhabitants of said county shall severally be considered as attached to the counties from which they were taken, until entitled by numbers to a separate representation.

Sec. 3. Be it further enacted, That Samuel C. Hooker, Merideth Hart, Isaac Banty, James Hobbs, and William Lane, be, and they are hereby appointed commissioners, whose duty it shall be to find

the centre of said county, and select two places within three miles of said centre, having due respect to donations that may be offered by individuals, of land or other property, for a town site for the use of said county; the commissioners or a majority of them, shall then proceed to hold an election, and the place receiving the greatest number of the legal votes polled, shall be the county seat of said county, and the place so elected shall be known and called by the name of Greenville; after which the commissioners shall proceed to lay off a town, and sell the lots therein, at public auction, on a credit of twelve months, and all the proceeds arising from the sale of lots or other donations, shall be applied by the commissioners herein created to the erection of public buildings for the use of the county.

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

Approved, 11th April, A. D. 1846.

AN ACT

To establish the Judicial Districts of the District Courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following named counties shall compose the First Judicial District, to wit: Matagorda, Wharton, Colorado, Austin, Fort Bend, Brazoria and Galveston.

Sec. 2. Be it further enacted, That the following named counties shall compose the Second Judicial District, to wit: Comal, Guadalupe, Travis, Bastrop, Fayette, La Vaca, De Witt and Gonzales.

Sec. 3. Be it further enacted, That the following named counties shall compose the Third Judicial District, to wit: Brazos, Robertson, Leon, Limestone, Navarro, Milam, Burleson and Washington.

Sec. 4. Be it further enacted, That the following named counties shall compose the Fourth Judi-

cial District, to wit: Calhoun, Jackson, Victoria, Goliad, Refugio, San Patricio, Nueces and Bexar.

Sec. 5. Be it further enacted, That the following named counties shall compose the Fifth Judicial District, to wit: Jasper, Newton, Sabine, San Augustine, Shelby, Panola, Upshur, Harrison and Cass.

Sec. 6. Be it further enacted, That the following named counties shall compose the Sixth Judicial District, to wit: Nacogdoches, Angelina, Houston, Cherokee, Rusk, Anderson, Henderson, Smith and Dallas.

Sec. 7. Be it further enacted, That the following named counties shall compose the Seventh Judicial District, to wit: Harris, Montgomery, Walker, Grimes, Liberty, Polk, Tyler and Jefferson.

Sec. 8. Be it further enacted, That the following named counties shall compose the Eighth Judicial District, to wit: Bowie, Lamar, Red River, Fannin, Grayson, Collin, Denton, Hopkins, Titus and Hunt.

Sec. 9. Be it further enacted, That all former laws and parts of laws defining the Judicial Districts of the District Court, be, and the same are hereby repealed; and that this act take effect from and after its passage.

Approved, 11th April, 1846.

AN ACT

To define the boundaries of Robertson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following be, and are hereby declared to be the boundaries of Robertson county, to wit: Beginning at the north-west corner of Brazos county on the Brazos River; thence, up said river twenty-five hundred varas, above the north-west corner of a survey made for John Welch, as represented on the county map of Robertson county; thence, north, sixty degrees east, to

the Navasota; thence, down said river to the line of Brazos county; and thence, with said line to the place of beginning on the Brazos River.

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

Approved, 11th April, A. D. 1846.

AN ACT

To prescribe the manner of organizing the House of Representatives of the Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Secretary of State to organize the House of Representatives at the next, and each subsequent meeting of the Legislature, until otherwise provided by law; for which purpose he shall attend at the time and place designated for the meeting of the Legislature, and after appointing a clerk (who shall have been chief clerk of the House the preceding session, if he be present,) to take a minute of the proceedings, he shall have all of the counties of the State called over in alphabetical order, and as the members elect appear and present their credentials, it shall be his duty, or the duty of the clerk under his order and direction, to administer to each the oath prescribed by the Constitution.

Sec. 2. Be it further enacted, That should returns of election in any county or counties for members of the Legislature not be made to the office of Secretary of State, the clerk shall nevertheless call said county or counties, and if any person or persons appear at said call and present the proper evidence of his or their election, he or they shall be admitted or qualified in the same manner as though a return of his or their election had been made to the office of Secretary of State.

Sec. 3. Be it further enacted, That should there

not be a quorum in attendance on the day appointed for the meeting of the Legislature, it shall be the duty of the Secretary of State and clerk, to attend from day to day until a quorum shall appear and be qualified as above.

Sec. 4. Be it further enacted, That when a quorum shall have appeared and been qualified, the House shall proceed to the election of a Speaker, unless a majority of the members present shall think proper to defer said election.

Sec. 5. Be it further enacted, That when an election for Speaker shall have been had, the Speaker elect shall immediately take the chair and the House proceed to its further organization by electing the necessary officers, to whom the Speaker shall administer the oath of office.

Sec. 6. Be it further enacted, That should there be no Secretary of State, or in case he be absent or unable to attend, from any cause, the Attorney General shall attend and perform the duties prescribed by this act.

Approved, 11th April, A. D. 1846.

AN ACT

To provide for the enumeration of the inhabitants of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the assessor of direct taxes of each county in this State, shall at the time they assess the taxes in the year eighteen hundred and forty-seven, take an enumeration of the inhabitants of the State as follows, to wit: In the first column the number of qualified electors, in the second column all the white males over the age of eighteen years and under forty-five, in the third column all the white males under the age of eighteen years, in the fourth column all the white males over forty-five years of age, in the fifth

column all the white females, in the sixth column all the slaves, in the seventh column all free persons of color.

Sec. 2. Be it further enacted, That the assessors shall make out duplicate returns, one of which shall, on or before the second Monday in December, be filed by them in their respective county clerk's office; and one transmitted by mail or otherwise, to the seat of Government, directed to the Secretary of State.

Sec. 3. Be it further enacted, That the several assessors shall each receive three cents for each white inhabitant residing in the country, and two cents for each white inhabitant in a town or city, and one cent for each slave or free person of color.

Sec. 4. Be it further enacted, That the said assessors shall each take an oath before some competent authority to promptly and faithfully discharge the duties required of them in this act agreeably to the best of their abilities.

Sec. 5. Be it further enacted, That the assessors shall severally give bond and approved security to the chief justice of their respective counties, and their successors in office, in the sum of five hundred dollars, to be void conditioned that they faithfully discharge the duties required of them in this act, otherwise not.

Approved, 11th April, A. D. 1846.

AN ACT

Creating the County of Cherokee.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act all that portion of the territory now included within the county of Nacogdoches, within the following limits, to wit: Beginning at a point on the Neches River due west from the southwest corner of the Neches Saline survey; thence, east,

with the southern boundary line of said saline survey, to the south-east corner thereof; thence, due east, to the western boundary line of Rusk county; thence, south, along said county line, to the south-west corner thereof; thence, east, along the southern boundary line of said county, to the Angelina River; thence, south, down the said river with its meanderings, to the lower end of Juan Cruz's survey of an island in said Angelina River, to a point opposite said lower end of said island on the west bank of said river; thence, running south, fifty degrees west, to the Neches River; thence, north, up said river with its meanderings, to the beginning, be, and the same is hereby constituted a county.

Sec. 2. Be it further enacted, That the above described county shall be known and styled by the name of Cherokee county.

Sec. 3. Be it further enacted, That Elisha Mosley, John H. Irby, Col. Park, — Keelo, William Roark, W. Y. Lacy, Samuel Box and William Box, be, and they are hereby constituted commissioners, who, or a majority of whom, shall proceed to establish the lines of said county, as herein described and to plainly mark the corners and dry lines of the same.

Sec. 4. Be it further enacted, That the said commissioners, or a majority of them, shall proceed to ascertain the centre of said county as nearly as may be, and locate the county site thereon, or at some point within three miles of said centre, if they can find an elevated and well watered site within that distance.

Sec. 5. Be it further enacted, That should the said commissioners not be able to find a suitable place at or within three miles of the centre, they may establish the same at the best point within five miles of the said centre.

Sec. 6. Be it further enacted, That the said county site of Cherokee county, shall be styled Rusk.

Sec. 7. Be it further enacted, That the said commissioners shall have the right to purchase at a fair cash valuation, or receive by donation, three

hundred acres of land, including the said county site, or should the owner or owners of such lands refuse to sell or donate the said lands, the commissioners shall condemn one hundred acres including the said county site, they giving a just compensation therefor, and proceed to lay the same off into town lots, reserving a lot for the court house, jail, and such other public buildings as they may deem best for the interest of the county, and sell the others to the highest bidder on such time as the said commissioners may determine, the proceeds of which sale, shall be applied to public buildings for the use of said county.

Sec. 8. Be it further enacted, That the said commissioners shall select from among themselves a presiding officer, who when so elected shall have power to convene the said other commissioners to transact any business required of them in this act, a majority of whom in all cases may act.

Sec. 9. Be it further enacted, That the said commissioners, before they enter upon the several duties herein required, shall take an oath to faithfully and impartially discharge their duties as commissioners of the county of Cherokee, before some acting justice of the peace.

Sec. 10. Be it further enacted, That the citizens of the county of Cherokee, are hereby entitled to the same officers and courts as those of other counties in this State, except that of separate representation and the right of having a separate land district.

Sec. 11. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, 11th April, A. D. 1846.

AN ACT

To incorporate the Huntsville Academy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the present trustees of

the Huntsville Academy in the town of Huntsville, and county of Walker, be, and they are hereby constituted a body corporate and politic, under the name and style of Huntsville Academy, capable of suing and being sued, pleading and being impleaded, of holding property real and personal, of selling, conveying and alienating the same at pleasure, and of doing and performing all things whatsoever that they may deem beneficial to said institution, not contrary to the constitution and laws of this State: Provided, that the real and personal property acquired by said corporation shall not at any time exceed twenty thousand dollars:

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the present trustees and their successors in office, so long as they confine the benefits of the same to the promotion of education.

Sec. 3. Be it further enacted, That on the first Saturday of March, 1847, (until which time the present trustees shall hold their office) and annually thereafter, the subscribers to said institution shall elect seven trustees for the ensuing year: Provided, that no one shall be considered a subscriber who has not subscribed and paid towards the erection of the buildings now used, or who may not hereafter subscribe and pay the sum of ten dollars for the use of said institution other than tuition fees.

Sec. 4. Be it further enacted, That the election shall be held by the President of the board of trustees, or in his absence, by any one of them, and a majority of those present and voting, shall be sufficient to constitute the persons voted for duly elected trustees. In all cases the old trustees shall hold their offices until their successors are elected.

Sec. 5. Be it further enacted, That said trustees shall choose their president and have all the powers incident to corporations that are not inconsistent with the constitution and laws of the State and of this act; they shall also appoint one of their body secretary and treasurer, who shall keep a record of their proceedings, and if required give bond for the safe keeping of the monies of said academy.

Sec. 6. Be it further enacted, That the said

board of trustees shall have power to pass such by-laws as they may deem proper for their own government, and for the government of the schools by them established: Provided, they are not inconsistent with the constitution and laws.

Sec. 7. Be it further enacted, That said Academy shall be forever free of the control of any particular denomination of Christians, but shall be open for the use and benefit of all.

Sec. 8. Be it further enacted, That this act take effect and be in force from and after its passage.

Passed, 11th April, 1846.

AN ACT

To incorporate Duval Academy, in the County of Fannin.

Section 1. Be it enacted by the Legislature of the State of Texas, That Bailey English, G. A. Everts, John P. Simpson, William B. Dagley, Daniel Montague, John Yearry and Samuel Erwin, be, and they are hereby incorporated a body politic, under the name and style of the Trustees of Duval Academy, capable of suing and being sued, of pleading and being impleaded, of holding property, either real, personal or mixed, of selling and conveying the same at pleasure, of having a common seal and of changing the same at pleasure, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of this State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the said trustees and their successors in office as long as they confine the benefit of the same to the advancement of the sciences and the promotion of useful knowledge to the rising generation; which institution shall be

accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. Be it further enacted, That the trustees for the time being shall have full power to enact by-laws, rules, and regulations, for the government of said academy, as may seem to them necessary for that object.

Sec. 4. Be it further enacted, That the institution hereby created shall be located at or near the town of Bonham in said county.

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

Approved, 11th April, A. D. 1846.

AN ACT

Defining the duties of the Comptroller of Public Accounts of the State of Texas.

Bond required.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first Comptroller of the State of Texas shall within twenty days from and after the passage of this act, and every subsequent Comptroller shall within twenty days after he shall have received notice of his election, and before he enters upon the duties of his office, give a bond payable to the Governor of the State of Texas and his successors in office for the use of the State, in the sum of seventy-five thousand dollars, with not less than six good securities, to be approved of by the Governor of the State of Texas, conditioned that he will faithfully execute the duties of his office, and shall take and subscribe the oath prescribed by the constitution, which, together with the bond, shall be deposited in the office of the Secretary of State; which said bond shall not be void on the first recovery of part or of the whole of the penalty, but shall thereafter continue in force for the whole amount

of the penalty thereof, and may be sued on from time to time, and shall be deemed to extend to the faithful performance of the duties of his trust until his successor shall be duly qualified and shall have entered upon the duties of his office.

Sec. 2. Be it further enacted, That it shall be the duty of the Comptroller of public accounts to superintend the fiscal concerns of the State and manage the same in the manner required by law; he shall also perform such official acts as were required of the Secretary of the Treasury under the Republic of Texas, when not otherwise provided for by law. ^{Duties defined.}

Sec. 3. Be it further enacted, He shall exhibit to the Governor, on the first Monday of December of each year, and at such other times as he shall require, an exact and complete statement of the funds of the State, of its revenues, and of the public expenditures during the preceding year, (or for such other time as may be required,) with a detailed estimate of the expenditures to be defrayed from the treasury for the ensuing year, specifying therein each object of expenditure, and distinguishing between such as are provided for by special or general appropriations and such as are required to be provided for by law, and showing the means from which such expenditures are to be defrayed. ^{Shall make exhibition to the Governor.}

Sec. 4. Be it further enacted, He shall keep and state all accounts between this State and the United States, and all other accounts in which the State is interested, and suggest plans for the improvement and management of the public revenue. ^{Shall keep accounts,}

Sec. 5. Be it further enacted, He shall examine and settle the accounts of all persons indebted to the State and certify the amount or balance to the Treasurer, and direct and superintend the collection of all monies due the State.

Sec. 6. Be it further enacted, He shall audit the claims of all persons against the State in cases where provisions for the payment thereof have ^{Shall audit claims, &c.}

been made by law, unless the auditing of any such claims shall be otherwise specially provided for.

Sec. 7. Be it further enacted, He shall require all persons who shall have received any monies belonging to the State and shall not have accounted therefor, to settle their accounts; and shall from time to time require all persons receiving monies or having the disposition or management of any property of the State, of which an account is kept in his office, to render statements thereof to him.

Shall draw
warrants.

Sec. 8. Be it further enacted, He shall draw warrants on the Treasurer for the payment of all monies directed by law to be paid out of the treasury; and no warrant shall be drawn unless authorized by law; and every warrant shall refer to the law under which it is drawn, and no warrant shall be issued in favor of any person or the agent or assignee of any person indebted to the State until such debt be paid.

Sec. 9. Be it further enacted, He shall preserve the books, records, papers, and other things belonging to his office, and deliver the same without injury or damage to his successor.

Shall make re-
ports to Trea-
surer.

Sec. 10. Be it further enacted, He shall number each and every warrant he shall draw upon the Treasurer of the State; the numbers shall begin with one, at the commencement of each fiscal year, and proceed progressively to the end thereof; they shall specify on what particular account they are drawn, and he shall take a receipt for every such warrant from the person receiving the same to be deposited in the files of his office.

Sec. 11. Be it further enacted, He shall furnish the Treasurer of the State, at the close of every month, with a report specifying the warrants that have been drawn during each month; their numbers, their several amounts and the names of the persons to whom payable.

Shall furnish
forms.

Sec. 12. Be it further enacted, He shall prescribe and furnish the forms to be used by all

persons in the collection of the public revenue, and the mode and manner of keeping and stating their accounts.

Sec. 13. Be it further enacted, That he shall require all accounts presented to him for settlement, not otherwise provided for by law, to be certified to by affidavit, taken before some notary public, touching the correctness of the same, or by oath or affirmation which may be administered by himself, in any case in which he may deem it necessary.

Sec. 14. Be it further enacted, He shall remit or make an allowance to every tax collector in the auditing of his accounts for all sums of money which in his judgment have been illegally assessed.

Sec. 15. Be it further enacted, The accounts of the Comptroller against the State shall not be passed to the Treasurer until approved by the Secretary of State.

Sec. 16. Be it further enacted, The Comptroller shall from time to time cause to be published at the expense of the State, in one or more of the newspapers printed therein, such instructions relating to the payment of monies due this State, or the duties to be performed by the assessors and collectors thereof as he may deem necessary.

Sec. 17. Be it further enacted, That all liens, mortgages, bonds and other sureties for money given to this State or any officer thereof for the use of the State, unless otherwise specially directed, shall be deposited and kept in the office of the Comptroller.

Sec. 18. Be it further enacted, That he shall procure at the expense of the State, a seal, with the words "Comptroller's Office, State of Texas," engraved around the margin and a star with five points in the centre thereof, which shall be used as the seal of the Comptroller's office in the authentication of all his official acts, except warrants drawn on the Treasurer of the State.

Shall have
a seal.

Sec. 19. Be it further enacted, The accounts of His accounts

to be closed
annually.

the Comptroller shall be annually closed on the last day of October, and he shall exhibit all books, papers, vouchers and all other matters pertaining to his office, for the examination of either branch of the Legislature or any committee which may be by them appointed, whenever required by them so to do.

Shall examine
the disburse-
ments of the
Treasurer.

Sec. 20. Be it further enacted, That the Comptroller shall examine the disbursements of the Treasurer, at the end of each quarter, and shall, together with the Treasurer, cancel the warrants which have been paid, in such manner as to prevent their future circulation, and shall examine if the receipts acknowledged by the Treasurer, during the quarter, correspond with the deposits, and if the balance of money reported to be in his possession is actually in his hands.

Sec. 21. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, 11th April, A. D. 1846.

AN ACT

To create the County of Limestone.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of Robertson county included in the following bounds, be, and the same is hereby created into a new county to be called and known by the name of Limestone, to wit: Beginning at the north-east corner of Leon county, on the Trinity River; thence, with the line of said county to the Navasoto River; thence, up said river to the north-east corner of Robertson county; and thence, with the line of said county to the Brazos River; thence, up the east bank of said river to the

mouth of Tehuacana Creek, where it empties into said river; thence, north, sixty degrees east, to the Trinity River; thence, down the west bank of said river to the place of beginning. And the inhabitants residing in the said bounds shall be entitled to all the rights, privileges and immunities incident to the citizens of the original counties; except the right of separate representation in the Legislature, (until entitled thereto by numbers,) and the right of a separate land district. And the citizens of said county shall vote with Robertson county for Senator and Representatives until otherwise provided for by law; and that this act take effect and be in force from and after its passage.

Approved, 11th April, A. D. 1846.

AN ACT

To prescribe the time of the biennial meeting of the Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Legislature of the State of Texas shall meet at the seat of Government and begin their second biennial session on the second Monday in December, A. D. 1847, and on the same day biennially thereafter, until otherwise prescribed by law.

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

Approved, 11th April, A. D. 1846.

AN ACT

To provide for the organization of the several Counties in the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the chief justice and any two of the county commissioners of each and every county in this State, immediately after the receipt of this act, to lay off and divide their respective counties into convenient precincts for the election of justices of the peace and constables, defining particularly the boundaries of such precincts, and also, to appoint a convenient place in each precinct where elections shall be held, of all which they shall cause the county clerk to make a record.

Sec. 2. Be it further enacted, That it shall be the duty of the chief justice and any two of the county commissioners of every county in this State from which any new county has been taken at this session of the Legislature, or from which the greater portion of any new county has been taken, to lay off and divide such new counties into convenient precincts for the election of justices of the peace and constables, defining particularly the boundaries of such precincts, and also to appoint a convenient place in each precinct where elections shall be held; of all which they shall cause a record to be made, which they shall send to the chief justice of each new county, when elected.

Sec. 3. Be it further enacted, That it shall be the duty of the chief justice of every county of this State, to cause elections to be held on the second Monday of July, 1846, in their respective counties, for one chief justice, four county commissioners, one sheriff, one coroner, one county clerk, one clerk of the district court, and two justices of the peace and one constable for each

justice's precinct, and such other county officers required by law to be elected by the people.

Sec. 4. Be it further enacted, That it shall be the duty of the chief justice of every county in this State, from which any new county has been taken at this session of the Legislature, or from which the greater portion of any new county has been taken, to cause an election to be held in all such new counties on the second Monday in July, 1846, for all such officers as are named in the preceding section.

Sec. 5. Be it further enacted, That the elections provided for in the two preceding sections, shall be conducted in all respects in conformity with the laws regulating elections in this State; and the returns of elections, in all new counties, shall be made to the chief justice or officer ordering the election in such new counties.

Sec. 6. Be it further enacted, That in counties where there are no county commissioners, the chief justice and any two justices of the peace, shall perform all the duties required of the chief justice and county commissioners in the two first sections of this act; and in counties where there is no chief justice, then the sheriff shall perform all the duties required of chief justices by the provisions of this act.

Sec. 7. Be it further enacted, That the present incumbents of all county offices shall continue in office, and perform all the duties required of them by law, until their successors, or officers performing similar duties shall be elected under the provisions of this act, and enter upon the discharge of their duties, when they shall hand over to their successors, or officers performing similar duties, all books, papers and other effects, belonging to their respective offices; and until the new counties established by this Legislature shall be organized under the provisions of this act, they shall be considered as forming a part of the county or counties from which they were taken.

Sec. 8. Be it further enacted, That until the

county seats of new counties are established, as required by law, the courts of such new counties shall be held at such places as may be appointed by the county courts thereof.

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

Approved, 11th April, A. D. 1846.

AN ACT

To exempt from taxation two hundred and fifty dollars worth of household furniture, and other personal property belonging to each family in the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage hereof, there shall be exempt from taxation two hundred and fifty dollars worth of the household furniture, and other personal property belonging to each family in the State.

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

Approved, April 11th, A. D. 1846.

AN ACT

To incorporate Lamar Academy in the County of Lamar.

Section 1. Be it enacted by the Legislature of the State of Texas, That George W. Wright, Calvin C. Cooper, Claiborn Chism, John A. Rutherford, H. D. Woodsworth, Isaac I. Newell and

Hamlin L. Williams, be, and they are hereby incorporated a body politic, under the name and style of the Trustees of Lamar Academy, capable of suing and being sued, of pleading and being impleaded, of holding and owning property either real, personal, or mixed, of selling and conveying the same at pleasure, of having a common seal and of changing the same at pleasure, and of doing and performing whatever else may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of this State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the said trustees and to their successors in office, as long as they confine the benefit of the same to the advancement of the sciences and the promotion of useful knowledge to the rising generation; which institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. Be it further enacted, That the trustees for the time being, shall have full power to enact by-laws, rules and regulations for the government of said Academy, as they may deem necessary for the prosperity of the same.

Sec. 4. Be it further enacted, That the institution hereby incorporated, shall be located at or near the town of Paris in said county.

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

Approved, 11th April, A. D. 1846.

AN ACT

Amending the 8th and 11th sections of an act to incorporate Hermann's University; approved, January 27th, 1844.

Section 1. Be it enacted by the Legislature of the State of Texas, That no religious test or qualification of any kind whatever shall be a requisite in order to become a trustee, professor, instructor or student in said University; and the theological faculty shall never be styled by the name of any singular religious confession.

Sec. 2. Be it further enacted, That the said University shall be located at some place to be designated by the president and trustees:

Sec. 3. Be it further enacted, That the 8th and 11th sections of an act to incorporate Hermann's University, approved, January 27th, 1844, be and the same are hereby repealed, and that this act shall take effect from and after its passage.

Passed, 11th April, 1846.

AN ACT

To authorize the Governor to pay expresses employed to circulate the law providing for the election of Representatives to the Congress of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of three hundred dollars, or so much thereof as required, is hereby appropriated for the payment of such persons as were employed by the Governor to circulate the law providing for the election of Representatives

to the Congress of the United States and to inform the Senators of their election, and the Treasurer and Comptroller be required to pay such orders as the Governor may make on the Treasurer, for the purposes contemplated by this act.

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

Approved, April 11th, A. D. 1846.

AN ACT

For the regulation of Pilots.

Section 1. Be it enacted by the Legislature of the Governor to
State of Texas, That the Governor be, and he is hereby ^{appoint.}
authorized and required to appoint and commission for
a term of four years, at each of the ports of this State,
such number of competent and reputable persons as
may be needed at each, for the office of branch pilot;
and he shall from time to time make new appointments
as aforesaid, when vacancies or an increase of business
require it; but until appointments are made pursuant to
this act, the pilots of the several ports who were in office
when the organization of the State Government took
place, shall be authorized to continue acting as such on
the authority of their collectoral appointments.

Sec. 2. Be it further enacted, That the Governor shall ^{Commission-}
appoint, with the consent of the Senate, for each port of ^{ers of Pilots.}
the State, whose population and circumstances will war-
rant it, a board of five persons of respectable standing,
under the denomination of commissioners of pilots for
such port; three of whom shall be practical seamen,
and the other two merchants, who shall be com-
missioned by the Governor, for the term of four

years, and the Governor shall, during the recess of the Legislature, be authorized to suspend until the next session of the same, any of said commissioners, and to fill until the same period, any vacancies in the board, caused by death, resignation or otherwise: Provided, however, that no member of the board of commissioners shall be directly or indirectly pecuniarily interested in any pilot boat or branch pilot in the business of their trust.

Authority of
Commission-
ers.

Sec. 3. Be it further enacted, That said board of commissioners shall be authorized, if they deem it advisable, to examine and decide on the qualifications of any branch or deputy pilot whom they find already appointed at the time of their organization, and it shall be their duty to examine each new applicant for the office of branch or deputy pilot, and to decide on his qualifications, recommending to the Governor, where new appointments are proper, such as are meritorious; and it shall also be their duty to examine into any case of alleged or supposed misconduct, or inefficiency in branch or deputy pilots, and they shall be authorized, after a due hearing of accusation testimony, and defence, to suspend such pilot, if sufficient cause appear; and during such suspension he shall not be allowed to exercise the functions of his office. The Governor shall, however, have power, at his will and pleasure, to remove any branch pilot, or to reinstate any one of the same who has been suspended by the commissioners.

Two years
residence ne-
cessary to
branch Pilots.

Sec. 4. Be it further enacted, That the board of commissioners of pilots of each port, shall require a certain term of residence in the Republic or State of Texas not less than two years, to authorize any person to exercise the functions of branch pilot for their port, as also to establish a term of probation not exceeding one year, as a deputy pilot, before any person can exercise the functions of branch pilot: Provided however, that the latter requirement shall not apply to those

who have been branch pilots in the same port, under the laws of the Republic, and are reappointed under the laws of the State of Texas.

Sec. 5. Be it further enacted, That each branch pilot shall give a bond with two or more securities, made payable to the Governor and his successors in office, for the sum of five thousand dollars, conditioned for the faithful performance of the duties of said pilot; which bond shall be presented to the board of commissioners for pilots, or if there be none, to the chief justice of the county in which the port is situated, and must be approved by said board or judge before said pilot can exercise the duties of his office, and the bond aforesaid shall be forwarded by said commissioners or judge, with their or his approval thereon endorsed, to the Governor.

Pilots to give bonds.

Sec. 6. Be it further enacted, That the board of commissioners of pilots shall have authority within the limits provided in this act, to fix the rates of pilotage and to establish regulations respecting the stations whereat, and the times wherein pilots shall be on duty, with provisions for leave of absence, as also respecting the class, condition, number and use of pilot boats, and such other minor regulations compatible with the provisions of this act as may be needful for the governance of pilots and for the order and good effect of the proceedings of the board, of which proceedings a record shall be kept: Provided, no regulation shall be adopted repugnant to the constitution of the State.

Commissioners to fix rates of pilotage, &c.

Sec. 7. Be it further enacted, That the board of commissioners of pilots shall be authorized and required to hear and determine all disputes that may arise respecting pilots and pilotage, to award to pilots extra compensation for extra services to vessels in distress, as also compensation for injurious loss of time, incurred by pilots, in waiting on vessels, or by being carried off to sea on vessels by default of the master or owner, when such pilots might have been landed: Pro-

Commissioners determine disputes, &c.

vided, always, that no more than three dollars for each day shall be awarded for mere loss of time; and it shall be the duty of said board to superintend and generally attend to all matters appertaining to pilots and pilotage, but from any decision of said board, an appeal may be taken to the court having cognizance of the case.

Deputy pilots
appointed.

Sec. 8. Be it further enacted, That each branch pilot may appoint, subject to examination and approval of the board of commissioners, two deputies, for whose acts the branch pilot so appointed shall be responsible; and any branch pilot who shall appoint a deputy without the approval of said board, shall forfeit his own appointment; and the said board shall have authority to restrict all deputy pilots from piloting over the bar vessels of over a certain draft of water.

Rates of pi-
lotage.

Sec. 9. Be it further enacted, That the rate of pilotage on any class of vessels shall not, in any port of this State, exceed three dollars for each foot of water which the vessel, at the time of piloting draws, and that whenever a vessel, except of the classes below excepted, shall decline the service of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined, for the payment of half pilotage, and any vessel which after being brought in by a pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall in so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot or the offer of it outside, she shall in case of going out without a pilot, not be liable to half pilotage; and when a pilot takes charge of a vessel twenty miles outside of the bar and brings her to it, he shall be entitled to one fourth pilotage for such off-shore service, in addition to what he is entitled to recover

for bringing her in; but if such off-shore service be declined, no portion of the said compensation for it shall be recovered; and the following classes of vessels shall be free from any charge for pilotage, unless for actual service, to wit: all vessels of twenty tons and under; all vessels of whatsoever burthen, owned in the State of Texas and registered and licensed in the district of Texas, when arriving from or departing to any port of the State of Texas; all vessels of seventy-five tons and under, owned and licensed for the coasting trade in any part of the United States, when arriving from or departing to any port in the State of Texas; all vessels of seventy-five tons and under, owned in the State of Texas and licensed for the coasting trade in the district of Texas, when arriving from or departing to any port in the United States.

Sec. 10. Be it further enacted, That any branch or deputy pilot who shall be guilty of taking charge of a vessel in a state of inebriety, shall upon proof of the same, for the first offence be suspended for one month, and for a second offence be dismissed, and be rendered incapable of again serving in either capacity; and if any branch or deputy pilot shall wilfully or by neglect cause the wreck of a vessel, he shall be dismissed and be rendered incapable of again serving in either capacity, and shall be subject to such punishment as is prescribed by law. Pilots inebriate.

Sec. 11. Be it further enacted, That if any person not appointed a branch or deputy pilot shall pilot any ship or vessel out of or into any port of this State, when a branch or deputy pilot has offered such service, the person so piloting shall forfeit and pay to such branch or deputy pilot, the sum of fifty dollars, to be recovered before any court having cognizance of the case. Persons not Pilots may not pilot, &c.

Sec. 12. Be it further enacted, That the consignee of any vessel shall be held responsible for the pilotage of said vessel.

Sec. 13. Be it further enacted, That at any Chief justice

may appoint
provisional
committee.

port whose population and circumstances do not warrant the appointment of a board of commissioners of pilots in the manner before provided, the Governor may authorize the chief justice of the county to appoint a provisional committee of from three to five persons of good character and maritime experience, who shall be authorized under this act to establish the rates of pilotage and the rules for governing pilots; to examine the qualifications of pilots and applicants for the office; to investigate the case of any pilot charged with misconduct or inefficiency, and to suspend him if sufficient cause appear.

Act of Congress repealed.

Sec. 14. Be it further enacted, That the act of congress of the Republic of Texas, entitled an act appointing pilots, approved, May 23, 1838, and that entitled an act regulating the appointment and duties of pilots at the port of Galveston, approved, February 4, 1842, be and are hereby repealed.

Sec. 15. Be it further enacted, That this act take effect from and after its passage.

Approved, 17th April, A. D. 1846.

AN ACT

To designate and officially name the persons who shall be Conservators of the Peace.

Section 1. Be it enacted by the Legislature of the State of Texas, That all judges of the supreme, district and probate courts, the attorney general and district attorneys, all sheriffs, coroners and constables, all justices of the peace, all notaries public, associate justices of the county court and all county commissioners, the mayor and aldermen of all incorporated cities or towns, are hereby declared to be, and made, conserva-

tors of the peace in the State and in the districts or counties in which they respectively serve, and it is hereby made their duty, severally, for the preservation of the peace, to enforce the laws in such cases made and provided.

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

Approved, 17th April, A. D. 1846.

AN ACT

To authorize and require the Governor to cause the Constitution and certain Laws of the State of Texas to be translated into the German and Spanish languages.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor is hereby authorized and required to cause the constitution of the State and such general enactments of the Legislature thereof, as in his judgment the public interest may require, to be translated and printed in the German and Spanish languages, and promulgate the same in the counties which embrace German emigrants or Spanish citizens, in sufficient quantity for the due administration of the laws of the State.

Sec. 2. Be it further enacted That the sum of one thousand dollars be and the same is hereby appropriated to carry into effect the provisions of this act; and that the same take effect and be in force from and after its passage.

Approved, 18th April, A. D. 1846.

AN ACT

To establish the County of San Patricio.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of San Patricio shall hereafter consist and be composed of the territory lying between the river Nueces and river and bay of Aransaso, commencing where the Bexar county line crosses the Nueces river; thence, down the east bank of the Nueces river to the Corpus Christi Bay, following the meanders of the bay, to the mouth of the bayou that connects said bay with Aransaso Bay; thence, in a direct line to the mouth of Aransaso river; thence, following the meanders of the west bank of said Aransaso river, to the line of Bexar county; thence, with the line of Bexar county, to the place of beginning.

Sec. 2. Be it further enacted, That the town of San Patricio be, and is hereby declared, the county seat of said county.

Approved, 18th April, A. D. 1846.

 AN ACT

To secure to the State of Texas the Customs revenue received or incurred under the laws of the Republic of Texas.

Customs revenue to be paid into the State treasury.

Section 1. Be it enacted by the Legislature of the State of Texas, That all monies which, in conformity with the laws of the Republic of Texas, or with orders from the secretary of the treasury of said Republic, have been received by the collectors acting under said laws, or orders, whether

received as impost or tonnage duties, or other customs revenue, on any vessel entered or any goods imported, after the 31st of December, 1845, and before the 16th day of February, 1846, as also any monies which may be hereafter received by any agent of the State of Texas as customs revenue incurred by vessels entered or goods imported between said dates, shall be paid into the treasury of the State.

Sec. 2. Be it further enacted, That any suit which has been or which may be instituted against any collector of customs, or any agent of the State of Texas, for reclaim of customs revenue which has been or may hereafter be collected on vessels entered or goods imported between the 31st December, 1845, and the 16th of February, 1846, while the revenue laws of the Republic of Texas were in force, and by such collector or agent paid over to the treasury officers, or so collected and paid over in conformity with orders from the secretary of the treasury of said Republic, or for indemnity for any act done by such collector or agent in conformity with said laws or orders to secure such revenue on goods imported or vessels entered between the 31st of December, 1845, and the 16th of February, 1846, such suits shall be defended by and at the expense of the State of Texas, and each and every judgment which may be rendered against such collector or agent in any suit instituted as aforesaid, shall be paid and satisfied by the State of Texas; and if any collector or agent shall be sued as aforesaid, it shall be his duty to notify the Governor of the State, and district attorney of the district in which he may be so sued, whose duty it shall be to defend such suit on the part of the State.

Suits against collectors to be defended at cost of State.

Sec. 3. Be it further enacted, That the Governor is hereby authorized and required, when necessary, to employ additional counsel to represent the State, who shall be allowed for his services not more than ten per centum when the amount in controversy does not exceed five hundred dol-

Additional counsel.

lars, nor more than five per centum on any excess above five hundred dollars.

Five per cent.
per month in-
terest to be
paid on fail-
ure to pay
monies over.

Sec. 4. Be it further enacted, That any customs collector appointed under the laws of the Republic or any agent of the State of Texas, who shall fail to pay into the treasury of the State within the time prescribed by law, any monies received by him as customs revenue aforesaid, shall, in addition to the penalties imposed by law, pay five per centum interest per month on the whole amount so withheld by him.

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

Approved, 18th April, A. D. 1846.

AN ACT

To require the County of Wharton to pay a portion of the County debt of Colorado and Matagorda Counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the chief justices of the counties of Matagorda, Wharton and Colorado, be and they are hereby required to meet on the first day of December, 1846, at the court house of Wharton county, and ascertain the county debt now owing by the said counties of Matagorda and Colorado respectively, and after ascertaining said debts, they shall apportion the debt of Matagorda county, between the counties of Matagorda and Wharton, assigning to each of said counties its fair proportion of said debt, according to the assessment of property for State taxes, made by the assessor of Matagorda county for 1845; and they shall also apportion the debt of Colorado county between the counties of Colorado and Wharton, assigning to each of said counties its fair proportion of said debt, according to the assessments of property for State

taxes, made by the assessor of Colorado county for the year 1845.

Sec. 2. Be it further enacted, That after said county debts shall have been so apportioned, the county of Wharton shall be bound to provide for and pay its proportion of the debts of the said counties of Matagorda and Colorado, so assigned to it, as if the same had been originally contracted by the county of Wharton.

Sec. 3. Be it further enacted, That a majority of said chief justices shall form a quorum for the transaction of any or all of the business required of them by this act, and they may adjourn from day to day, or from time to time, until they shall have completed the duties required of them by this act.

Sec. 4. Be it further enacted, That the said chief justices or a majority of them shall make a record of their doings under this act, which shall be signed by them, and one copy thereof shall be deposited with the county clerk of each of the counties of Matagorda, Wharton and Colorado; and that the said chief justices shall receive such compensation for their services under this act, as may be allowed them by their respective county courts.

Sec. 5. Be it further enacted, That all liabilities of the county of Matagorda, hertofore contracted, shall be received in payment of that portion of the county debt of Matagorda, which shall be assigned to the county of Wharton under the provisions of this act; and in like manner all liabilities of the county of Colorado, hertofore contracted, shall be received in payment of that portion of the county debt of Colorado, which shall be assigned to the county of Wharton.

Sec. 6. Be it further enacted, That all taxes, dues and demands of every character, now due and owing to the county of Matagorda by citizens of Wharton county, and upon property situated in the limits of Wharton county, shall accrue and be payable to the county of Wharton; and in like manner all taxes, dues and demands of any character, now due and owing to the county of Colorado by citizens of Wharton county, and upon property situated in the limits of Wharton county, shall accrue

and be payable to the county of Wharton, and all such taxes, dues and demands shall be collected by the proper officers of Wharton county, and paid into the county treasury of said county, in like manner as the same could have originally been collected and paid into the county treasuries of Matagorda and Colorado respectively.

Approved, 18th April, A. D. 1846.

AN ACT

To establish the County of Nueces.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that part of the county of San Patricio lying between the Rio Grande and the Nueces River is hereby incorporated into a county by the name of the county of Nueces, and a direct line running from the junction of the Cibolo or San Bartolo Creek to the Rio Frio, at a point thirty miles above its junction with the Nueces; thence, in a direct line to the town of Laredo, shall be the dividing line between the counties of Nueces and Bexar, from the river Nueces and from the above boundary of Nueces, at Laredo, the river Rio Grande shall be the western boundary of the county of Bexar.

Sec. 2. Be it further enacted, That Corpus Christi shall be the county seat of said county of Nueces.

Approved, 18th April, A. D. 1846.

AN ACT

To connect Galveston Island with the main land at Virginia Point.

Section 1. Be it enacted by the Legislature of the State Texas, That the county of Galveston be, and is hereby authorized to construct a public highway or bridge from Galveston Island to the main land at Virginia Point, at such place as may be deemed most eligible: Provided, that there shall be erected on such bridge or highway, a draw-bridge over the channel of the bay so as to admit the free passage and repassage of all vessels engaged in the navigation of the bay without charge or toll: Provided, that said bridge or causeway shall not injuriously impede the navigation of Galveston Bay.

Bridge or
causeway.

Sec. 2. Be it further enacted, That said county may from time to time establish toll; Provided, the rates shall never exceed for a road wagon two dollars; for a two horse wagon one dollar; for an ox cart one dollar; for a one horse cart or wagon seventy-five cents; for a two horse pleasure carriage two dollars; for a one horse pleasure carriage one dollar; for a horse and rider fifty cents; for grown horses or cattle twenty-five cents per head; for sheep or hogs per head six cents; and for all foot passengers twenty-five cents; and for all articles not herein enumerated at equivalent rates to those herein specified.

Rates of toll.

Sec. 3. Be it further enacted, That for the purpose of enlisting individual capital and enterprise in the construction of said bridge or highway, the county aforesaid is hereby authorized to give, grant or bestow any part or portion of the tolls arising therefrom to individuals, who shall be bound to keep said bridge or highway in good repair.

Sec. 4. Be it further enacted, That there shall be kept in constant attendance at the draw-bridge and toll gate of said highway or bridge, a sufficient number of persons to admit intercourse by day or night, and the parties undertaking the same, shall

Toll collect-
or's duty.

be subject to a fine of five dollars for every case of detention caused by his or their negligence or inattention, to be paid to the treasurer of the county and damages caused to the party detained, recoverable before any judge or justice of the peace for said county.

Sec. 5. Be it further enacted, That the chief justice and associate justices of said county, or whosoever may hereafter execute their present functions be, and are hereby vested with full power to carry this act into effect.

Approved, 18th April, A. D. 1846.

AN ACT

To establish the Seat of Justice of Limestone County.

Section 1. Be it enacted by the Legislature of the State of Texas, That until otherwise provided by law, the seat of justice of Limestone county shall be at Springfield; and all courts for said county shall be held thereat; and that this act take effect and be in force from and after its passage.

Approved, 18th April, A. D. 1846.

AN ACT

Authorizing the Governor to offer a reward for fugitives.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person charged with or convicted of treason, murder, or other capital crimes, shall break prison, escape, or flee from justice, and abscond or secrete himself, that

in such cases it shall be lawful for the Governor, if he shall judge it necessary, to offer any reward not exceeding five hundred dollars, for apprehending and delivering such person or persons into the custody of such jailer as he may direct.

Sec. 2. Be it further enacted, That the person or persons so apprehending and delivering any such person as aforesaid, and producing the jailer's receipt for the body of such person, duly authenticated before some notary public or chief justice, that such person or persons are entitled to the reward, the comptroller of public accounts shall issue his warrant on the treasurer of this State for the amount thereof.

Sec. 3. Be it further enacted, That this act be in force from its passage.

Approved, 18th April, A. D. 1846.

AN ACT

To establish the Seat of Justice of Dallas County.

Section 1. Be it enacted by the Legislature of the State of Texas, That until otherwise provided by law, the town of Dallas shall be the seat of justice for Dallas county, and all the courts for said county shall be held thereat.

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

Approved, 18th April, A. D. 1846.

AN ACT

Defining the limits of Nacogdoches County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the pas-

sage of this act, the following described boundaries, to wit: commencing on the south-east corner of Rusk county, in the Attoyac river; thence, down said river, with its meanders, to its junction with the Angelina river; thence, up the said Angelina river, with its meanders, to the southern boundary line of Rusk county; thence, east, with the said line, to the place of beginning, shall be known and are hereby constituted as the limits and boundary lines of the county of Nacogdoches.

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

Approved 18th April, A. D. 1846.

AN ACT

To organize the Militia of the State of Texas.

Persons liable
to militia
duty.

Section 1. Be it enacted by the Legislature of the State of Texas, That every able bodied free male inhabitant of this State, between the ages of eighteen and forty-five years, shall be liable to perform military duty, except as herein provided; but no person shall be called upon to perform military duty who shall not at the time have resided at least one month in the State and ten days within the bounds of the company to which he belongs, except in cases of actual or threatened invasion, in which case he shall perform such duty as may be required of other persons, and shall be subject to like fines and penalties.

Who exempt.

Sec. 2. Be it further enacted, That judges of the supreme, district and probate courts, secretary of state, auditor, treasurer and comptroller of the state, clerks of the supreme and district courts, justices of the peace, post masters who have the care of the mails of the United States, post riders, public millers, ferrymen on public roads, teachers and professors in academies, shall be ex-

empt from military duty, except in cases of imminent danger, insurrection or invasion.

Sec. 3. Be it further enacted, That the militia of the State shall be divided into, and compose five divisions. The first division to be composed of the counties of Fannin, Lamar, Red River and Bowie; the second division shall be composed of the counties of Harrison, Shelby, San Augustine, Nacogdoches, Rusk, Houston and Sabine; the third division shall be composed of the counties of Jasper, Jefferson, Liberty, Galveston, Harris, Montgomery, Robertson and Brazos; the fourth division of the counties of Brazoria, Fort Bend, Austin, Washington, Milam, Travis, Bastrop, Fayette, Colorado and Matagorda; the fifth division shall be composed of the counties of Jackson, Victoria, Gonzales, Bexar, Goliad, Refugio and San Patricio; and each division shall consist of two brigades. The first brigade in the first division shall consist of the counties of Fannin and Lamar, and the second brigade in the first division of the counties of Red River and Bowie; and the first brigade in the second division of the counties of Harrison, Shelby, San Augustine and Sabine, and the second of the counties of Rusk, Nacogdoches and Houston; and the first brigade in the third division of the counties of Jasper, Jefferson, Liberty and Galveston, and the second brigade of the counties of Harris, Montgomery, Robertson and Brazos; and the first brigade in the fourth division of the counties of Brazoria, Fort Bend, Austin, Washington and Milam, and the second of the counties of Travis, Bastrop, Fayette, Colorado and Matagorda; and the first brigade in the fifth division of the counties of Jackson, Victoria and Gonzales; and the second of the counties of Bexar, Goliad, Refugio and San Patricio; each of which shall be commanded by a brigadier general.

Sec. 4. Be it further enacted, That the militia of each county, when the number of persons therein subject to military duty shall be sufficient to constitute two battalions as hereinafter provided, shall constitute one regiment, but when the number of militia men in any county shall not be sufficient to

Five divisions defined.

Regiments and battalions.

constitute two battalions, the militia of such county shall constitute a separate battalion to be formed into independent companies, as may be found most convenient, and when the number in any county shall exceed the whole number hereinafter required to constitute a full regiment exclusive of any independent companies which may be raised in such county, the same may be divided into two regiments by the brigadier general commanding the brigade, to which such county may belong, in such manner as he shall direct; each battalion shall consist of not more than four nor less than two companies, and each company of not more than one hundred nor less than thirty-two non-commissioned officers and privates, and the regiments and battalions shall be numbered by the commander-in-chief and arranged in numerical order.

Rank of commissioned officers.

Sec. 5. Be it further enacted, That all commissioned officers shall rank according to their grades, and the date of their commissions; but when officers of the same grade are elected or appointed on the same day, a difference in the date of their commission shall not determine their rank; the rank of all the field or general officers of this State being of the same grade, and who are elected or appointed on the same day, under the provisions of this act, for the government and organization of the militia of this State, shall be determined by lot to be drawn by the adjutant general in the presence of the Governor and secretary of state, which duty he is required to perform as soon as practicable, and immediately thereafter to transmit to each officer so drawn, the result of such drawing; and it shall be the duty of the adjutant general to make an entry in a book kept by him for that purpose, of the grade and rank of each officer, whose rank is determined as specified in this act.

Rank of Captains and subalterns regulated.

Sec. 6. Be it further enacted, That the rank of captains and subaltern officers which may hereafter be elected on the same day, belonging to the same regiment, shall be determined by lot drawn in presence of the colonel commandant; and the adjutant shall make a record of the grade and rank of each officer whose rank is so determined, and

each regiment shall be commanded by one colonel, and each separate battalion and the first battalion in each regiment by a lieutenant colonel; the second battalion in each regiment by one major; each company by one captain, one first and one second Lieutenant, and such non-commissioned officers as are usually appointed to companies in the service of the United States. The major generals shall each appoint his aide-de-camp, and the Governor shall appoint one aide-de-camp in each major general's division, with the rank of colonel of cavalry; the brigadier generals each his aide-de-camp and brigade major; the commanding officer of each regiment and separate battalion his pay master, judge advocate, adjutant quarter master, sergeant major and fife major, and the captains their drummers and fifers.

Sec. 7. Be it further enacted, That the major and brigadier generals of the State shall be allowed to appoint in addition to the staff allowed them by this act, such other additional staffs as are allowed to officers of a like grade in the army of the United States.

Sec. 8. Be it further enacted, That the staffs of the major generals shall rank as colonels of infantry; the staffs of the brigadier generals as majors of cavalry, and the staffs of colonels commandant shall rank as captains of infantry, and the said officers when called into active service, either by authority of this State or the United States, shall be entitled to the same pay and emoluments as officers of the like grade belonging to the United States army.

Sec. 9. Be it further enacted, That the militia of this State, on the election day of civil officers next, at the usual places of holding elections in the several counties, shall elect one major general for each division, and one brigadier general for each brigade, as contemplated by this act, which election shall be held by the same judges, conducted in like manner, and returns thereof be made in the same way as the election of civil officers are required by law to be held, conducted and returned, and said

Maj. Gen's.
staff.

Major and
Brigadier
Generals
elected.

returns shall be made to the Governor within thirty days after the election.

Duties of
Brigadier
Generals, Co-
lonels, Lieu-
tenant Colo-
nels and Ma-
jors.

Elections and
returns.

Sec. 10. Be it further enacted, That it shall be the duty of each brigadier general so soon as he may be elected and commissioned by the Governor, under the provisions of this act, to proceed without delay to divide his brigade into regiments and battalions, or separate and independent battalions, as the case may be, and said division shall be made as nearly equal and equitable as practicable, and it shall be the duty of the said brigadier generals to proceed to order or cause elections to be holden throughout their respective commands for colonels commandant, lieutenant colonels and majors for each regiment or separate battalion, which election shall be held according to law, and returns made thereof to the Governor, who shall commission said colonels, lieutenant colonels and majors, as the case may be; and said colonels, lieutenant colonels and majors shall, after receiving their respective commissions as herein contemplated, cause their respective regiments or battalions to be divided into companies as nearly equal as practicable and cause elections to be holden in each company beat for captain, one first lieutenant and one second lieutenant for each company, and such other officers as are allowed by law in the United States service, giving at least fifteen days notice of such election, which election shall be held according to law regulating elections for civil officers, and the returns thereof be made to the colonel commandant or the lieutenant colonels commandant of each separate battalion, as the case may be, within ten days thereafter, whose duty it shall be to keep said election returns, and within five days thereafter to make out an abstract of said election returns under his hand and seal, and transmit the same to the Governor by mail, whose duty it shall be to commission all persons elected as aforesaid; and the term of service of all officers elected under the provisions of this act shall be for four years or until the day of general election of members of the legislature, in the year 1850: Provided, that all officers so elected shall hold their offices until their

successors are duly elected and commissioned.

Sec. 11. Be it further enacted, That it shall be the duty of the Governor to issue his proclamation requiring elections to be holden in each division, brigade, regiment, battalion and company, throughout the State, for all officers contemplated by this act, to be elected on the day set apart by law for the election of members of the State legislature, in the year 1850, which elections shall be held at the same places, conducted in the same manner and returned in the same way as elections for civil officers, to the Governor of the State, who shall commission the same. All elections to fill vacancies shall be held as follows: for the election to fill a vacancy in the office of major general, the Governor shall issue his order, giving sixty days notice, which election shall be held at the usual places of holding elections for civil officers in each and every county composing the division in which such vacancy may occur, and such election shall be held and conducted in the same manner as herein before provided; and to fill a vacancy in the office of brigadier general, the major general shall issue his order, giving forty days notice; to fill a vacancy in the office of colonel of a regiment or lieutenant colonel commanding a separate battalion, the brigadier general shall issue his order, giving thirty days notice; to fill a vacancy in the office of lieutenant colonel or major of a battalion, [the colonel] shall issue his order, giving ten days notice, and to fill a vacancy in the office of first or second lieutenant, the captain shall issue his order, giving five days notice thereof; and in all cases when elections shall be holden to fill vacancies, the individual so elected shall hold his office for the unexpired term of such office only.

Time of holding elections.

Sec. 12. Be it further enacted, That no person who shall be elected and commissioned in the military department of this State, shall resign the same until he shall have fully organized the militia under his command, and shall have made full returns thereof of the number of effective men under his command, to his superior officer, under the following penalties: if he be a major general, in the sum of

No commissioned officer shall resign until, &c.

one hundred dollars; if a brigadier general, in the sum of twenty-five dollars; if a colonel of a regiment or a lieutenant colonel of a separate battalion, in the sum of fifty dollars; if a lieutenant colonel or major of a battalion, in the sum of forty dollars; if a captain, in the sum of thirty dollars; if a first or second lieutenant, in the sum of twenty dollars; to be recovered and appropriated as other fines and penalties are by this act directed.

Failure to
elect officers
provided for.

Sec. 13. Be it further enacted, That in all cases where the militia in any of the military divisions of this State shall fail to elect such officers as they are required to by law, such division shall be attached to and form a part of some other division, which shall have the requisite officers, and shall be subject to perform all military duty by this act required, under the command of the officers of the division to which they may be attached; if the delinquency or failure shall occur in a company division, the militia of such division shall be attached to the next adjoining company in the same battalion, if any company of the battalion to which such division belongs shall have the requisite officers, by order of the lieutenant colonel or major of such battalion; and if there shall be no company in the battalion, organized and officered as required by this act, the militia of each company of such battalion shall be attached to the most convenient company of the regiment which shall be found to have the requisite officers, by an order of the colonel of such regiment; and if any regiment or separate battalion shall be found unorganized and without the requisite officers, the militia of such regiment or separate battalion shall be attached to the most convenient regiment or separate battalion in the brigade which shall be found to have the officers and organization required by law, by an order of the brigadier general of the brigade to which such regiment or battalion may belong. If any brigade shall be found unorganized and without the requisite officers to command the same, the militia of such brigade shall be attached to the most convenient brigade in the division to which such brigade shall belong, which

shall be found to have the officers required by law, by order of the major general of such division; and in all cases when the militia of any division shall be attached to any other division, as herein before provided, the militia so attached shall be commanded by the officers of the division to which they shall be attached, and shall be liable to the same duty and subject to the same fines and penalties as if they had previously belonged to such division; and the militia of any division attached to another division as aforesaid shall remain subject to such command until they shall be admitted by an order of their superior officer to whose command they may be attached, to elect the requisite officers to command such division, and shall have reported to him that they have all the requisite officers for the command of their separate divisions duly elected and commissioned; after which the command of the officers of the division to which they shall have been attached shall cease, and shall devolve on the officers of the division elected and commissioned as aforesaid; and if any division shall be found a second time unorganized and without officers as required by this act, they shall in like manner be again attached to some division having the requisite officers and organization, and shall be debarred the privilege of again separating from the division and command to which they shall be attached, and shall permanently compose a part of said command, any thing in this act to the contrary notwithstanding; and the officer whose duty it is made by this act to order the militia of any of the divisions to be attached to some other division, as provided for by this act, shall at the time of issuing said order, give public notice thereof to the militia of the division to be attached as aforesaid: if it be a company, the notice shall be in writing, put up in at least two of the most public places in the company beat; if it be a battalion the like notice shall be put up in at least one of the most public places of each company of the battalion; if a brigade, regiment or separate battalion the like notice shall be put up in at least one of the most public places of the brigade, regiment or separate bat-

talion, or be published for three weeks successively in one or more of the newspapers published in this State; and any notice given as aforesaid shall be deemed in law sufficient, and the militia so notified shall from the time of issuing such order and giving such notice, be considered and treated as part of the division to which they may be attached and compose a part of the command of the officers of the division to which they are attached, anything in this act to the contrary notwithstanding; any any general order issued by the commander-in-chief, any major general or brigadier general, and published in any newspaper printed in this State, for three weeks successively shall be deemed in law, a sufficient notice thereof, to the militia and to all persons to be affected thereby, and shall be to all intents and purposes as valid as if the same were communicated by express or in any other manner whatever.

Contested
elections.

Sec. 14. Be it further enacted, That all elections in the militia department which may hereafter be contested, shall be determined in the following manner, viz: If the election of a major general shall be contested, the party contesting such election shall furnish the Governor a fair statement of his reasons, in writing, upon the receipt of which he shall order a general court martial to be held at such place as he may designate in the division to which such major general belongs, at which court each militia officer of such division, not under the grade of a field officer, shall be entitled to a seat; and if the election of a brigadier general shall at any time be contested, the complainant shall make the like complaint and application to the major general of the division to which such brigade belongs, who is upon the receipt thereof, required to order a brigade court martial, as in other cases; and when the election of a colonel of a regiment or lieutenant colonel of a separate battalion or lieutenant colonel or major of a separate battalion, shall be contested complaint and application shall in like manner be made to the next highest officer in command, who upon receipt thereof, shall order a regiment court martial accordingly; if under

the rank of a field officer all complaints and applications shall be made to the commanding officer of the regiment or separate battalion where the contest exists; and in order to explain and fix a principle to govern the several courts martial in their duties respecting contested elections, it is hereby declared that the person contesting shall in all cases be bound to furnish satisfactory proof to the court that the person whose election is contested did receive a number of illegal votes, which, if deducted, would give a majority to the person contesting, and if the contesting person shall fail to establish his charge, or if the charge shall be sufficiently supported, in either case, the court shall report in favor of the person having the greatest number of legal votes as being duly elected; and the president of each court martial shall certify under his hand the name or names of the person thus duly elected, which certificate, if the officer shall be of the grade of general or field officer, shall be directed and sent to the Governor; if commissioned officers of companies, the certificate shall be signed as aforesaid and be directed and sent to the colonel of the regiment or lieutenant colonel of the separate battalion and by him to the Governor, who shall issue commissions in either of the above cases; and in order to provide more amply for deciding contested elections, it is hereby declared that when the cause shall arise from any illegal proceedings of any person ordering, conducting or judging said election, on proof thereof being made satisfactory to the court martial, such election shall be declared void, and the president by and with the authority of such court martial shall direct the proper officer to issue an order or orders for an election to fill such vacancy, which election, so ordered, shall in all things be conducted in the same way as other elections to fill vacancies in like offices are by this act directed.

Sec. 15. Be it further enacted, That each and every officer elected and commissioned under the provisions of this act shall, previous to entering upon the execution of the duties of his office, take the following oath: I ———, do solemnly swear

Oath of office. that I will support the constitution of the United States and of this State, and that I will faithfully and justly execute the duties of the office of — in the — company, battalion, regiment, brigade, or division, as the case may be, of the militia of this State according to the best of my skill, power and judgment, so help me God; a copy of which shall be endorsed on the back of the commission, signed by the person taking the same and attested by the officer who administered the oath.

Removal vacates office. Sec. 16. Be it further enacted, That if any commissioned officer shall move out of the bounds of his division, brigade, regiment, separate battalion, or company, or offer himself a candidate for any other military appointment, or shall be absent therefrom otherwise than on military duty, for more than twelve months at one time, his office thereby shall become vacated; and if any commissioned officer shall think himself injured by his superior officer, and shall upon due application made to him be refused redress, he may complain to the brigadier general, who shall order a brigade court martial, to be held under the rules and regulations prescribed by this act; if any inferior officer or private shall think himself injured by his captain or any other superior officer in the regiment or separate battalion to which he belongs, he may complain to the commanding officer of the regiment or separate battalion, who shall order a court martial, and such court shall determine the complaint agreeably to the nature of the case: Provided, that the person complaining shall exhibit his charge in writing supported by oath or affirmation.

Company muster. Sec. 17. Be it further enacted, That every captain or commanding officer, shall hold at least two company musters between the months of March and November in each year, and shall require the non-commissioned officers of his company, or such of them as he shall designate, to warn his men of the place of muster, in all cases where notice thereof was not given at the previous muster; and each captain shall have the right to designate his muster ground, but shall select some

suitable muster ground, as near central as circumstances will permit; and after the first muster the company shall select a place of muster, and every officer, non-commissioned officer and private shall appear at his respective muster field by eleven o'clock in the forenoon, and not leave the parade until permitted by the officer commanding the troops; and at every muster each captain or commanding officer of the company shall direct the first sergeant of the company to call the roll, in his presence, between the hours of eleven and twelve o'clock; and the commanding officer of each company shall examine every person belonging to his company, note all delinquencies, make out an accurate statement of the strength and condition of his company, and make re-
Returns.
turns thereof to the judge of the county or probate court, and to the commanding officer of the battalion to which he belongs, within twenty days thereafter, whose duty it shall be to return the same to the commanding officer of his regiment within ten days thereafter, whose duty it shall be to make out an accurate statement of the condition of his regiment, and return the same to the commanding officer of the brigade, within ten days thereafter, to which he may belong; and the commanding officer of a separate battalion shall make a like return to the commanding officer of the brigade to which he belongs, within the same time; and the brigadier general shall make a like return to the major general commanding the division to which his brigade belongs, within twenty days thereafter; and the major general of a division shall make a like return of the division under his command, to the adjutant general of the State, within twenty days thereafter; and it shall be the duty of the adjutant general to furnish such blank forms of all the different returns, an explanation of the principles on which they should be made, as shall be approved by the commander-in-chief; and also, to receive the returns of the militia throughout the State, from all which he shall make the proper abstract and lay the same before the commander-in-chief of this State, within twenty days after they shall have been received by

him, or sooner if required by the commander-in-chief; and the commander-in-chief when required, shall lay the same before the Legislature of the State.

Disobedience
of orders, &c.

Sec. 18. Be it further enacted, That if any non-commissioned officer, musician, or private at any muster, shall disobey the legal and proper orders of his superior officer, or act in a disorderly manner, or if by standers at any such muster, shall insult, or otherwise molest any officer, non-commissioned officer or private, while on parade, or employed in any other service authorized by the laws of this State, the commanding officer of the company may order such person to be arrested and placed under guard for any length of time not exceeding three hours, and the person or persons so offending, shall moreover be subject to pay such fines as may be imposed in the manner hereinafter provided.

Penalties in-
flicted.

Sec. 19. Be it further enacted, That in order to compel the observance of the provisions of this act, and for the purpose of introducing a proper degree of subordination and discipline in the operations of the militia of this State, the following penalties shall be incurred and inflicted in the manner hereinafter directed, that is to say: the adjutant-general for a neglect or violation of those duties imposed upon him by this act, shall incur a penalty not exceeding one year's pay, nor less than three months pay; and any commissioned or staff officer for failing to perform the duties required of him by this act, shall forfeit and pay as follows: commandant of a regiment or separate battalion, the sum of fifty dollars; lieutenant colonel or major of a battalion, the sum of fifty dollars; the commanding officer of a company or adjutant, twenty dollars; and those officers respectively, shall moreover be liable to be cashiered at the discretion of a court martial. Each non-commissioned officer failing to give notice of any muster, when he shall receive orders for that purpose, without a reasonable excuse, shall be fined in the sum of five dollars; each non-commissioned officer, musician or private failing to attend any muster, or disobeying any

order, which by virtue of this act his superior may give, or failing to repair to the prescribed rendezvous, when properly warned so to do, or failing to do his duty when there, or absenting himself without a lawful excuse, shall forfeit and pay such fine as the court martial shall order under the circumstances of the case, not exceeding the sum of five dollars; every non-commissioned officer appointed in pursuance of this act, shall serve for the term of one year or pay a fine of ten dollars, the payment of which penalty shall if such person insist on the privilege, exempt him from the duties of such office for the space of two years.

Sec. 20. Be it further enacted, That it shall be the duty of the commanding officers of companies to proceed forthwith to divide the companies into classes by ballot, from one to three, for the purpose of a regular routine of duty when called into actual service, and to return a roll of each class and its number, in rotation, within thirty days thereafter, to the commanding officer of the battalion, who shall transmit the same to the commanding officer of the regiment, who shall cause the same to be recorded by the judge advocate; and the commanding officer of the regiment or separate battalion shall make a return of the same to the brigadier general, and those enrolled in the first class shall be subject to perform the first tour of duty, and those in the second class the second tour of duty, and those of the third class the third tour of duty, and so on in rotation. When any colonel of a regiment or lieutenant colonel of a separate battalion shall be charged with mal-administration or neglect of duty, it shall be lawful for any commissioned officer to exhibit to the brigadier general of the brigade, or such other officer as shall at the time have command of the brigade, a fair statement in writing; of the charge or charges and the facts intended to establish the same; and the brigadier general is hereby authorized to order a brigade court martial to consist of at least seven members,

Classes.

Prefering charges.

none to be under the grade of field officers, who when assembled shall take and subscribe the same oath prescribed for regimental courts martial, and the court being thus sworn shall enquire into the nature and truth of the charge or charges, and if the officer accused shall be found guilty of such neglect of duty, he shall forfeit and pay (if guilty of a misdemeanor in office,) any sum not exceeding fifty dollars, and shall be cashiered; and when any lieutenant, captain, lieutenant colonel of the first, or major of the second battalion of any regiment, shall be charged with any misdemeanor in office or neglect of duty, it shall be lawful for any officer, non-commissioned officer or private to exhibit to the colonel of the regiment, or lieutenant colonel of a separate battalion, a fair statement of the charge or charges and the facts intended to establish the same, and the colonel or lieutenant colonel to whom such complaint is made in writing, may in his discretion order a regimental or battalion court martial, to consist of at least five commissioned officers, who shall take and subscribe the oath directed to be taken, by this act, and when sworn shall enquire into the nature and truth of the charge or charges so exhibited, and if found guilty of a misdemeanor in office, the officer so accused shall be cashiered, and if guilty of neglect of duty shall be fined as prescribed by law; but no sentence of any court martial cashiering any officer shall be final, until the same be laid before the commander-in-chief and by him approved, if the officer cashiered shall pray an appeal from such decision to him; otherwise the same shall be final.

Substitutes
allowed.

Sec. 21. Be it further enacted, That if any person shall be called upon to perform a tour of duty, such person shall be acquitted, provided he furnish to his commanding officer an able bodied substitute in his room or stead, and if any such substitute should be called into actual service in his own term previous to the expiration

of the term for which he shall have enrolled as such substitute, then the person procuring such substitute shall march in his room, or procure another substitute for the remainder of the term, or be liable to the same penalties as if called upon in his own name. Any person called upon to perform a duty as aforesaid, and serving by himself or substitute, or otherwise paying such fine as the court martial shall adjudge adequate to the offence, shall not be bound to perform any tour of duty until regularly called upon by rotation.

Sec. 22. Be it further enacted, That when it may be necessary to call into actual service any part of the militia, on an actual or threatened invasion of this State or any of the neighboring states or territories, it shall and may be lawful for the Governor to order into the service such part of the militia as the emergency may require; and when any part of the militia of this State shall be called into actual service, it shall be the duty of the commander-in-chief to order from the regiment or battalion from which the militia shall be detached, in proportion to the men furnished by the regiment or battalion, a sufficient number of officers, giving preference to senior officers of said regiment or battalion, to officer said detachment, and in all cases the officers of the militia of this State shall be called on to perform their tour of duty, in rotation, in the same manner as is by this act directed for the several classes of the militia: Provided, however, that no militia man shall be compelled to serve more than six months at one time; and sixty days shall be considered a tour of duty.

Sec. 23. Be it further enacted, That in case of actual invasion or insurrection, or an invasion threatened or premeditated against this State or any part thereof, it shall be lawful for the Governor, or any officer by him directed, to order into actual service all or any portion of the militia, as the emergency may require, and to discharge

Governor
may call mi-
litia into ser-
vice.

such troops as soon as he may judge consistent with the interests of the State; and if a sudden insurrection should be raised, or invasion made upon any county within this State, the commanding officer of the militia of said county is hereby authorized and directed to order out such part of the militia as he may think necessary for suppressing such insurrection, or repelling such invasion, and may, if in his judgment the emergency of the occasion requires it, make a requisition on the commanding officer of the militia of any adjoining county not so invaded or endangered, whose duty it shall be to comply with such requisition: Provided, always, it shall be the duty of such officer so ordering out the militia, or any part thereof, to transmit to the Governor, as early as practicable, a statement of his proceedings, setting forth his reasons for exercising such authority; and the militia so called out shall be discharged within thirty days after their rendezvous, except they shall be continued in service for a longer time by the executive authority of this State; and the militia of this State when in actual service, shall be governed by the rules and articles governing the armies of the United States.

Trial by court martial.

Sec. 4. Be it further enacted, That every officer to be tried by a court martial shall have ten days notice given him of the time and place appointed for the trial, and shall be furnished with a copy of the charges exhibited against him at least ten days before the setting of said court. In every court martial for the trial of an officer, not less than two thirds of the number present shall agree in the sentence or judgment of said court, otherwise the person charged shall be acquitted; and when the members shall be required to give their votes on a question or decision, they shall begin with the youngest in commission: Provided, That no commissioned officer shall be allowed to resign his commission while under arrest.

Sec. 25. Be it further enacted, That the captains and subaltern officers of each and every company, or a majority of them, shall on the muster day next succeeding the muster of each company, at which there has been any delinquency or delinquencies, hold a court for the adjustment of fines in each company; and the commanding officer of the company shall issue his warrant, directed to any sheriff or constable in his beat, which warrant shall have the force and effect of an execution, and said constable shall proceed to collect the same in the same manner as if said execution had issued under and by the authority of any civil officer within this State; and all fines collected by virtue of the provisions contained in this section shall be paid to the captain of such company, within ten days after the same may be collected, and by him applied to the purchase of a drum, fife and colors, and for other purposes for the use of the company.

Sec. 26. Be it further enacted, That when either the major general, brigadier general or brigade major shall be charged with malfeasance or neglect of duty in office; if a major general it shall be lawful for any militia officer not under the grade of a field officer to exhibit to the Governor for the time being, a fair statement of the charge or charges with the facts intended to establish the same, who is hereby authorized to order a general court martial to consist of at least nine members, none to be chosen under the grade of a field officer, who, when convened shall take and subscribe the same oath prescribed for regimental courts martial; the said court thus sworn, shall have power to enquire into the nature of the offence, and if it shall constitute a misdemeanor in office, he shall be removed from the same; if for neglect of duty, he shall forfeit and pay a sum not exceeding one hundred dollars, at the discretion of the court martial, to be collected as in similar cases of fines; if a brigadier general or brigade major shall be guilty of either

Company
courts to be
held.

Field officers
how charged.

Trial.

of the aforesaid offences, the charge shall be submitted to the major general, who shall issue his order to the senior colonel commanding in the brigade in which the person charged resides, by virtue of which order the colonel shall hold a court martial and proceed in the same manner as directed for the trial of major general: Provided, that in all cases of charges exhibited against officers, the officer ordering a court martial shall as soon as practicable furnish the person charged with a copy of the charges exhibited against him, and the president of the court martial shall give him at least ten days notice of the time and place appointed for trial, and cause such witnesses as may be required by either party to be summoned by the adjutant of the regiment in which they reside; and every person summoned and failing to attend, or refusing to be sworn, shall be tried by the court martial, and if he be an officer may be cashiered or fined at the discretion of the court martial, not exceeding fifty dollars; if a non-commissioned officer or private he may be fined not exceeding twenty dollars, and moreover be confined under guard or put in jail until he will give evidence.

Judge advocate's oath.

Sec. 27. Be it further enacted, That each judge advocate previous to entering on the duties of his appointment shall take an oath to support the constitution of the United States and of the State of Texas, and also that he will well and truly perform the duties of judge advocate, according to law and the best of his skill and abilities, which oath shall be in writing, signed by the judge advocate, and attested by the officer who administered the same; the judge advocate thus sworn, shall administer the following oath to the officers previous to their entering on the duties of any court martial, viz: You, and each of you do solemnly swear that you will well and truly enquire into the delinquencies which may appear on returns which may be laid before you, and will assess the fine thereon as may seem just, according to law, without

favor or affection, partiality or prejudice, and that you will not disclose or discover the vote or opinion of any particular member of this court, unless required to give evidence thereof in a court of justice, so help you God. It shall be the duty of the judge advocate to provide a book in which he shall record the proceedings of the court martial and all other necessary entries for the regiment or separate battalion which are or shall be required by law, and for his services shall be exempt from military duty and be allowed the sum of two dollars per day for attending regimental or battalion courts martial, which it shall be his duty to attend, to be paid out of the fines arising under this act. If from any cause a judge advocate shall fail to attend a court martial, as provided in this act, it shall be the duty of the officers present to appoint a judge advocate for the time being, and in case of his death, resignation, removal out of the county, or from his office, the journals and proceedings shall be kept by the colonel or commanding officer until a judge advocate shall be appointed in his stead.

Duties of
judge advo-
cate.

Sec. 28. Be it further enacted, That all fines and forfeitures imposed by any regimental or battalion court martial shall be collected in like manner as fines and penalties are required to be collected by company court martial, and paid into the hands of each pay master of each regiment or separate battalion. It shall be the duty of the commanding officer of the regiment or separate battalion to appropriate the money arising from fines, in the hands of the pay master, by order of the court martial, in the first place to the purchasing of fifes, drums and colors for the use of the regiment or separate battalion, and secondly to paying the officers of the regiment or separate battalion for any service for which they may be entitled to pay under the provisions of this act.

Fines and for-
feitures dis-
posed of.

Sec. 29. Be it further enacted, That no officer or private ordered or directed by this act to appear

Exempted
from arrest.

Passage of
bridge and
ferries free.

as aforesaid shall be liable to be taken or arrested by any officer, in any civil action or process whatsoever, on the day such person is directed to appear, or in any reasonable time in going to, continuing at or returning from the same; and every such arrest is hereby declared void, and shall subject such officer to damages for false imprisonment; and every person required by this act to attend muster, going to and returning from the same, shall be suffered to pass over any bridge, together with his horse and shall be put over any public ferry, without delay, free of charge, and if any ferryman demand pay for, delay or refuses to put such person or persons over, or keeper of toll bridge impede the passing of any person, he shall forfeit and pay for every such offence the sum of ten dollars, to be recovered by warrant from a justice of the peace, one-half to the informer and the other half to the use of the county where the offence was committed.

Raising vol-
unteers.

Sec. 30. Be it further enacted, That it shall be lawful for any colonel of a regiment or separate battalion, upon application of any suitable person, to commission such person to raise by voluntary enlistment, for a period of not more than five years, a company of light infantry or riflemen, a corps of artillery or troop of cavalry in his regiment or separate battalion, which corps thus formed shall not consist of less than fifty nor more than sixty-six privates, and the corps so raised and formed is to remain a part of the same regiment or separate battalion in which it is raised; and when the requisite number shall be enlisted, it shall be lawful for the officer of the regiment or separate battalion to which they belong, to order an election for officers of said companies, to be conducted as other elections, and returns thereof made to said colonel or commanding officer of the separate battalion, and by him transmitted to the Governor, who shall commission the officers so elected, and the companies so formed shall choose their own uniform, and shall be armed as follows: the rifle

corps—the captain and subaltern officers to be armed with side arms, the privates with a good rifle, a shot bag and powder horn, with nine charges of powder and ball suitable to the bore of the rifles; the company of artillery—each captain and subaltern with side arms; the artillerists with one field piece with its usual number of cartridges, boxes, balls, &c.; the troop of cavalry—the officers and privates shall be furnished with a good horse, bridle, saddle and martingals, and armed with a sword or cutlass, holsters and holster pistols; and the company of light infantry shall be armed and equipped as like companies are required to be armed and equipped in the armies of the United States; and said corps shall use for instruction and exercise the system of military discipline adopted in the United States army for troops of a similar description; and all companies shall have a right to change their uniform from time to time: Provided, such change shall not be incompatible with the military regulations of the United States army; and each member of either of the above described corps shall be exempt from the ordinary military duty required of the militia by this act, so long as they may continue to discharge the duties required of them by the provisions of this act, in either of the companies above designated.

Sec. 31. Be it further enacted, That every commissioned officer, volunteer or militia, shall be furnished with one copy of this act, at the expense of the State; and every officer shall when he goes out of office deliver to his successor in office, all books and forms furnished him by the State or received from his predecessor in office, and also all books and papers in his possession belonging to his division, brigade, regiment, battalion, or company; and every officer who shall neglect or refuse so to do shall be fined twenty dollars per month for every month he shall so neglect or refuse, after a demand thereof has been made by

Commissioned officers to receive copy of this act. &c.

his successor, to be assessed by any court martial having cognizance of the conduct of such officer, and collected and accounted for as other fines imposed upon such officer are by this act directed to be collected and accounted for.

Adjutant general, appointment of, and duties.

Sec. 32. Be it further enacted, That the Governor shall appoint one adjutant general, with the rank of colonel of cavalry, who shall do and perform all the duties of adjutant general, as required of him by this act, and shall furnish all forms of returns, and keep a book in which he shall make a fair entry of all returns by him received, which shall be subject to the inspection of the major general and commander-in-chief, and shall receive for his services the sum of two hundred and fifty dollars per annum out of any money in the treasury not otherwise appropriated.

United States discipline, &c. adopted.

Sec. 33. Be it further enacted, That the system of discipline and exercise which is and shall be ordered to be observed by the regular army of the United States, shall be observed by the militia of this State, and the commanding officers of the several militia divisions shall cause the militia within their respective commands to be disciplined and trained conformably thereto, in all things not otherwise directed by this act; and in all cases not specially provided for by this act, such provisions of law as have been or may be made by Congress for the government and direction of the army or the militia of the United States in similar cases, shall be binding upon and be observed and conformed to by the militia of this State; and the forms and rules of proceedings of all courts martial, not provided for in this act, shall be such as are established by the rules and articles of war, adopted and used in the militia service of the United States.

Sec. 34. Be it further enacted, That each new county established by this Legislature shall form a part of the same brigade and division as the county from which such new county or the greater

portion thereof was taken; and the militia of each new county shall be organized in like manner as the militia of the counties named in this act.

Approved, 21st April, A. D. 1846.

AN ACT

Supplementary to an act to provide for the election of Representatives to the Congress of the United States, passed, February 28th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the act to provide for the election of representatives to the congress of the United States, passed, February 28th, 1846, be and the same is hereby so amended that the fifth section of said act shall read as follows, viz: "Be it further enacted, That on the 9th day of May, 1846, it shall be the duty of the secretary of state, in the presence of the Governor and attorney general, to open and count the returns for representatives to congress, received at the secretary of state's office; and the Governor shall deliver a certificate of election to the person receiving, according to the returns, the highest number of votes in each district: Provided, however, that if before the said 9th day of May the returns from all the counties in each congressional district be received, then the votes may be counted and the certificates of election delivered as herein provided."

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

Approved, 22nd April, A. D. 1846.

JOINT RESOLUTION

Instructing our Senators and Representatives in Congress to procure the passage of a law for the relief of mail contractors.

Whereas, the various contracts for the transportation of mails in Texas were made with the Republic, to expire on the first day of April, 1846:

And whereas, the transportation of mails should cease to be a charge on Texas from and after the consummation of annexation, on the 16th day of February, 1846, and become chargeable alone to the general government, of which Texas notified her contractors, suggesting to them at the same time to continue carrying the mails and open accounts against, and look to the general government for pay from and after the said 16th of February:

And whereas, the said contractors, (with but few exceptions,) relying upon the justice of the general government, have continued to transport said mails:

And whereas, many of said contractors have continued to carry the mails since the said first day of April, and will probably continue until superceded by new contractors:

And whereas, it is but justice that these meritorious and enterprising contractors, who advance their labor and capital for the public good should be paid: therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our senators in congress be instructed to use their utmost exertions to procure the passage of a law authorizing and requiring the post master general of the United States to settle with and pay off all the mail contractors in this State, who continued to transport the mails from the 16th day of February,

1846, until the first day of April, 1846, and also all of the said contractors who may continue to transport the mails from the first day of April until superceded by other contractors under the United States.

Sec. 2. Be it further resolved, That our representatives in congress be requested to co-operate with our senators in obtaining the passage of said law.

Sec. 3. Be it further resolved, That his excellency the Governor cause each of our senators and representatives in congress to be furnished with a copy of these resolutions as soon as practicable after their passage.

Approved, 22nd April, A. D. 1846.

AN ACT

Requiring the County of Limestone to pay one fourth of the debt of Robertson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Limestone shall pay one fourth part of the debt of Robertson county; that debt to be ascertained by commissioners to be appointed by the county court of each county: nothing in this act contained shall be so construed as to prevent the said county of Limestone from paying the said portion of the said debt, in the liabilities of Robertson county, and that this act be in force and take effect from and after its passage.

Approved, 22nd April, A. D. 1846.

AN ACT

Creating the County of Angelina.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, all that portion of Nacogdoches county within the following bounds and limits, viz: commencing where the Jasper county line corners on the Angelina river; thence, up said Angelina river to the southern boundary line of Cherokee county, at the lower end of Juan Cruz's island; thence, south, fifty degrees west, with said line to the Neches river; thence, down said Neches river to the Jasper county line; thence, with said line north, eighty degrees east, to the place of beginning, be and the same is hereby constituted a county, to be known and styled Angelina county.

Sec. 2. Be it further enacted, That William G. Laney, Henry Massingale, Wiley Colwell, Joseph Harrington, James L. Erwin, John Boman, and John McAnnelly, be and are hereby constituted a board of commissioners, to select and locate a seat of justice for said county.

Sec. 3. Be it further enacted, That the said commissioners, or a majority of them, shall select two sites in said county, one within five miles of the centre, and one on the Angelina river, as near the centre north and south as is possible, to find a good site; and that they cause an election to be held throughout the county for the purpose of electing one of the said sites for the seat of justice, and the site receiving the majority of the whole votes polled, shall be and is hereby constituted the county site of said county.

Sec. 4. Be it further enacted, That the site so chosen as provided for in the preceding section of this act, shall be known and styled by the name of Marion.

Sec. 5. Be it further enacted, That the said commissioners, or a majority of them, shall have a right to purchase or receive by donation or otherwise, any quantity of land, not to exceed six hundred and forty acres, as will be to the interest of said county, which said land or a part thereof, shall be, by the said commissioners, laid out in convenient town lots and sold for the benefit of said county, reserving a sufficient quantity of lots for all public buildings which the county may require.

Sec. 6. Be it further enacted, That the said commissioners shall before they enter upon the discharge of their duties, as required in this act, take and subscribe an oath before some competent authority, to faithfully and impartially discharge their duty as commissioners of the county of Angelina, according to the best of their skill and ability.

Sec. 7. Be it further enacted, That it is hereby made the duty of said board of commissioners to pay over into the hands of the county treasurer, whenever there shall be one, all the nett proceeds arising from the sale of said town lots, whether it be in money, notes, or other liabilities, only reserving to themselves so much as will pay them for their services, at the rate of one dollar and fifty cents per diem, for each and every day in which they may have been on active duty.

Sec. 8. Be it further enacted, That the said county shall be entitled to all the rights, privileges, and immunities of other counties of this State, with the exception of a separate representation and a separate land district.

Sec. 9. Be it further enacted, That the said county shall be organized for all judicial and other purposes not herein specified, in accordance with the existing laws and all other laws that may hereafter be enacted by this legislature.

Sec. 10. Be it further enacted, That this act take effect from and after its passage.

Approved, 22nd April, A. D. 1846.

AN ACT

Creating the County of Newton.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of Jasper county included in the following bounds or limits, viz: commencing at McKim's old survey on the northern boundary line of Jasper county; thence, along said line to the Sabine river; thence, with the meanders down said river to the northern line of Jefferson county; thence, along said county line, in a westerly direction, to the southwest corner of J. Harrin's survey; thence, in a northwardly direction, to the north-east corner of G. Brownrigg's survey; thence, in a northwardly and direct line to McKim's, the place of beginning, be, and the same is hereby constituted a county to be known and styled the county of Newton.

Sec. 2. Be it further enacted, That the citizens of said county be, and they are hereby invested with all the rights, privileges and immunities belonging to, and of right appertaining to citizens of other counties, except the right of having a separate land district, and except also, the right of separate representation, in which respect they shall remain as heretofore, until otherwise provided for.

Sec. 3. Be it further enacted, That Robert L. Williams, David Ford, Richard Simmons, Friend McMahan, Senior, Charles Hunt, Thomas McFarland, J. S. Cochran and Seth Swift Esq's., be and they are hereby constituted a board of commissioners to select a site for the seat of justice for said county.

Sec. 4. Be it further enacted, That the said commissioners, or a majority of them, shall proceed to select two sites for the seat of justice of said county, one of which shall be within five

miles of the centre of said county, on or before the first Monday in July, and the places so selected shall be balloted for by the qualified voters of said county at the first general election for county officers, and the place receiving the highest number of votes shall be the county site of said county.

Sec. 5. Be it further enacted, That the said commissioners be, and are hereby authorized and empowered to receive by donation any land for public buildings, and also for public schools.

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

Approved, 22nd April, A. D. 1846.

AN ACT

To protect Religious Meetings.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person or persons shall maliciously disturb any congregation assembled for religious worship, and conducting themselves in a peaceable and orderly manner, in and about any church, chapel, meetinghouse, encampment or camp-meeting, enclosure, mosque, synagogue or temple, while attending any protracted or other religious meeting, the person or persons so offending may be put under restraint during religious worship, by any justice or other peace officer present, or in case no such officer be present, then on information upon oath in writing before any justice or other peace officer, such person so offending may be bound over to keep the peace and to appear at the next term of the district court to answer the charge.

Sec. 2. Be it further enacted, That on conviction by indictment before any district court in the

county where the offence was committed, the person or persons offending against the provisions of this act shall be fined in a sum not less than five dollars nor more than one hundred dollars, and may be imprisoned not more than ten days.

Approved, 23rd April, A. D. 1846.

AN ACT

To settle conflicting rights between the Counties of Victoria, De Witt, La Vaca, Jackson and Calhoun.

Section 1. Be it enacted by the Legislature of the State of Texas, That all lands, tenements and hereditaments, and all personal property, whether in possession or in action only, now lying and being in the present county of Victoria and formerly belonging to the county of Victoria, or that part of Refugio now attached to, and a part of Victoria, be and the same is hereby declared to be the sole and exclusive property of the county of Victoria.

Sec. 2. Be it further enacted, That all accounts, debts, dues, and rights of action of whatever description, held or claimed by any persons formerly citizens of the county of Victoria, and now attached to the counties of De Witt, La Vaca, Jackson and Calhoun, be and the same are hereby charged upon the present county of Victoria, and declared to have the same force and effect, and no greater than existed heretofore, under the original organization of the county of Victoria.

Sec. 3. Be it further enacted, That this act take effect from and after the first day of May next.

Approved, 23rd April, A. D. 1846.

AN ACT

To provide for fixing the County Seat of Justice for the
County of Grimes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first Monday in July, 1846, be fixed as the day for the holding of an election in the county of Grimes, for the selection of a suitable place for the permanent location of the county seat of justice for said county; and it shall be the duty of the chief justice of Montgomery county, immediately after the passage of this act, to give public notice of said election and to issue orders for the holding of said election to the different precincts at least ten days previous to said election.

Sec. 2. Be it further enacted, That it shall be the duty of said chief justice to receive and make public, by advertisements in each precinct in the said county of Grimes, such propositions as may be offered by citizens of the county, as inducements in favor of election of places recommended, as suitable locations for the county seat of said county.

Sec. 3. Be it further enacted, That all propositions submitted to the chief justice in compliance with the second section of this act shall be in the shape of penal bonds, and shall be collectable in law, at the suit of said chief justice; or his successors in office, in the said county of Grimes, for the use of the county, in the district court, and the proceeds applied to the erection of county buildings.

Sec. 4. Be it further enacted, That the election for said county seat shall be conducted as elections for members to the State Legislature, and the returns made to the chief justice of Montgomery county aforesaid, within ten days after the election, who shall publish the result, and declare

the place receiving the highest number of votes to be the legal seat of justice for the said county of Grimes, provided any one place shall have received a majority of all the votes polled at said election; but in the event no one place shall have received a majority as aforesaid, then and in that case it shall be the duty of the said chief justice to proceed to order another election, after giving notice as in the first instance, putting in nomination the two places that have received the greatest number of votes, which election shall be conducted and the returns made as heretofore provided, and the place then receiving the highest number of votes, shall be declared the county seat of justice: Provided, that such selection shall in no event be more than seven miles from the centre of said county.

Sec. 5. Be it further enacted, That Albert G. Perry, Henry Fanthorp, James W. Barnes, S. G. Devereux, and Daniel T. Dunham, of whom three may constitute a quorum to do business, shall be and they are hereby appointed commissioners to lay out and sell lots, if necessary, and to superintend the carrying out of such propositions as may have been made in behalf of the selected location, and report to the chief justice whether or not the bond containing propositions in favor of the said selected place, shall have been strictly complied with by the makers and obligors of the same.

Sec. 6. Be it further enacted, That the county seat of justice so located shall be known by the name of, and styled Anderson, in honor of the late K. L. Anderson, late Vice President of the Republic of Texas, and that this act take effect and be in full force from and after its passage.

Approved, 25th April, A. D. 1846.

AN ACT

To authorize the settlement of disputes by conciliation or arbitration.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons consenting to submit any dispute, controversy, or right of action, supposed to have accrued to either party, may, by an agreement in writing by them signed as plaintiff and defendant, and filing the same with a justice of the peace, or if the amount in dispute and claimed exceed in value one hundred dollars, with the clerk of the district court, entitle themselves to the benefit and provisions of this act, and the decision of any controversy, dispute, or right of action, made by arbitration according to the provisions of this act, shall be without appeal, unless the right to the same be reserved in the agreement filed, as above provided. ^{Consent of parties.}

Sec. 2. Be it further enacted, That it shall be the duty of each and every justice of the peace whenever a civil suit is brought before him, to offer to the election of parties therein, on appearance, an adjustment of the same, according to the provisions of this act, as also in case of their agreeing to such adjustment, the choice of reserving or not the right of appeal.

Sec. 3. Be it further enacted, That when such agreement is filed, the justice of the peace or the district clerk shall forthwith assign a day of trial for the cause, not less than two days thereafter, and issue such process for witnesses as either party may desire.

Sec. 4. Be it further enacted, That each party shall choose an arbitrator, who shall be over the age of twenty-one years, competent to serve as a juror, not related to either party by consanguini-

tv, or affinity, and disinterested in the result of the cause submitted for his decision.

Oath of arbitrators.

Sec. 5. Be it further enacted, That on the day of trial the justice or clerk shall administer an oath to the said arbitrators in substance as follows, to wit: That they will fairly and impartially decide the matter in dispute, according to the evidence adduced, and in accordance with the rules of law and equity applicable to the facts proved; said justice or clerk shall also administer the necessary oaths to witnesses and to the parties, if desired by the arbitrators.

Umpire.

Sec. 6. Be it further enacted, That if the arbitrators chosen as aforesaid cannot agree, the arbitrators shall select an umpire, and in case they disagree in the choice of an umpire, the justice or clerk may appoint an umpire, who shall be competent to serve as an arbitrator and who shall in like manner be sworn.

Effect of decisions by arbitrators.

Sec. 7. Be it further enacted, That the decisions of the arbitrators, if before a justice of the peace, shall be recorded as a judgment in his court, and on which execution may issue, as in ordinary cases of judgments obtained before justices of the peace: if before the clerk, he shall file the same, and a judgment shall be entered thereon at the first regular term of the court thereafter; but should either party appeal from the decision of the arbitrators, the appellant shall file his application with the clerk of the district court, within the three first days of said court, wherein the case shall be tried de novo, on which execution may issue, as in other judgments rendered by the district court; the said judgments shall carry costs as in other cases.

Agreement to arbitrate a bar to suit.

Sec. 8. Be it further enacted, That after an agreement filed, as provided in the first section of this act, the parties thereto shall be bound to this mode of trial under the following penalty, to wit: said agreement may be pleaded as a bar to any suit thereafter brought by a plaintiff in the agreement, for the same cause of action, when such plaintiff

has refused to proceed under such agreement, and said agreement may be pleaded as a bar to any right claimed or defence set up by a defendant in the agreement, who refused to proceed therein, where such right or defence existed at the time of filing of said agreement.

Sec. 9. Be it further enacted, That all former laws and parts of laws regulating arbitrations and references, be and the same are hereby repealed.

Approved, 25th April, A. D. 1846.

JOINT RESOLUTION

Granting permission to all persons who petition the Legislature for relief, to withdraw their vouchers.

Section 1. Be it resolved by the Legislature of the State of Texas, That in all cases where petitions have been, or may hereafter be presented to the legislature, and shall not have been granted by that body, the petitioners shall have the privilege of withdrawing the vouchers and other papers accompanying said petitions, at any time, upon application to the secretary of the senate, or to the clerk of the house of representatives, or during the recess of the legislature, to the secretary of state; and that this resolution take effect from and after its adoption.

Approved, 25th April, A. D. 1846.

AN ACT

To establish and incorporate the City of Corpus Christi.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Corpus Christi, in the county of Nueces, be and hereby are made and declared a body corporate and politic, under the name and style of the city of Corpus Christi, and invested with the power by said name, of suing and pleading, and of receiving and holding property real and personal, and of selling and conveying the same.

Sec. 2. Be it further enacted, That said city shall embrace and comprise within its limits, all the territory lying within a square of four miles, fronting on the Corpus Christi and Nueces bays, having for the centre of its front line, the mouth of the ravine which runs through said town into Corpus Christi bay.

Sec. 3. Be it further enacted, That H. L. Kinney and William Mann, or either of them, are hereby authorized, at any time after the passage of this law, by giving ten days notice thereof, to order and hold an election for a mayor, six aldermen, recorder and treasurer, for said city, who shall hold said offices for the period of one year from said election, who shall be sworn to a faithful discharge of their duty.

Sec. 4. Be it further enacted, That there shall be an election held at the period of one year after said first election, and forever afterwards annually, for the election of the aforesaid officers, at which the mayor or one of the aldermen shall preside; and all vacancies happening between said annual elections, by removal from the city or other cause, shall be filled by an election to be held by said mayor and aldermen; and a majority of said board shall constitute a quorum for the transaction of business.

Sec. 5. Be it further enacted, That the mayor

of said city during his continuance in office, shall have the jurisdiction and exercise the powers of a justice of the peace, in all cases, civil or criminal, and over all offences against the ordinances that may be established by the mayor and aldermen.

Sec. 6. Be it further enacted, That the mayor and aldermen of said city are hereby authorized and empowered to levy and assess a tax on all estates, real and personal, within said city for the establishment and support of a common school, and for the payment of the other necessary expenses of said corporation, and to pass and establish ordinances for the preservation of order and the regulation of the police of said city, not repugnant to the constitution and laws of the State.

Sec. 7. Be it further enacted, That said mayor and aldermen shall have authority to elect and appoint collectors, constables, and all other such subordinate officers as may be necessary to carry out the purposes of the corporation, and that the collector of taxes, constables and treasurer of said city, shall before entering on the duties of their respective offices, be required to give bonds to said city, with sureties, in a sum not less than two thousand dollars each for the faithful discharge of the duties of said offices, to be approved by the mayor and aldermen.

Sec. 8. Be it further enacted, That the mayor and aldermen shall be ex-officio the agents, overseers, and superintendants of the common school or schools that may be established in said city with full power and authority to expend annually all such funds as may be raised or received by taxation, or otherwise, for the establishment and support of said school or schools.

Approved, 25th April, A. D. 1846.

AN ACT

Authorizing the Governor to demand monies due the State of Texas by the Government of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That his excellency the Governor be and he is hereby authorized and requested to demand and receive all monies due the State of Texas, or such as may become due to the same by the government of the United States, and to appoint suitable agents to receive the same in such manner as in his judgment the interest of the State may require, and all money received by the Governor as contemplated in this act shall be paid into the treasury of the State.

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

Approved, 25th April, A. D. 1846.

AN ACT

Creating the County of Navarro.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of the county of Robertson included within the following bounds, be, and the same is hereby erected into a new county, to be called and known by the name of Navarro, to wit: beginning on the east bank of the Brazos river, at the north-west corner of Limestone county, and thence, with the line of said county to the Trinity river; thence, up said river to the line of Dallas county; thence, west to the corner thereof; thence, north with the line of said Dallas county to the old southern boundary line of Fannin county; thence, west to the Brazos river;

and thence, down said river to the place of beginning.

Sec. 2. Be it further enacted, That said county of Navarro, as to the right of representation, shall be considered as a part of the county of Robertson, until entitled by numbers to the right of separate representation.

Sec. 3. Be it further enacted, That until the seat of justice shall be permanently established, as hereafter provided for by law, the temporary seat of justice shall be at the residence of W. R. Howe, and all courts shall be held thereat.

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

Approved, 25th April, A. D. 1846.

JOINT RESOLUTION

Authorizing Plaintiffs or Defendants or their agents to file in the Supreme Court briefs of their cases, which shall be taken as an appearance.

Section 1. Be it resolved by the Legislature of the State of Texas, That hereafter, when any cause or suit, may be taken up from any inferior court to the Supreme Court of this State, whether by appeal, writ of error, or otherwise, it shall and may be lawful for the attorney or attornies, both for plaintiffs and defendant, to file in the papers of said suit or cause, his or their written brief or argument, and the judges of the Supreme Court shall be required to notice the same as much as if it were the personal appearance of such attorney or attornies, and shall not dismiss any suit or cause, where such brief or argument of counsel is filed with the papers, for want of other or further prosecution.

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

Approved, 25th April, A. D. 1846.

AN ACT

To authorize the institution of Suits against the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases in which parties were authorized by the laws to commence suit against the President of the Republic of Texas, or against the Republic prior to the adoption of the State Constitution, such parties may now commence such suits against the Governor or against the State of Texas.

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

Approved, 25th April, A. D. 1846.

JOINT RESOLUTION

For disposing of a portion of the Public Buildings in the city of Austin.

Section 1. Be it resolved by the Legislature of the State of Texas, That the comptroller of public accounts be, and he is hereby authorized and required, on the first day of May next, in the city of Austin, to rent until the first day of January, 1847, and annually thereafter, until otherwise directed by law, to the highest bidder, at public outcry, all the public buildings in the said city of Austin belonging to the State of Texas, and the lots on which they are situated, except the capitol, Governor's office, state department, treasury building, and the building occupied by the commissioner of the general land office, except also such buildings as are required by the joint resolutions of annexation to be ceded to the United States.

Sec. 2. Be it further resolved, That the rent

shall be paid monthly or quarterly at the discretion of the comptroller, the renter giving note to the comptroller of public accounts with two responsible securities.

Sec. 3. Be it further resolved, That it is hereby made the duty of the comptroller of public accounts to deposit in the State treasurer's office the amount so accruing to the State, taking his receipt therefor.

Sec. 4. Be it further resolved, That this joint resolution take effect from and after its passage.

Approved, 25th April, A. D. 1846.

AN ACT.

To establish the County of Cass.

Section 1. Be it enacted by the Legislature of the State of Texas, That a new county, to be known as the county of Cass, in honor of Lewis Cass, of the state of Michigan, be established, with the following boundaries, to wit: beginning in the middle of Big Cypress bayou, five miles and a half east of where the old line run by Sedacum, dividing the counties of Bowie and Red River, strikes said Cypress bayou; thence, due north to the Sulphur fork of Red river; thence, down the middle of Sulphur fork to the old United States line; thence, due south, with said line, to the middle of Lake Soda; thence, up the middle of said lake, to its head, where the main Cypress falls into said lake, the same being one and a half miles west of the town of Jefferson; thence, up said Cypress bayou to the mouth of Boggy river and place of beginning.

Sec. 2. Be it further enacted, That for the due administration of justice, in said county of Cass, the several courts to be holden in said county shall be held at the tavern house of William Perry, in the town of Jefferson, until a suitable house is erected for that purpose: the commissioners' court shall have full power, in the intermediate time, to

adjourn to such other place in said county as they may deem best suited for holding their own and the other courts by law required to be holden in said county; and all writs or other process returnable to the place of holding court, shall be good and binding wherever said court shall be held in said county; and the several courts in Cass county shall have the same powers and be under the same restrictions as similar courts in other counties in this State; and the said county of Cass shall in all respects be placed upon the same footing with other counties in this State.

Sec. 3. Be it further enacted, That Jesse Cherry is hereby appointed to survey and mark the undefined lines of said county, and return the same with a map of said county to the office of the secretary of the State of Texas, and also a map and copy of survey to the county clerk's office of said county, for which services the commissioners' court of Cass county shall make him reasonable compensation: Provided, that before he enters upon the duties of the survey he shall take an oath well and truly to discharge the same.

Sec. 4. Be it further enacted, That Henry W. Clark be appointed to open and hold an election in said county of Cass, at the different places of voting in said county, on the day of the general election for county officers in this State, for the purpose of electing all the civil and military officers which the people of said county are entitled to elect; said election shall be held according to the constitution and laws of this State, and the officers so elected shall immediately enter upon the discharge of their several duties, qualifying themselves by taking the oaths and giving the bonds required by law.

Sec. 5. Be it further enacted, That William N. Bishop, John W. Scott, Robert Arberry, Colonel Mimms, William Perry, Colonel E. Frasier, William Mahone and William P. Rase, be and they are hereby appointed commissioners, whose duty it shall be, and a majority of them may act, after being sworn to discharge the duties herein assigned them, without partiality, forthwith to designate three places, one of which shall be within five miles of the

centre of said county, to be voted for as the county seat; and they shall give due notice of such points designated, and fix upon some day for the freemen of said county to vote upon the question, the commissioners superintending the election; if either point voted for shall have a majority of the whole of the votes cast, then such place shall be declared the county seat; if not, then the commissioners shall fix upon another day when the people shall vote between the two places having the highest vote; and it is further made the duty of the commissioners to receive propositions from those holding lands at the points named to be voted for, as to the erection of public buildings, and make known the same to the voters before such election.

Sec. 6. Be it further enacted, That such place receiving a majority of the whole of the votes polled, is hereby declared to be the permanent county seat of said county; and the said commissioners shall proceed to lay off a town, and after giving due notice, shall sell upon the premises, to the highest bidder, at public sale, the lots designated to be sold, upon such terms as they may deem best, and they shall also let out to the lowest bidder the building of the court house and jail, making the payment to meet the proceeds of the town lots sold, or other means which may come into their hands: Provided, that before they shall proceed to sell said lots they shall enter into bonds, with approved security, payable to the chief justice of the county and his successors, in the penal sum of ten thousand dollars, conditioned for the faithful application of the monies and means which may come into their hands as such commissioners; and it is hereby made the duty of the commissioners' court to settle with said commissioners at least once every six months, and to fill any vacancies that may happen in said board. Should there be any surplus in the hands of said commissioners, over what may be needed to complete the public buildings, they shall pay the same over to the county treasurer. The commissioners' court shall allow such commissioners a reasonable compensation for their services in the premises.

Sec. 7. Be it further enacted, That the town es-

tablished as a county seat, shall be named by the county commissioners, and by such name when given and entered of record in the commissioners' court, said town shall be known and distinguished.

Approved, 25th April, A. D. 1846.

AN ACT

To restore Lands sold for taxes, and bid in by the Government, to the former owners.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas does hereby relinquish to the former owners thereof, all the lands which have been sold in the several counties, in the year 1846, or at any time before, for taxes due the Republic of Texas, by the several sheriffs in the several counties, upon the former owner or owners, or their agents or attornies paying the amount of taxes due by him, her or them, to the said Republic, or to the State of Texas, at the time of the several sales, together with eight per cent per annum interest thereon, and all costs which may have accrued to the sheriffs in advertising and selling the same, so sold, up to the time that any person or persons may desire to avail him, her or themselves of the benefit of this act: Provided, said taxes be paid to the State on or before the first day of April, 1847.

Sec. 2. Be it further enacted, That it shall be the duty of the sheriffs of the different counties, to make returns to the treasurer of the States, of all monies collected for taxes upon lands heretofore sold and purchased by the said Republic or State, specifying particularly the amount of money he has received from each individual, under the provisions of this act, and their receipt shall be sufficient evidence to the owner or owners that the provisions of this act have been complied with.

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

Approved, 27th April, A. D. 1846.

AN ACT.

To organize the County of Upshur.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory of the counties of Harrison and Nacogdoches comprised within the following limits, to wit: beginning at the south east corner of George Martin's survey, and north corner of R. M. Watkin's survey, on Big Cypress bayou; thence, due south to the Sabine river, near the south east corner of J. Ferguson's labor; thence, up the Sabine river with its meanders, to a point one mile above the mouth of Harris' creek in Nacogdoches county; thence, due north to the dry fork of Big Cypress bayou; thence, with said dry fork and Big Cypress to the place of beginning, be, and the same is hereby created into a new county, to be known and called by the name of Upshur.

Sec. 2. Be it further enacted, That the citizens of said county be, and they are hereby invested with all the rights, privileges and immunities, belonging to, and of right appertaining to citizens of other counties, except the right of having a separate land district, and except also the right of separate representation, in which respects they shall remain as they now are, until otherwise provided for.

Sec. 3. Be it further enacted, That George B. Medlin, Col. Edwards, John Stephens, — Betsil, — Brooks and Henry Patrick, be, and they are hereby appointed commissioners, to select two eligible places for the county seat of said county, neither of which shall be more than five miles from the centre thereof, which places shall be submitted to public election, at such time and places as may be directed

by law; and the place receiving the majority of the legal votes cast at said election, shall be the county seat of said county, and shall be known and called by the name of Gilmer; and the said commissioners are hereby empowered to purchase land, not to exceed one hundred and sixty acres in quantity, and to receive by donation, any amount for said county, for the purpose of erecting public buildings and defraying other necessary expenses.

Sec. 4. Be it further enacted, That all civil suits which may have been commenced against any of the citizens of the said county of Upshur, in either of the counties from which said county is taken, shall after the said county is properly organized, be transferred together with all the papers thereunto belonging, to the proper officer of said county of Upshur, and shall be carried on in the same manner as if continued in the county in which they were instituted.

Sec. 5. Be it further enacted, That the inhabitants of said county of Upshur, at present embraced within the limits of the county of Harrison, shall pay a proportionate part of the debt due, and owing by the county Harrison, at the time of the final passage of this act.

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

Approved, 27th April, 1846.

AN ACT

Requiring the County of Grimes to pay a portion of the debt of the County of Montgomery.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Grimes shall pay to the county of Montgomery, such proportion of the debt due by said county of Montgomery, as may be apportioned to Grimes county, by the county

courts of their respective counties, and in the manner in which said courts may determine.

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

Approved, 27th April, A. D. 1846.

AN ACT

Creating the county of Henderson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of the counties of Houston and Nacogdoches included in the following bounds, or limits, viz: commencing at the north east corner of Anderson county, on the Neches river; thence, north with the western boundary lines of the counties of Cherokee and Smith, to the Sabine river; thence, down said river to the south west corner of Upshur county; thence, north with the western boundary line of said Upshur county, to the southern boundary line of Titus county; thence, west with the southern boundary of said county, to the county of Hopkins; and thence, continuing west with the southern boundary line of said Hopkins and Hunt counties, to the north east corner of Dallas county; thence, south with the eastern boundary line of said Dallas county, to its south east corner; thence, west with the southern boundary line of said county, to the Trinity river; thence, down said Trinity river, to the north west corner of Anderson county; and thence, east with the northern boundary line of Anderson county, to the place of beginning, be and is hereby constituted the county of Henderson.

Sec. 2. Be it further enacted, That William Ware, David Carlysle, Alfred Moore, Thacker Vivian, Senior, and James Hooker, be and they are hereby constituted a board of commissioners, to select and locate a temporary site for the seat of justice of said county.

Sec. 3. Be it further enacted, That the said county shall be entitled to all the rights, privileges and immunities, incident to other counties of this State, except that of being a separate land district, and the right of separate representation.

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

Approved, 27th April, A. D. 1846.

JOINT RESOLUTION

Instructing our Senators, and requesting our Representatives in the Congress of the United States, to procure the establishment of certain Mail Routes.

Section 1. Be it resolved by the Legislature of the State of Texas, That our senators in the congress of the United States be, and they are hereby instructed, and our representatives respectfully requested to procure the establishment of such mail routes, in addition to the routes established by the congress of the late republic of Texas, as the interest and convenience of the people demand, procuring at least one route to the county seat of each new county, and such county seats of old counties, as are not included in routes heretofore established.

Approved, 27th April, A. D. 1846.

AN ACT

Transferring part of the liabilities of Milam County to Burleson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Bur-

leson shall pay a proportionate part of the liabilities of Milam county, from which it was taken, in proportion to its population, and assessment of the two counties respectively, to be settled and adjusted by the commissioners' courts of the said two counties, and all liabilities yet due for any revenue to Milam county, shall be divided in the same proportion.

Sec. 2. Be it further enacted, That the above section shall not apply to any liabilities or contracts, made for the establishment of the town of Caldwell, the former temporary county seat of Milam county, hereafter to be the county seat of Burleson county.

Approved, 27th April, A. D. 1846.

AN ACT

To provide for closing the business of the late War and Marine Department.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the books, papers, archives and records, belonging to the late department of war and marine, be and the same are hereby transferred to the office of the adjutant general of this State, and the said officer is hereby required immediately to take possession of the said books, papers, archives and records.

Sec. 2. Be it further enacted, That the adjutant general, or the person discharging the duties of adjutant general, shall issue all bounty and donation land warrants to the person or persons entitled to the same, or his or their agent or attorney, and to settle all outstanding business, connected with the late war and marine department, as heretofore required by law of the secretary of said department; and in accordance with the laws heretofore in existence, in relation to the issuing land warrants of any description whatever, and he shall

give such information in relation to the matters and things which, by the existing laws, pertain to the department of war and marine, as may be required of him by law; that in addition to the salary heretofore fixed by law, the adjutant general shall receive the sum of seven hundred and fifty dollars per annum, and that this act take effect from and after its passage.

Approved, 27th April, A. D. 1846.

AN ACT

To incorporate the Society of Free Masons, composed of Lodges and Chapters.

Section 1. Be it enacted by the Legislature of the State of Texas, That the officers and members of the grand lodge of free masons in Texas, and their successors in office, shall have in their corporate capacity, power to hold property, both real and personal, for the purpose of erecting, endowing and maintaining an institution of learning, and to sell and convey the same at pleasure: Provided, that at no time, shall the capital exceed twenty-five thousand dollars.

Sec. 2. Be it further enacted, That it shall be lawful for said grand lodge and the subordinate lodges under its jurisdiction, to erect buildings for their own convenience, and to hold such meetings and at such times as they may deem proper, for the better management of their charitable funds, and the application of the same to proper purposes, and the transaction of all other business relating to their own affairs, and shall have full power and authority to make, constitute and ordain by-laws, rules and regulations, for their own government.

Sec. 3. Be it further enacted, That the jurisdiction of the said grand lodge, is co-extensive

with the limits of Texas, as claimed and deained by the present statutes, as the boundary.

Sec. 4. Be it further enacted, That the officers and members of the present grand chapter of royal arch masons in Texas, and their successors in office be, and they are hereby created a body politic and corporate, with power to sue and be sued, and that all the provisions, powers and authority granted by this act, to the grand lodge, be extended to the said royal arch chapter, and to the subordinate chapters, in the State of Texas, and that this act take effect from and after its passage.

Approved, 28th April, A. D. 1846.

JOINT RESOLUTION

Concerning roads in Robertson County.

Whereas, at the July term of the commissioners court of Robertson county, commissioners were appointed to view and lay out various roads in said county, many of which will, under the new dispensation, fall into other counties which may be stricken from the said county of Robertson; and whereas, after the said new counties may be organized, difficulties may arise as to what counties the said commissioners shall make their report: therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That where commissioners have been appointed by the commissioners' court, to view and lay out roads in Robertson county, and the road which said commissioners may have been appointed to view, shall pass through two or more counties, stricken from Robertson, the

commissioners shall report to the proper court of Robertson county; but where said road shall be entirely within a new county stricken from Robertson, the report shall be made to the proper court of the new county.

Sec. 2. Be it further resolved, That it shall be the duty of the clerk of the proper court of Robertson county, to which any report of the viewers of roads may be made, which may pass through two or more counties that may have been stricken from said county, to certify to each county, through which the road may pass, a copy of said report, and the said copy shall in all respects, be regarded and respected in the same manner as if the report had been directly made to the proper court of the county to which said certified copy may be transmitted.

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

Approved, 28th April, A. D. 1846.

AN ACT

To raise a Revenue by Direct Taxation.

20 per cent.
ad valorem.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be assessed and collected of all persons within the limits of this State, for the use of the State, a direct ad valorem tax, at the rate of twenty cents upon each hundred dollars value of all property real and personal, (excepting such property as may be hereafter excepted by law from taxation,) owned or held by any such person or persons, either in his or her right, or as agent or representative of any other person or persons, within or