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The First President of Texas

The Life of David Gouverneur Burnet

A Thesis

Submitted to the Faculty of the Graduate Department of
the Rice Institute

In partial fulfillment of the requirements
For the degree of

DOCTOR OF PHILOSOPHY

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Houston, Texas
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Approved by: [Signature]
The First President of Texas

Foreword

From the birth of the republic through annexation and secession two men in Texas politics loom in bitter opposition—Sam Houston and David G. Burnet. Of the former much is known. The first good history of Texas was by his follower, Henderson Yocum. John Henry Brown, Hubert Howe Bancroft, and a host of others broadcast the fame and immortalized the name of the "Vicero of San Jacinto." By the close of the nineteenth century "Old Sam" was signaliy preeminent. In 1861, however, a youthful scholar gave the friends of Houston pause when he raised again the ever-haunting question posed by Burnet and countless others: In Houston's retreat from the battlefield, which is the key to San Jacinto, did not the general display gross misjudgment, and hence, is not Houston's entire military fame totally unwarranted?

It is over half a century since Eugene L. Barker published his critical study of the campaign of San Jacinto—and three decades since his reinterpretation. With Barker's later reevaluation the publicists recapture the field: Clarence N. Shartle wrote his San Jacinto, the Sixteenth Decisive Battle of the World, Andrew Jackson Houston published his Texas Independence, and Marquis James won the Pulitzer Prize for his novel, The Raven.
From the retreat, where they began their rivalry, through a long series of clashes closing with the latter's death at the Civil War, Burnet and Houston captured the attention of the Republic. Others could oppose the General: Lamar, Burleson, Sherman, Green were but a few who did—but their tenure was brief compared to that of the "Old Puritan." Arriving in Texas over a decade before Houston, Burnet was to live to see the South downtrodden and himself, its chosen representative, turned from the doors of the capitol. President, Vice-President, Secretary of State, United States Senator-Elect, Burnet has long merited a suitable published work; yet none has appeared. In an effort to remedy an obvious defect, the author submits this monograph on "The First President of Texas."
Io Linia
CHAPTER I

The Young Revolutionist

At the close of the American Revolution Dr. William Burnet of Newark, with property ravished, library dispersed, wife dead from the cares of eleven children, turned homeward with saddened heart. Member of the Continental Congress and Surgeon-General of the Eastern District of the Thirteen Colonies, he sought no further honors, though his neighbors soon elected him a judge of common pleas. The courageous man rebuilt his practice midst a deepening post-war depression, and he married the beautiful Gertrude Gouverneur, widow of Anthony Rutgers, and watched his older sons themselves rise to eminence. Of these sons Major Ichabod Burnet—friend of Lafayette and aide-de-camp to General Greene—was now deceased at the age of twenty-seven, but William (who had been a surgeon's assistant during the war) was established in practice, John was in business, and Jacob and George were studying at Nassau Hall from which the doctor himself had graduated.¹

By Gertrude three sons were born—Isaac, Staats, and David Burnet. The latter was born on April 4, 1788. When he was a year old, the United States was founded, and that same year saw Dr. William Burnet, Jr., leave for the promises of the West.²
The entire family had become interested in the Ohio lands of which their acquaintances—Arthur St. Clair, John C. Symmes, Elias Loudinot, and Jonathan Dayton—talked so much. The price per acre was nominal, being in the standard of British currency worth fifteen pence specie or five shillings in Continental certificates.

In the late spring of 1781 when David was three, William, now the bosom friend of Judge Symmes and the first physician of Cincinnati—that expanding metropolis of "eleven families and twenty-four bachelors"—returned to Newark on a visit. 3 In September, Jacob Burnett finished his collegiate studies, and the next month the father expired from erysipelas. The venerable man, however, had invested heavily in the western lands, and left a patrimony of "no inconsiderable sum" to his family. But a short time later the mother died, and the young children were left to the care of their older half-brothers and sisters. William took over the practice of his father, and Jacob began the study of law under a neighbor. 4

In 1785, William, perhaps tiring of the responsibility of managing his father's Ohio estate, signed over the trusteeship to his brother John, then some thirty-six years of age, and like many others a speculator in western lands. From the meager records extant, it appears that John Burnett was not too careful a guardian and soon left his charges "with none but heaven to care for" them. 5

The following year, in 1786, Jacob passed his bar examination and departed for the West, taking with him his younger brother, George, and their portion of the father's holdings. They arrived
in Cincinnati only to be assailed by *malaria*, but shortly afterwards Jacob hung out his shingle, though there were already nine resident lawyers in that city of five hundred souls. Business, however, was thriving, and soon both men possessed choice lands. By 1799, Jacob Burnet had achieved sufficient prominence to be appointed by President Adams as a member of the upper house of the Ohio legislature. Thus within four years he had become a leader of the Western bar.7

Yet the rise of Jacob was saddened by the death of William, and once again the children had to readjust their lives. Jacob was married the following year at a time when his political foes were sweeping into national office, but for George, neither love nor politics was to matter much longer, for he had contracted tuberculosis, and in the summer of 1801 he died.

While Jacob was prospering in the West and John was managing affairs at home, David Burnet entered Nassau Hall in the footsteps of his father and brothers. In the spring of 1803 the balance of the father's Ohio estate was apportioned, and Staats and Isaac left home to seek their fortune elsewhere.8 David was alone and without doubt often wondered why he should remain in school or continue to live with one who had squandered his inheritance.

In 1805 a senior classmate of David Burnet, a lad by the name of Creighton (who was destined to become a commodore) quit school to join the United States navy, and he asked David to
accompany him. Accordingly, young Burnet abandoned his studies, but was dissuaded from further rashness by the advice of his successful brother, Jacob, and the family acquiesced in the boy's desire for independence by obtaining for him a position in the New York firm of Robinson & Hartshorne. Things went well for a time, but the diminished trade ensuing from President Jefferson's disastrous foreign policy ultimately forced the firm into bankruptcy. David liked his employers, however, and in a futile attempt to save them, he apparently sold some of the western lands of his inheritance and lent the firm twelve hundred dollars. It was of no avail, however, and with winter's approach the young gentleman minus both money and position tramped the streets seeking work.

His funds exhausted, position demolished, family dead or dispersed, and with no desire to go west because of the unsatisfactory disposition of his father's estate, Burnet was easily receptive to a venture promising both fame and the restoration of a dissipated fortune. In January two long-time friends of the Burnet family, Colonel William S. Smith (son-in-law of Ex-President Adams and surveyor of New York Port) and wealthy merchant Samuel G. Ogden, spoke to the restless and unhappy youth of the possibilities of an expedition then in preparation by the celebrated and mysterious General Francisco de Miranda. Smith said he was sending his nineteen-year-old son as aid-de-camp to the celebrated soldier. Both President Jefferson and Secretary Madison seemed to be encouraging the preparations, said he, and Miranda himself had told the colonel that he had the approbation
of these high officials in enlisting citizens so long as the laws of the United States were not openly violated. Friend Ogden was advancing more than twenty thousand dollars for the provisioning of these vessels. What better inducements could one wish? David was only eighteen, but he could be a second lieutenant if he would only join, and with a lieutenant's salary set at four dollars a day, and rank and pay commencing from the first of the year, not to mention the rapid advancement and attendant fame, how could he lose?

That all was not serene, however, the young adventurer was soon to learn. No one except the principal investors and high-ranking officers knew the exact purpose of the prospective voyage (which was to revolutionize Venezuela), and hardly any of the recruits had seen their leader. So the likely recruit, however, no promise was spared, and one country lad was so impressed that he requested a friend to look after all the "toll, silver, gold-ore, and bullion" which he might obtain.

Youthful prospects were told by the notorious agent, Mr. Fink (a butcher on the Bowery), of fine horses, handsome uniforms, and all the charms of travel as presidential guardians of the mail between Washington and New Orleans. Fink said the mail between these terminals had been robbed, and he had at his market, if he could only remember where he put it, the written authority of President Jefferson himself to raise a guard for the protection of the mail.

Those who volunteered were given a month's advance salary and told to go aboard the ship Leander then anchored in New York harbor. The guardians of the mail expected to go to Alexandria,
Virginia, and thence overland to Washington and the commencement of their assignment. To protests that the Leander was an armed vessel regularly engaged in a harried trade with the West Indies, Fink replied that it was so indeed, but the ship was going to stop at Alexandria to discharge the men before going on to Santo Domingo for coffee. According to one recruit, "he made the most positive protestations and assurances of good faith (and to use his own phrase) said he would give us liberty to cut his throat, if we were deceived in the slightest degree. 16

On February 2, 1806, the Leander minus butcher Fink, entrepreneur in meats and men, glided out of New York harbor towards adventure and disaster. The vessel was so cramped that the enlisted men were ordered to throw their trunks overboard. A vessel of one hundred eighty-seven tons and seventeen guns, the Leander crowded together some one hundred and eighty men and a cargo of mutilated arms not listed in the manifest. 17

When the ship was several days out of port and desertion was scarcely possible, there appeared upon the quarter-deck a most unusual gentleman. With large and handsome nose, powdered gray hair knotted and tied with a ribbon, he was of dark visage and stoutish figure with "strong grey whiskers growing on the outer edges of his ears, as large as most Spaniards have on their cheeks." 18 The green recruits could only stare in open-mouth astonishment at this man whose name they knew only by whisper. The General wore a red gown and slippers and an air of command,
and his piercing eyes silenced with a glance the muster of the presidential guard.

To the officers, he was affable and cosmopolitan, and young Burnet found him ever willing to talk of his achievements. Born in Venezuela, this distinguished adventurer had fought with the Spanish, commanded with Napoleon, and dallied with Catherine the Great. Fluent in languages, he had traveled in Europe and Asia, Africa, South America, and the United States, and was at home on any topic, a master of eloquence and persuasion.19

It was now apparent that the condition of the mail was of no consequence to the ship's leaders, but the exact purpose of the voyage was still undisclosed. To promote discipline and spirit, drill was conducted daily under a sergeant who looked "as bold as a lion" and roared "nearly as loud." In another cluttered corner an armorer repaired as best he could a mass of rusty swords and pointless bayonets. In the words of a new officer, "this tinker has his hands full, as our arms are none of the best, and seem to have been already condemned in some other service. Whoever purchased them for the expedition, was either no judge of arms, or he has been kinder to himself than his employer." 20 On a side of the quarter-deck a printing press rattled off proclamations for the South Americans, and across the way the General himself expounded to the younger officers the rigors of war, the glories of victory, and the grandeur of his own exploits.41 For the attentive Burnet, who was drinking it all in, this was new and wonderful and reminiscent
of the military feats toll of his own father and brothers long ago. He resolved to apply himself and win his own promotion.

On February nineteenth the **Leander** arrived at Jacmel on the southern coast of the present Haiti where she was first to fly the red, yellow, and blue Columbian banner of freedom. Here for six useless weeks—long enough for most of the Caribbean to learn of his designs—the general sought recruits. Miranda, after much persuasion, obtained a few reinforcements and charted on credit two small schooners, the unarmed **Lachus** and **Lee**, the latter of which was equipped with a single nine-pounder cannon. These vessels would diminish the load of the **Leander** by some forty-odd men, but they could not compensate for the loss in time. Moreover, the long weeks at sea in crowded quarters had affected the temper of the entire crew. Miranda, the venture's leader, and Thomas Lewis, the **Leander's** captain, had almost come to blows over the question of jurisdiction or authority. The men were disillusioned.

To make more room and at the same time to get rid of the less desirable, many of the presidential guard were ordered aboard the **Lee**. Here under fewer officers and removed from the commanding presence and confident assurances of the general, they magnified their fears and concerted their plans for escape. On Saint Patrick's night they rose against their officers, who promptly hailed the **Leander**. Lieutenant Burnett was among those to take the lead in quelling the insurrection.
Leaving Jacmel on March 27 (with the wind and current against them) the vessels got off course some seventy miles, and the slow-moving Spaniards were now alert. On April 11 Aruba Island was sighted, and here the troops were drilled for a few days on land. By the sixteenth, however, the entourage was on its way, and provisions were obtained at Bonaire Island on the twenty-fourth. Three days later the group have to before their long-anticipated though secret destination—Puerto Cabello, the second-most important port of Venezuela. The men were eager for action, and they were to have it. A Spanish brig of twenty guns and a schooner of eighteen opened fire on the dispersed triumvirate. The See was ordered to prepare for boarding action on the lee while the Leander attacked and boarded on the weather, and the presidential guard, mutinous though they were, prepared to obey. Suddenly, however, to the consternation of the guard, the Leander (a slower vessel than the Spanish ships) reversed her course and abandoned the ill-fated crews of the See and Bacchus to the dungeon and the noose.24

The Leander, following this disaster, provisioned at Bonaire and proceeded towards Trinidad. Supplies were procured at Granada the latter part of May, and by the first week of June the diminished and restless troop had anchored at Bridgetown, Barbadoes. Enlistments and British help seemed imminent, but for a few days it appeared that the customs officers might seize the Leander for her previous contraband trade and current malpractices "under unacknowledged colours." Yet because of the captured officers
of the Bee and the low level of morale, promotions were in order, and Burnet was made a first lieutenant. Still, all was not well. Miranda and Lewis continued their quarrels until the captain and nearly forty of the crew resigned and left the ship, though with the fortunes of war looking up, some measure of esprit de corps was maintained. With prospects of British aid, the cause was beginning to appear respectable.

The little squadron departed from Barbadoes with some thirty volunteers to offset partially the loss of Lewis and his men as well as three British vessels, the Lily, Express, and Trimmer, and reached Trinidad late in June where morale rose with augmented supplies and further promises of British naval assistance. It was five months since they had left New York, and the weary band had come to regard their leader as a "hard and unfeeling master," but they could only go on. Unknown to them, the Spanish of the entire coast were combattng a "contagion of fear."26

At Trinidad, Miranda obtained further commitments from the British governor, who allowed the general to secure volunteers from the local militia as well as have the support of additional vessels. The fog of despair was lifting, for with the British navy, who could lose? Further, it was rumored that a force was growing near Caracas itself to overthrow the Spaniards—that one Dom Pedro Minto (said to be Miranda's most powerful partisan) with 15,000 men was waiting impatiently for the general to begin active operations.27 Victory was in sight.

On July twenty-fourth the spirited and well-supplied force now grown to three hundred members sailed from Trinidad in the
company of His Majesty's arms. The squadron consisted of the flagship Lily, twenty-four guns; Leander, sixteen; Attentive, fourteen; Express, twelve; Provost, ten; Mastiff, Dispatch, and Bull-dor, gun boats of two and three guns; Commodore Barry and Trimmer, unarmed merchantmen. Miranda was now with his suite aboard the Lily and had expressed to all that aside from the danger of the sea, success was inevitable. A few additional supporters were obtained from the island of Jocha, and the now formidable squadron anchored on the night of August first off La Vela de Joro. Unfortunately, however, in the darkness the pilot placed the armada from seven to nine miles too far leeward of the port's battery, and the subsequent heavy seas prevented a landing. At daybreak on the morning of the third, however, the assault was made, with the small boats pushing to shore mid salvos of cannon. David Burnet commanded the first launch ashore and ordered the firing of the first shot for Spanish-American independence. He was not to remain a lieutenant for long.

With the British vessels standing off shore and the Spanish beating a hasty retreat, the jubilant army took the fort and marched for the city of Joro some twelve miles distant. Unfortunately, the city, like its port, was virtually deserted, the delay of attack due to the pilot's error having given the entire populace time to flee. The green recruits, however, became confused and fired into their own ranks, creating havoc and seriously wounding their comrades.

Though the hidden populace was besieged with proclamations
announcing their unsought independence, the influence of the priests and the fears of excommunication prevented the hoped-for response. Following some five days in the town, the rejected liberators disconsolately returned to La Vela where they could better defend themselves while awaiting aid from the British. But if the governor of Trinidad was disposed to help them, the lords of the admiralty were not, and no reinforcements appeared, despite Miranda's pleas. The general, confronted by the exertions of a greatly enlarged though motley Spanish force, decided to depart. Midst a torrential rain, the weary, mutinous men reembarked for Aruba Island, and the death of Prime Minister Pitt, who had long been Miranda's friend, a few months later destroyed all hope of returning.

Miranda had failed in his plan to revolutionize Venezuela, and yet the margin of failure was small. A few months after the general seized and lostboro a British expeditionary force from the garrison on the Cape of Good Hope attacked, without authorization, the La Plata region of South America and captured Buenos Ayres. The way seemed open for the seizure of the entire continent, but Prime Minister William Grenville who had succeeded William Pitt was averse to enlarging British strength in South America while the Napoleonic wars were still in progress, and both Miranda and the British La Plata force were told to stop their efforts to defeat the Spanish.

The Miranda expedition had failed, but Burnet had not, for he was apparently given the rank of major and the position of Miranda's private secretary.\textsuperscript{31} Shortly afterward, however, the young officer and eleven comrades sailed for the West Indies and home, but the eleven died of yellow fever, Burnet alone reaching port and eventually New York.\textsuperscript{32}
Back where he had started: family dispersed, money gone, job lost—what was he to do? The year was 1807, and President Jefferson was still pursuing the same policies that had forced the bankruptcy of Robinson & Hartshorne. Major Burnet, however, was not one to stand idle. He returned to Newark where he could find some reward for his labors, but he was not happy. Staats had died during his absence, and Isaac was still in Ohio. He needed an immediate job and thus obtained work in the East rather than go westward and presume upon the friendship of his successful brothers, but while he worked and pondered, he read the papers and occasionally came across an article concerning his old commander.

With Napoleon tightening his Continental System, it appeared that England for her own commercial needs would be forced to aid Miranda in freeing Spanish America. By January, 1808, the General was in London, where he talked persuasively with Castlereagh, Wellesley, and others of importance. With the fall of Spain in the spring and the subsequent usurpation of the throne by France, England moved with alacrity to keep the Spanish colonies away from Napoleon. Miranda was welcome.33

By June, nearly ten thousand soldiers were in readiness for embarkation from Cork to South America. Then, at the crucial moment, Spain rebelled against Napoleon, and the Ministry, seeing a chance for a victory on the continent, moved to aid the Spanish. Miranda's fondest hopes had perished. Said Wellesley, later Duke of Wellington:
"I think I never had a more difficult business than when the Government bade me tell Miranda that we would have nothing to do with his plan. I thought it best to walk out in the streets with him and tell him there, to prevent his bursting out. But even there he was so loud and angry, that I told him I would walk on first a little that we might not attract the notice of everybody passing."34

General Miranda remained in England writing and publishing, and communicating with his followers both there and in South America.35 The general with his work increasingly successful left England in October of 1810 for Venezuela. Napoleon's interference in Spanish affairs was accomplishing what the venture of 1806 had been unable to achieve—the desire of the colonists themselves for independence; and Miranda upon arriving in Caracas was greeted with a hero's welcome, given the rank and pay of lieutenant-general, and shortly elected to the provincial congress. On Holy Thursday, 1811, the Captain-General of Venezuela was deposed, and on July fifth an act of independence was adopted.36

When Burnet in Newark read of Miranda's reception and the move for independence, he decided to forsake once more the frustrations of the city. Sending his brother Isaac (who was now editor of the Ohio Sentinel) power of attorney to dispose of his diminished western lands, the twenty-three-year-old veteran departed for adventure in the spring of 1812.37

The patriots had taken the field with an army of thousands and were everywhere victorious, but disaster was in the making. Shortly after four o'clock on the afternoon of Holy Thursday,
March 26, 1812, at a time when all good Catholics were pondering the solemnities of existence, and on the anniversary date of the deposition of the captain-general, the distant Andes commenced to rumble and with quiverings of divine displeasure, the ground rose up to ordain the fate of Miranda. Caracas, La Guaira, Puerto Cabello, Merida, Maracaibo, Trujillo, Tocuyo, Barquisimeto, Carora, San Felipe, San Carlos and other patriot strongholds were utterly razed by one of the greatest earthquakes of the age, while the loyalist Coro went undamaged. The will of the Almighty was plain.

Miranda accepted dictatorial powers and moved against dissention, but when Puerto Cabello—that "bulwark of liberty in which the Patriots might defy all the power of Spain"—fell to the loyalists, the general's spirit was broken. Previously the loyalists had neither lead nor muskets, but now they had three thousand muskets and powder and lead in abundance. Miranda was forced to an armistice and virtual capitulation.

With fortune on the wane, Major Burnet arrived in Caracas to greet his old commander. Only a few months before the general had controlled a nation. Now he was forced to tell his loyal comrade that the glory was no more. Advised to return to the States, the saddened Burnet bade his veteran chief an affectionate farewell and departed, and Miranda was seen afterward betrayed to his enemies, who shipped him to Spain to perish in a dungeon.

Burnet once again returned to the frustrations of
civil life. The unhappy fate of the general had come as a bitter blow, and perhaps a few years later the victorious armies of Simon Bolivar would remind David Burnet of the success that he and Miranda so narrowly missed. The young adventurer had no desire to remain longer among friends who had advised him in the first place against leaving the security of his homeland for a foolish trip to South America, nor did he care to enter the armed service of the United States in the War of 1812, for the complacency of the president had contributed to the failure of Miranda. He had closed his business affairs to make this second expedition, and now he was free to go wherever he wished. John had died, and his closest relatives were his brothers Jacob and Isaac in Ohio. Isaac had always been dear to him and especially after the loss of Staats in 1806. Thus the young Burnet set about the business of reestablishing himself in a distant land. There were letters to write and transportation and belongings to arrange.

The liberal Burnet prepared to move west and assume a role in the conservative ranks of lawyers and judges of the frontier. Success had so far proved elusive, but in Ohio lay new means for fame and wealth, and David Burnet was confident of the future.
Chapter II

Visions of a Land Speculator

In the closing months of 1812 David G. Burnet, Esq., and his few belongings drifted down the Ohio to the land of beginning again. Arriving in Cincinnati, he observed Congressman Jacob living "in a large and elegant brick house situated on an eminence which over looks the town" of several thousand houses "among which there are some as handsome and large as any in Jersey."¹

Proceeding to Dayton, Ohio, two days northeastward, David found newspaper publisher Isaac with a wife and the resultant financial cares. Isaac had gone to Cincinnati from Newark in 1803 where he had studied law under Jacob until his marriage in 1807 to the beautiful Kitty Gordon. Shortly thereafter the couple moved to Dayton where Isaac eked out a living as a lawyer and after 1810 as editor of the Ohio Centinel, but the large number of nonpaying subscribers together with the arrival of David appears to have caused the abandonment of the Centinel for a more promising venture. David still had some property that Isaac had not disposed of for him during the recent Miranda fiasco, and in March the brothers sold three hundred acres for $1800. With this money and that obtained from the sale of the paper in May, the two were able to establish the mercantile agency of Isaac G. Burnet & Co.²
Neither brother, however, possessed the tact requisite for the business, and success was elusive. Meanwhile, the old *Centinel* had by October of 1814 changed hands four times, and each owner found it less profitable than had his predecessor. When the fourth gentleman offered Isaac a partnership if he would return to the paper (now flying the banner of the Ohio Republican), Isaac accepted, and with the renewed publicity was shortly elected to the state legislature. But his victory involved not merely the transfer of his residency, but also of his place of business, and the Representative soon announced the removal of the store from Dayton: "Those indebted must pay up without any further shuffling." With the opening of congress, Isaac transferred his interest in the company to David, and an attorney was employed to collect the firm's bad debts. 

Apparently offered a legal partnership with the reputable Mr. Longworth of Cincinnati, Isaac resigned his legislative post in November, 1815, and "with a view of promoting my pecuniary interests," moved to the Queen City where he was soon to become the editor of the *Liberty Hall & Cincinnati Gazette* and subsequently mayor of the town.

In the meantime, Major David Burnet, carrying on the mercantile business alone, decided to remove to the lower Mississippi where a variety of opportunities prevailed. By July, 1817, he was in Natchitoches, Louisiana, signing a power of attorney authorizing
Isaac in Cincinnati to dispose of all his Ohio possessions.  

Two months later Isaac sold to Jacob under this power of attorney "One Hundred and Six Acres, and two thirds of an Acre" for the sum of "Three Thousand Six hundred and sixty one Dollars, and Ninety three cents." As late as October the Dayton attorney for the now nonexistent firm of Isaac G. Burnet & Co. was still seeking to collect the firm's delinquent accounts.  

In Natchitoches Burnet went from bad to worse. Failing as a merchant though he worked long hours trying to succeed, he contracted tuberculosis as a result of his tedious inside labor, undernourishment, and exposure to the disease in this damp, miasmic climate where the illness was everywhere common. He was advised by his physician to go among the Indians, there to subsist "without bread or vegetable of any sort." Remembering the fate of his brother George two decades before, Burnet followed the suggestions. He formed a partnership with a trader named Locarno, and the two went among the Comanches on the upper Colorado, where Burnet resided for some eighteen months. Here on the vast expanse of the southwestern plains from the bleak red mass of the southern Ozarks through the foothills of the Rockies, Burnet on occasion rode bareback with his Indian friends on captured wild mustangs and hunted the buffalo with both rifle and arrow. Leaving the squaws (whom he considered as "ugly as nature could very well accomplish") to do the household drudgery, Major Burnet and the warriors hunted and travelled in a region that the white man's
civilization had not yet despoiled. Burnet knew English well and was somewhat acquainted with Spanish, and he soon learned the Indian dialect. Thus he was valuable as an interpreter, especially on those few occasions when other Indian traders arrived in camp. There were a few white frontiersmen whom Burnet got to know, among them being one Benjamin R. Milam, an Indian trader and prospector from Kentucky. By these occasional traders Burnet sent letters to his friend, Colonel Jamison, the United States Indian agent at Natchitoches, informing him of the Indian affairs, and indeed of the entire Indian culture as Burnet understood it. The Indians, he said, lived in an organized society comparable to the best the white man had to offer. They believed in a God and a future life, but expected to leave God to Himself and have Him do the same for them. In speaking of the Indian treaties, Burnet (in words that he would have occasion to remember) bemoaned the heartless manner in which the scheming whites had deprived the Indians of their ancient possessions. In general Burnet served as an unofficial diplomat to the Indians from the whites (and also the Mexicans, for he would purchase the freedom of captured Mexican prisoners), but as in Ohio and in Louisiana, he was an utter failure as a merchant.

The combination of fresh air, sunshine, exercise, and sufficient sleep soon restored the major to his former healthy self, and with the close of the year 1818 he began to think of returning to Ohio. He had lived entirely for more than a year on "buffalo and other
wild meats," and had fallen in love with this magnificent country, but he longed to see his brothers and rebuild his fortune. Thus it was that Burnet bade farewell to his native friends, and "having utterly failed in his mercantile operations, for which he had neither taste nor tact," he returned to Ohio where Jacob was soon to be a justice of the Supreme Court and Isaac was the popular mayor of the Queen City.\textsuperscript{9}

While reading law and working in Isaac's office, David still found time to contribute an occasional article to a local journal. In the newly established Cincinnati \textit{Literary Gazette} founded by his friend John P. Foote, Burnet published some of the letters he had written to the Indian agent at Natchitoches a few years previously. Noting that the Comanches were the most numerous and important of the Texas Indians, "and with them I am more intimately acquainted than with any of the other tribes," he went to some length to elucidate their characteristics.\textsuperscript{10}

At that time the celebrated naturalist Professor C. S. Rafinesque of Transylvania University, was currently lecturing in Cincinnati and examining the great fossil deposits then existing on the property of Jacob Burnet. "His extra-ordinary genius, his encyclopedic knowledge, and his mind thinking forty years ahead of his time" won for the professor a profound respect, but his pedantry called forth ridicule.\textsuperscript{11} While Burnet's letters were appearing in the \textit{Gazette} over only his initial, Rafinesque was displaying his great erudition in a series of articles on
natural history. Following an able discussion by the naturalist on "the American Solomon," King Naizahual of Tezcuco (a region which is now embraced by Mexico), some wag inserted a card purporting to question the professor's veracity and signed the note with Burnet's own pseudonym, the letter "B."

"...I am sorry...to inform you that some persons in this city, affect to doubt whether this Big Solomon of yours was in reality a DEIST, as you have asserted; others declare that his temple which you say was nine stories in height, was but eight and three quarters; and I am still more sorrowful to tell you that I have met one or two persons, so incredulous and obstinately perverse, as to declare a total disbelief in the existence of any such man as you have described, except in your fertile imagination.

Now to settle this matter, will you, my good sir, be so kind as to furnish for the Literary Gazette, your authorities. ??

Though he spoke several languages, Rafinesque was a foreigner and hence a little slow at grasping the intricacies of English, and failing to see the humor of his critic, he replied by citing Humboldt and Clavigero and then challenging the writers of the Indian articles to sign their own names:

"...I have been much pleased with the accounts of the Comanchees and Mabijos...but I have to regret that the writers have totally neglected to notice the languages of those nations. It is also wrong to give anonymous details of historical facts."13

In a noteworthy article Burnet disavowed the card but replied with "A Brief desultory and imperfect vocabulary of the Comanche language; respectfully dedicated to Professor Rafinesque of Transylvania University" and concluded:

"...To affix my proper name would be introducing a stranger, who has no pretensions to the literary celebrity and deep-drawn lore that render the name of Rafinesque a sufficient guarantee for any 'historical details,' without extorting the mortifying confession that they are borrowed from Clavigero, Humboldt, or the more recent Bonnycastle. ...B."14
Thus Burnet with biting humor flogged the unsuspecting professor to the amusement of the sophisticated portion of the West.

During the period when Burnet was in Texas, the observant reader of the Cincinnati papers might have noticed the following advertisement:

"For Sale 5000 acres of Farming & Mining Land
In the County of Washington, Missouri Territory.
Moses Austin
Jan. 10, 1819"15

Moses Austin was bound for Texas, and his mission was to have great consequence for Burnet. By December, 1820, this great entrepreneur was in San Antonio de Bexar, and through the fortunate intervention of a friend had obtained the Mexican governor's permission to apply for a colonial grant of land. The application approved, Moses commenced his notable venture in the year of Mexican independence and that of his own demise. His son, Stephen Fuller Austin, was to carry on. The news of this governmental concession rapidly spread through the United States, and soon Mexico was crowded with expectant colonizers—among them being Robert Leftwich and Haden Edwards, whose petitions perhaps stimulated the passage of the national colonization law. After the passage of this statute of 1824, contracts were let for the settlement of some twenty-four hundred families, Leftwich and Edwards with eight hundred each and Frost Thorn and Green DeWitt with four hundred each.16 When Burnet in Cincinnati learned of these grants and in addition that his old friend Benjamin Milam was also an empresario, he decided that he himself would try to found a colony.
Hence in the spring of 1826 Burnet and his friend General Humphrey Fullerton took passage from Cincinnati bound for Mexico, and provided with letters of recommendation from both Senator Henry Clay and Governor Brown of Ohio.\textsuperscript{17} By May they had received an additional testimonial from Austin recommending them to Saucedo, the political chief. As Edwards was unable to get along with either his colonists or the government's representatives, it seemed likely that he would lose his empresarial contract, and Austin recommended that if the contract was annulled Burnet and Fullerton be given permission to settle eight hundred families in the grant. James Gaines, the bitter enemy of Edwards, also pledged Burnet his support. Burnet and Fullerton, in return for this favor on the part of Austin, agreed to aid Austin in obtaining settlers.\textsuperscript{18} With the expulsion of Edwards in May success was anticipated, but Fullerton, who had been sick (and evidently attributed his illness to the climate) returned to the States in the late spring to recover his health and to solicit financial backing. Burnet in December was awarded at Saltillo a contract for three hundred families in his own name. This grant covered roughly five million acres, and being north and west of Nacogdoches, it was in a region with which the major was quite familiar from his previous life with the Comanche Indians. By the terms of the contract and the law of 1824, settlement had to be accomplished within six years by Catholics of character and industry.\textsuperscript{19} As Burnet was a Presbyterian, it is difficult to see how he circumvented the requirements and obtained the commission, for five years later he was to refuse a much desired
augmentation of land rather than bow to the nominal rites of Catholicism.20

Having obtained his empresarial contract, Major Burnet departed for central and northeastern Texas, where from Austin at San Felipe and Gaines at Nacogdoches he learned the trials besetting both colonizer and colonist. With the advance of the American frontier and the resultant expatriation of the Indians, cherokees were flocking to the region covered by Burnet's grant and scaring off prospective settlers, and though both Austin and Milam affixed their signatures to the governmental petition which Burnet drew up, requesting Mexico to protest the Indian policy of the United States, the situation steadily deteriorated.21 In addition, no satisfactory news was received from Fullerton, and after long months of tramping the country Burnet became in the end convinced that he himself would have to shoulder the responsibility of making the venture a success, for it was by now apparent that a successful colony would require a huge expenditure of money.

In the summer of 1826, Burnet, now forty years of age, began the long journey to the North. He reached Cincinnati and received the encouragement of his brother Isaac, who was closing a decade as mayor of the city; but just as he was on the point of closing a profitable agreement with some of the leading citizens of the town, by which a corporation would be formed giving Burnet managing control of the money invested by the stockholders, the Mexican uprising of 1829 and the unconstitutional
elevation of Guerrero as President "dispersed them like a hawk pouncing upon a flock of pigeons." The major wrote to Austin, however, that he would remain in Cincinnati a while longer "that I may at least get one good stool pigeon."²² The omens, however, were insuspicious. Though soon repealed, the decree by Guerrero abolishing slavery in Texas, as well as President Jackson's well known desires to acquire Texas, alarmed both prospective clients and prospector. Should United States Minister to Mexico, Joel R. Poinsett, and the Charge d'Affairs, Anthony Butler, succeed in their rumored mission for the purchase of Texas by the United States, before the empresario had met the terms of his contract, Burnet would encounter the "arch cupidity" with which "our uncle is went to deal with large land claimants."²³

Thus when old friend Milam arrived in Cincinnati following the disastrous termination to Burnet's plans, the two decided to merge their enterprises in hopes of better success. Milam told Burnet that he was the empresarial agent of General Wavell (an English soldier of fortune who had obtained in 1826 an empresarial contract), that he owned some silver mines in Mexico, and that he had formed an agreement with Major Anderson Miller of Louisville to develop both Texas land and Mexican mines. Now with two colonies plus the mines, perhaps they could succeed.²⁴

With suitable legal proposals drawn up, (making the association binding only if a corporation were organized by November first) Major Miller departed for Kentucky to raise a colonial company, Milam returned to Mexico to guard his mines, and
Burnet remained in Cincinnati to complete other arrangements. While here he entertained that "misguided and infatuated visionary," Robert Owen of England, who had called to inquire about the possibility of a Texian settlement, but, lacking money, was discouraged. 25

By October Miller had fulfilled his mission, and Major Burnet journeyed to Louisville to meet the financial backers, among whom was Porter Clay, the brother of the renowned Senator, Clay was of the opinion that merely by financing the movement of the required number of settlers, a large land grant could be obtained without the necessity of having the backers move to the territory. Now this could have been accomplished quite easily by having the empresarios make a private contract with the financiers of the venture whereby these backers would finance the colony, Burnet would settle on the land and receive the allotted bonus as empresario; then Burnet under the terms of the private contract would transfer at a later date the bounty or the stipulated portion of it. Clay, however, evidently fearing that the Mexican government would confiscate any bounty conferred if it suspected that the empresario had acted in bad faith, decided to withdraw from the venture. This forced the abandonment of the project and left Burnet with a "total frustration of his hopes." 26

There was still a chance, however, for a profit. As Burnet mentioned to Fullerton (who had rejoined him in Cincinnati), if they could obtain the exclusive right to the steam navigation of Texas waters for twenty or twenty-five years, the franchise could
prove valuable should Texas enter the Union before its expiration. That he was not alone in his ideas upon this subject may be judged from the words of Sam Houston three years later:

"My main object in writing to you...is to say that the project of obtaining a Grant for the Navigation of Rio Grande del Norte, is one that will take well."28

Parting with Miller after the failure of the Louisville mission, David Burnet proceeded to Baltimore where he failed for a third time to secure the essential capital. His final hope was New York, and in that metropolis he met fellow empresarios Vehlein and Zavalla. Joseph Vehlein was a German merchant who had resided in Mexico City until on December 21, 1826 (one day before Burnet got his own contract), he was made an empresario. Afterwards, like Burnet and others, he attempted to sell his contract. Lorenzo de Zavalla was perhaps the most distinguished politician Mexico had produced. A Mexican educated in Spain, Zavalla had been in Mexican politics for more than ten years. It was while he was secretary of the treasury that on March 12, 1829, he received an empresarial contract for the settlement of five hundred families. In May, 1830, when he left Mexico for the purpose of selling this contract, he was introduced to Secretary of State Martin Van Buren with the following note from Anthony Butler, who as United States Charge' d'Affairs to Mexico was able to appreciate the talents of Zavalla:
"This will be presented to you by His Excellency Governor Zavala, late Secretary of the Treasury, who I beg leave to introduce to your acquaintance. This gentleman has been at all times the uniform, unwavering friend of our government and people, and the warm admirer of American institutions. Distinguished for talent, information, and great energy of character, he could even now command any station from the hands of those in power, notwithstanding he belongs to that party recently ejected. 29 I pray you to make Mr. Zavala known to the President.

In New York City, Burnet, Vehlein, and Zavalla made a supreme effort to dispose of their several grants at the precise moment when the law of April 6, 1830, was closing the colonial doors to Americans. They were extremely fortunate in the fact that their lands were contiguous and together comprised one huge block embracing the entire southeastern portion of Texas, and thus in this great financial center among men who were daily engaged in speculative ventures, the triumvirate were able to realize their dreams by a successful sale of their combined contracts. Reserving but a small landed interest, Burnet, for what he afterwards recalled was a consideration of some twelve to fifteen thousand dollars, disposed of his entire contractual rights and managerial control. 30

While this transfer was legal by American concepts, it hardly met the spirit of the original concessions. The buyers, headed by the president of a leading New York bank, were not planning to select satisfactory colonists nor to go to the territory to reside. Indeed, they themselves were not even planning to furnish the money. Rather, by incorporating as "The Galveston Bay and Texas Land Company," they proposed to sell both stock and scrip.
By retaining a controlling number of stock shares and placing a high market price on the balance, they could direct the company or advantageously dispose of their interests without much personal monetary risk. At the same time, by selling land scrip, or authorization permits, to prospective emigrants by which such emigrants would for five or ten cents an acre be allowed to settle on the company's land, there was an opportunity for both new and original shareholders to turn a neat profit.

It is hardly conceivable that Burnet did not know the purpose to which these astute financiers planned to put their newly acquired powers, for on October 16, 1830, when the three empresarios signed the trust deed or irrevocable power of attorney conveying to the New Yorkers their entire contractual rights, the empresarios also apparently signed the articles of association for the Galveston Bay and Texas Land Company. These articles specifically stated that one of the purposes of the company was to issue land scrip. Thus one can only wonder at the assertion of Burnet in 1838 (when he was running for Vice President of Texas) that upon hearing of the issue of scrip by the company he "immediately signified his unqualified disapprobation of the scheme, and conjured the trustees to abandon the plan," but without avail (for he had already signed the irrevocable power of attorney.) 31 One can only assume that either Burnet was misrepresenting the facts or that he had not read and understood the terms of the articles of association which discussed the scrip before he signed the deed which left him with only advisory rights—and yet, judging
from Burnet's signal business inability, the latter (which for the average individual would be so improbable) is apparently the case. 32

By the time the major reached New York he was so exhausted both mentally and physically from his repeated failures over nearly a four-year period that he did not care to overhear the schemes broached by those Wall Street rascals. They knew the terms, and they were willing to buy. What they did thereafter was none of his business. Besides, he was forty-two years old, and there was a young lady across the river, and if he waited much longer, he might lose everything of consequence.

Thus, Major Burnet concluded his New York business and took the Hudson ferry to Newark where his engagement was soon announced to the thirty-year-old Miss Hannah Este of his original home community. On Wednesday, December 8, 1830, the two were married at Morristown in the home of Louis Mills, a brother-in-law of the bride. 33 The couple took a honeymoon trip to New York where they completed arrangements for a return to Texas. The bride selected a few articles of household furniture and other necessities, while Burnet in conjunction with his friend and new partner, Captain Norman Hurd (who was also interested in moving to Texas), bought a fifteen-horsepower steam engine and boiler along with other items necessary for the establishment of a saw mill. Completing their plans, the partners hired ten assistants for their venture (some of whom they agreed to pay as much as "$1.50 a day and found") and chartered the schooner Call by the month "at no mean sum". 34

This saw mill venture had long been in Burnet's mind. In 1829 when he and Milam were trying to secure financial backers, one of
their chief arguments was the feasibility of building a saw mill on
the Trinity River where there were numerous pine trees and which was
navigable for 400 miles. Lumber sold then at from fifty to eighty
dollars a thousand feet at the principal Mexican ports which were
within five to seven days from Trinity Bay by ship, and such a mill
as Burnet envisioned (with two blades) could turn out some three
thousand feet of lumber a day.35

The little group spent New Year's Eve with their friends somewhat
saddened to think that this might be the last such celebration they
would enjoy together, and a few weeks later they boarded the Call and
departed for Texas on their long voyage. There were two ladies, for
besides Mrs. Burnet, there was a Mrs. Solomon Rumphello and her eight
children. In early April, 1831, the ship arrived at the island of
Galveston and passed through the half-mile-wide channel marked on the
southwest by the eastern extremity of Galveston and on the northeast
by Bolivar Point. This was the main entrance to what was potentially
the best harbor between Pensacola and Vera Cruz, and there was ample
room for maneuvering in the channel which had a depth of at least
twelve feet of water. Just beyond, however, stretching from the mouth
of Dickinson Bayou far out in the bay towards what is now Smith
Point on the eastern shore, shifted the treacherous underwater reef
known as Redfish Bar. This dangerous shoal was a hazard even to those
who knew it well, and to the hapless masters of the Call it was an
almost certain snare. The schooner ran aground, and despite the best
efforts of crew and passengers it could not be broken loose. There
was only one recourse. The vessel had to be lightened. As there was no lifeboat, the furniture, bricks for the mill foundation, and even the precious steam boiler itself had to be cast overboard in an effort to save the steam engine. With the load thus diminished, another attempt was made to free the ship with the passengers running first to the port and then to the starboard in an endeavor to rock the vessel free of the grasping sand. Their efforts succeeded, and they crept to shore where they managed to rescue most of their belongings. The bricks were lost and the furniture was badly damaged, but the irreplacable boiler was as good as ever.36

The hired men constructed a temporary shanty for the convenience of the ladies while Burnet and Hurd set out to find a suitable location for the mill. The partners considered sites on Dickinson Bayou, Bray's Bayou, and the eastern shore of the bay before choosing a location nine or ten miles above the mouth of Dickinson Bayou—a spot in Austin's colony just to the west of the former tract of Vehlein. As Galveston Bay was bounded on the north and east by the old Vehlein grant and on the west by Austin's colony, the fact that Burnet and company had left New York destined for the western bay shore undoubtedly explains why they were permitted to remain in Texas in the face of the eleventh section of the law of April 6, 1830, which excluded American emigrants from the country. On April 3, 1831, at the very time when the schooner Call was probably passing New Orleans, the Mexican consul at that city wrote the following which seems
indicative of his country's attitude toward Americans:

"I inform you that I will have no kind of objection to
give passport to any person whatever, if you will send
me by those persons an assurance that they are going
to Mr. Austin's or Dewitt's Colony to settle. It has never
been my intention to refuse granting passports to persons
going to Texas on their private business or with a view
of seeing the country. ."37

Stephen F. Austin was in Saltillo as a member of the
legislature of Coahuilla and Texas, and his private secretary,
Samuel M. Williams, was managing the colony. Burnet, therefore,
wrote to Williams (for it was necessary to have the permission
of the empresario in order to get title from the government)
requesting a five-league grant (three leagues more than he and
Hurd were entitled to as settlers) on the grounds of making with
their saw mill a valuable contribution to the country that would
tend to benefit all of the settlers. Burnet also asked that his
assistants be given land as near as possible to the mill site.38

Having thus written to Williams, Burnet and his partner
next went to see Colonel John Davis Bradburn, the Mexican
commandant at Anahuac. Bradburn (an American in the service of
Mexico) received them courteously, for he was anxious to have
the mill located at Anahuac; but the partners (who feared this
damp and malarial location) made no promises and departed.39
Further acquaintance with the settlers of the region revealed
that title to the desired location on Dickinson's Bayou as well as
much of the surrounding territory was already held by persons
who did not wish to relinquish their holdings. Therefore some
other site had to be found.
A location further up Dickinson Bayou was considered by the partners. Here a Mrs. White had originally held a league but had allowed it to revert to the empresario. Burnet and Hurd hoped to secure this land plus two leagues adjacent on the north and two leagues adjacent on the west, but some weeks later they received word from Williams that the coveted location could not be had. 40 Again it was necessary to turn to some other place, and time now was precious, for the men who had been hired for the sawmill venture were getting paid though the mill was not yet established.

The damp climate and huge numbers of mosquitoes had already brought malaria to several of the party. Hurd himself was so sick that the major was left with all the work and responsibility, and in addition Mrs. Burnet, though trying not to complain under the troublesome conditions, had become so ill that it was necessary to place her in the home of one of the neighboring settlers, one Captain Scott. 41

It was possibly the summer of 1831 that Nathaniel Lynch, one of Austin's original colonists and the operator of a ferry across the San Jacinto River, agreed to sell Burnet 279 acres on the northwestern shore of Galveston Bay at the junction of the San Jacinto River and Buffalo Bayou. Here on Burnet Bay, just east of Lynchburg and on the road to the town of Liberty, a region where the moss-hung oak abounded, Burnet established his "Oakland" home; and here the mill was apparently first set up, though it was evidently March, 1832, before it was in operation and June 3, 1833, before
the major acquired from the reluctant-to-sell Lynch an additional 17 acres which Burnet designated as the permanent site of his mill.42

This area around Burnet Bay which the major got from Lynch in two separate grants was east of the San Jacinto River on the border of the territory assigned to the empresario Joseph Vehlein in 1826 and claimed after 1830 by the Galveston Bay and Texas Land Company. Yet the fact that Austin's first colony had no specified boundaries for the original colonists (of which Lynch was one) permitted some freedom of location, and the astute Lynch had used this freedom to acquire title to a key area on an important water route. Burnet needed for his enterprise just such a location as he purchased from Lynch, but when one considers that the major in his 1830 dealings with the founders of the Galveston Bay Company could undoubtedly have reserved a superb site for his mill at the mouth of the Trinity River, he is appalled by Burnet's utter lack of business ability. The Trinity area was of course part of Vehlein's grant, but inasmuch as Burnet, Vehlein, and Zavalla were negotiating together for the sale of their empresarial contracts to the New York financiers, it would have been relatively easy for a smart entrepreneur to have retained title to a good sawmill site on Galveston Bay.

The same poor administrative ability that had characterized the clerkship of Burnet with Robinson and Hartshorne in 1805-6 (when he gave away his inheritance of $1200) and his mercantile venture which closed on the Colorado in 1819 with utter failure, displayed itself once again in this mill venture. Burnet should never have hired men in
New York for a Texas business not yet in operation, unless he already had a location or promise of one for his lumber mill, which he did not. The law of April 1, 1830, was still in operation prohibiting the immigration of United States citizens, and while the Mexican government might possibly waive the restrictions with regard to the settlers brought in by Burnet, as it in fact did, on the grounds that the major's business would benefit the country, Burnet apparently had no assurance to that effect before he left New York. Perhaps, however, the major was justified in hiring the mill help because of the uncertainty of the labor supply in Texas. Nevertheless, the operation was an expensive one and by no means certain of success, and before the business could ever be set up the partners would have expended several thousand dollars. The failure to reserve a mill location was to prove fatal to the major's financial hopes.

By the summer of 1831 the sawmill had been located tentatively, but the money left to the partners was rapidly diminishing, and none of the party had yet placed a family on the anticipated free league of ground. Moreover, though the mill was established, though not in operation, the Mexican government had not yet given its approval to the land for which the partners had petitioned, although Williams acting for Austin had apparently sanctioned such a grant.

In the spring of 1831 Father Muldoon, the Catholic missionary of the area, made his appearance and posted an address to his flock:

"My belov'd Parishioners. . . .Read your Bibles, all books of Christian Devotion; be mutually charitable, even should those self important perambulating Preachers appear among you, do not persecute them, if you wish it you may hear them, provided they do not make an abuse of your time nor corrupt your morals. . . .May the Lord preserve you from the spirit of disunion or controversy. . ."
The kindly man soon visited the Burnet shack and offered to baptize the major and his wife in the true religion. Mrs. Burnet, however, though sufficiently recovered to return to her husband, was evidently sick of the entire venture and almost wished herself home again with mother. The poor living conditions and the inevitable delay in this frontier land of manana had exhausted her patience, and the uncompromising Presbyterian teachings of her youth forbade what she felt was such a spiritual degradation as Father Muldoon proposed. The welfare of her soul was more important than an augmentation of three leagues of ground. She refused Catholic marriage and thus dealt a serious blow to the hopes of the entire group.\(^{44}\) For four more years the partners would struggle for success, but without sufficient cheap timber, they would labor under difficulties.

It was not long before the little group got acquainted with the people of the vicinity. There was Andrew May Clopper and his father Nicholas. Andrew was the brother of Joseph Chambers Clopper of Cincinnati (who had married Mary Este, sister of Hannah Este, the wife of David Burnet). The Clopper men had a farm on Clopper's Point (later Morgan's Point) overlooking San Jacinto Bay. North of their farm at the mouth of Buffalo Bayou on the western bank of the San Jacinto River lived Nathaniel Lynch. Lynch's place was the lowest point at which the San Jacinto could be crossed conveniently; thus the old settler quite naturally conducted a ferry. He used his house as an inn and store, and in the spring of 1831 he was building a salt works across the river from his place.\(^{45}\) West of Lynchburg, about a half mile from the confluence of Buffalo and Bray's Bayous, was the
town of Harrisburg founded in 1826 by John A. Harris. This was the upper terminal, of which Lynch's was the lower, of Buffalo Bayou, and here the stream was some hundred yards wide and twelve to fifteen feet deep, and contained a variety of fish, crabs, and turtles as well as some alligators. Herds of deer ran wild through the entire section—as did cattle, hogs, horses, and other animals. Wild turkeys of twenty pounds were not unusual, and one fisherman caught in Buffalo Bayou a turtle weighing eighty-five pounds. The leaves of the sweet bay and red-berried yupon bushes were brewed for tea, honey was abundant, and a variety of vegetables were cultivated. Here, as along the entire southern portion of Austin's colony from Galveston Bay to Matagorda, stretched a live oak forest, and lumber from these trees compared with the finest of the North. The oaks were not large, though near Point Bolivar there was one of sixteen feet circumference and another of nineteen. Merging with the oaks of Austin's colony and extending both eastward and westward along the entire Gulf coast was a dense pine tree forest dotted with occasional clearings. Thus it was natural for more than one enterprising frontiersman of better than average means to envision the establishment of a sawmill, and in 1829 John A. Harris started the construction of such a mill, though he died before its completion.

By July, 1830, however, the mill was in operation by the administrators of the John A. Harris estate, David Harris (who was John's brother) and the notorious "Honest Bob" Wilson. In 1831 this was the only steam sawmill in the entire country, for Burnett's mill was not yet established, and the proprietors had orders for more lumber than they
could supply. Mexican ships awaited loading at the Harrisburg landing for days on end, but David Harris and Robert Wilson could not be rushed. They would wait until after breakfast before heating the boilers of their mill and would empty them regularly at sunset. Lumber sold in 1831 for forty dollars a thousand feet, and with energy the managers of the mill could have turned out three to five thousand feet a day. The engine for the sawmill was also used to turn a grist mill in grinding flour, and a twenty per-cent fee in kind was charged for its use by neighbors. Besides the exportation of lumber and flour, there was also cotton which could be cultivated profitably with the use of slaves.

Ships that came to Harrisburg had to pass over two sand bars: Red Fish Bar (stretching eastward across Galveston Bay from the mouth of Dickinson Bayou and named from the large numbers of red fish that were to be found there) and Clopper's Bar (stretching across the mouth of the San Jacinto River). Ships that drew more than six feet of water were usually unable to pass over these bars, and the fact that the upper bayou was full of tree trunks being floated to the Harris mill prevented the ships from going further upstream than the town, a settlement in 1831 of some twenty houses, mostly of log with two or three frame dwellings.

The winter of 1831-2 in Texas was dry with several severe cold spells Mrs. Burnet was pregnant, and the major was still engaged with his mill, which was not yet doing much operating. The question of land was probably holding up the venture, for Lynch and others had no incentive to sell to Burnet at a low price when the proximity of the Harris mill guaranteed a certain market for their timbered tracts. As for Burnet and Hurd, there was a natural reluctance to buy much land when each family of their
small group could expect to receive as a gift from the government under the terms of the national colonization law of 1824 at least one free league. Besides if the partners spent their money on timber, their remaining sum for operation of the mill might be insufficient to weather the initial competition with the Harris enterprise. The failure to obtain government title and the fact that several thousand dollars were spent unprofitably by the partners before they ever began turning out any lumber was to mean disaster in the end.

The question of title was one in which many of Burnet's neighbors were interested and produced in the Galveston Bay region in 1831-2 an explosive political situation. Very little is known of Burnet's participation in this important affair other than the fact that he was conservative, had heavy responsibilities, and still looked to the administration for a grant of land. Therefore, he could ill afford to take part in a colonial rebellion, and with such substantial Brazoria citizens as Stephen F. Austin, Samuel M. Williams, and Thomas F. McKinney he sought to quiet the uproar that first began in January, 1831.48

In September, 1830, J. Francisco Madero was appointed general land commissioner for Texas, and by January, 1831, he was in San Felipe de Austin where he published his intention to begin surveys in eastern Texas and along the coast that would lead to the issuance of titles to the established colonists of the Galveston Bay area. Colonel Bradburn, the commandant at Anahuac, ordered Madero to cease his actions as contrary to the law of April 6, 1830 (the eleventh article of which prohibited American immigration), as well as the national colonization law of August 18, 1824 (which forbade the settlement by foreigners within twenty leagues;
of the international boundary or ten leagues of the coast). When Madero refused to comply, Bradburn in February thrust him into prison. The commissioner was soon released on the condition that he return to Mexico, but the commandant had thrown the gauntlet, and the land-hungry settlers would reply.

With the colonists already angry, the customs collector (George Fisher) issued an order on November 24, 1831, that culminated in a riot. Coastal trading vessels were required to undergo examination at Anahuac, thirty miles eastward of the great Brazos River settlements and off course. The owners of two Brazos River vessels that had not stopped at the customs station were ordered to pay a nominal duty, and when they refused and their vessels ran to sea past a few Mexican soldiers on guard at Velasco, Colonel Bradburn placed the entire coastal section under martial law. While unrest was increasing in eastern Texas (bred for the most part by those colonists east of the San Jacinto River whose land scrip claims to the territory of the Galveston Bay and Texas Land Company went unrecognized), Bradburn was unable to secure reenforcements from Mexico because of an uprising at Vera Cruz that had begun almost coincidentally in time with the Texas affair.

The rash proclamation of the colonel as well as his injudiciousness in pressing supplies, inciting slave insurgency, and arresting colonists—not to mention the conduct of his convict soldiers (who raped at least one Anahuac woman)—seemed to the settlers ample cause for alarm. However, when Patrick C. Jack, William B. Travis, and a few other belligerents newly arrived in the Galveston Bay area east of the San Jacinto organized a local militia, the Mexican commander had no
alternative but to take further reprisals. He imprisoned Jack, Travis, and several others for causing unrest; and when he threatened to ship the men to Matamoras instead of allowing trial by the local ayuntamiento, the smoldering animosity of the more settled citizens burst into flame, and a march was begun on Anahuac. At this point in June, 1832, David J. Burnet may have rallied to the militiamen's standard along with other conservatives. This is rather unlikely, however, as he was about to receive an appointment as United States Consul to Galveston (i.e., consul to the Galveston Bay area, not the island proper), and he would not have wanted to render himself persona non grata.\(^49\)

In the meantime, the retired General Santa Anna had taken over the Vera Cruz uprising and made of it a revolution in the name of democracy, and Stephen F. Austin, convinced that a move against Texas was now unlikely departed for the headquarters of General Terán to calm the Mexican mind with regard to the colonists and to seek the repeal of the eleventh section of the law of April 6, 1830.

In the latter part of June, 1832, Colonel Jose Antonio Mexia, who only a few months before had returned from New York City where he had been (and still was) a principal speculator in the shares of the Galvestor Bay and Texas Land Company, led a victorious band of liberals into Matamoras.\(^50\) The death of General Terán of the administration forces, whose suicide was precipitated by ill health and his recent military defeats, was the signal for an armistice between Colonel Mexia (who wanted to quiet the unrest in eastern Texas before the province was lost to Mexico entirely) and the Loyalist Colonel Guerra (whom Mexia had forced to retreat from Matamoras).
Meanwhile, Stephen F. Austin had helped obtain from the Saltillo legislature before it closed its session in April a new colonization law containing a few desired revisions. Conditions, however, were so uncertain with Texas in revolt, Feran dead, and the forces of Santa Anna approaching victory that Austin felt it useless to remain away from Texas any longer. Accordingly, he sailed from Matamoros with Mexia. The two leaders arrived at Velasco on July sixteenth to learn that the colonists had already proclaimed for the democratic principles enunciated at Vera Cruz and with the help of the liberal Colonel Piedros, commanding the Nacogdoches garrison, had obtained the release of the political prisoners at Anahuac as well as the resignation of Colonel Bradburn. This victory was achieved more by the revolution in Mexico, however, than by the activity of the colonists. Both the Mexican officers and men desired to return to their country, and before Mexia and Austin arrived the entire Galveston Bay contingent had departed for Mexico, while by the close of August every garrison in Texas from San Antonio to Nacogdoches had proclaimed for Santa Anna, whose approaching victory was everywhere thought by the colonists to herald a benign and liberal administration of the brightest star of the Mexican Republic.

Colonial peace had been achieved, but the fact that the American settlers had participated in the revolution and risen against the government would breed suspicion, and as for the colonists, they had seen what could be accomplished by united action amongst themselves, and they would not forget the lesson. Furthermore, they would utilize their good fortune in having supported the near-victorious revolutionary party by petitioning Santa Anna for reforms. Accordingly, in August, 1832, the call
went out to the Anglo-Saxons of Texas for a political convention to meet at San Felipe de Austin on October first.

David G. Burnet, who had taken no conspicuous part in the recent uprising, was not a delegate to the convention of 1832. In August, while the convention call was being issued, Mrs. Burnet gave birth to a still-born child. This, together with the expense of the journey and the pressing business of the major's lumber mill (which, despite its excellent location, was not faring too well because of the Harris family's competition) probably prevented Burnet from seeking to be a delegate. Also, around September 15 he received the official notification of his July 13 appointment as United States Consul to Galveston, and the necessity of setting up a consular office would have to take priority over any of Burnet's personal desires. 51

Perhaps the most important consequence of the convention of 1832 was the organization of the equivalent of the American revolutionary committees of correspondence; and for the San Jacinto River locality, David G. Burnet, George F. Richardson, and William F. Harris were named as committeemen. Burnet was by now well known to his neighbors as a man of intelligence and seeming good judgment in political affairs. His military training under Miranda, his early life in Texas, and his sound legal experience with his brother Isaac in Cincinnati all contributed to make him a man of importance in the community and highly esteemed by the empresario, Stephen F. Austin. 52 The connivings of the Galveston Bay and Texas Land Company which Burnet had made possible were not as yet well known to the citizens of Texas, and thus the major was for the moment free of the aspersions which were to overshadow his entire political career.

45
With his selection as committeeman, Burnet increased his participation in the political affairs of the community. In the next few months plans were drawn up for a second San Felipe convention to be held April first, and on March first, Burnet was elected a delegate to this important gathering.

In the convention of 1833 as in that of the previous year, Stephen F. Austin was nominated for president, but the influence of Sam Houston (who had known the Wharton family for some years) was apparently the cause for the election of William H. Wharton to the honored post.

On Thursday, April fourth, a few days after the opening of the convention, the delegates were informed that an African slave ship had a short time before arrived in and departed from Galveston. Rev. David Burnet (being from the north where slavery was frowned upon and disliking especially the slave shipmasters with their repulsive animal-like cargo) proposed the adoption of a motion to condemn the slave traffic, and the motion was adopted and ordered distributed for publication throughout the Mexican Republic.

The convention rehearsed the grievances of the preceding year—revision of the tariff, revocation of the eleventh article of the law of April 6, 1830, settlement of the Indian problem, separation of Texas from Coahuila—and headed its two principal committees with the men who were to oppose one another and dominate.
the political affairs of Texas for three decades. The committee
to draw up a constitution was headed by Sam Houston, and the
committee to sell the constitution to the Mexicans had as its
chairman David G. Burnet. Houston's committee soon drew up a
constitution modeled upon the United States variety (and
patterned especially after the Massachusetts constitution of
1780, a copy of which was available). As the Second United States
Bank was then the center of partisan controversy in the great
eastern capital, Houston as the supporter of Jackson wrote into
the constitution a provision prohibiting the establishment of a
national banking institution.

Burnet took over the work of his committee and wrote the
memorial to the Mexican government. This six-thousand-word
document was not especially original, but like the American
declaration of independence it expressed what was in the minds
of many. The arguments were well put, and no one can read the
petition without realizing that Burnet was a convincing and
eloquent spokesman—perhaps the foremost literary stylist in
Texas at the time. He pointed out that the consolidation of
Coahuila and Texas had been in its intention temporary, with the
congress of 1824 specifically stating that a separate state
government was guaranteed whenever Texas was justified in asking
for independent administration. The decree of 1824 was anterior
to the adoption of the federal constitution, and hence Texas was
not governed by the fiftieth article of that document requiring
ratification by three-fourths of the existing states. With general administrative reform now under consideration by the new democratic regime, Texas sought as her just portion in the reformation the severance of the unnecessary ties with Coahuila. Texas had not been misgoverned; rather, she had not been governed at all. The country was still subject to Indian depredations and lacked the most rudimentary provisions of good government—schools were everywhere neglected, churches desolate, industry virtually non-existent. With the nearest civil court over seven hundred miles distant through a region menaced by hostile Indians, justice was at best tardy and precarious and involved such heavy expense that only the rich and influential could afford the protective benefits of the law. Criminals went unpunished or met a dilatory treatment, fostering bribery and corruption. The establishment of a local state government would rectify these imperfections and secure the gratitude and allegiance of a provincial populace desiring only a just and equitable political administration. Thus Burnet spoke with an eloquence that was to convince the national congress of the need of reform, and the congress, in an endeavor to appease the colonists without granting separate statehood, was to recommend reform to the Saltillo legislature, which was to appoint Burnet as the first practicing judge of Texas.  

While at San Felipe as a convention delegate, Burnet was visited by General John Thomson Mason, former territorial governor of Michigan and since the spring of 1831 the agent of
the Galveston Bay and Texas Land Company. Mason had visited Mexico in the winter of 1831–2 where he had made the acquaintance of important officials and had helped influence the Saltillo legislature in passing a revised colonization law that extended for three years the empresarial grants of Burnet and Vehlein (but not that of Zavalla, whose contract had been granted much later than the other two). This, of course, elated General Mason. However, he was soon informed by General Teran (a short time before Teran's death) that while an agent with power of attorney from Burnet, Vehlein, and Zavalla might be recognized, such an agent as the representative of the Galveston Bay Company could not be, for the transaction creating the corporation was illegal. Hence, Mason had returned to New York City to confer with the trustees and was now back in Texas to get, among other things, the desired power of attorney from Burnet. Burnet gave him the necessary letter (which he was at least morally obligated to do by his original contract with the company), and General Mason renewed his friendship with Austin (whom he had met at Saltillo the previous year) and also made the acquaintance of Sam Houston (who had been trying for over a year to become a representative of the Galveston Bay Company). Affairs were looking up for the land corporation, whose European agent, former Governor of Mexico Lorenzo de Zavalla, was now returning to his homeland to seek political office under the liberal regime of his friend, General Santa Anna. 55

With the work of the committees completed and the grievances
of the preceding year improved upon, there only remained the selection of delegates to present the work of the convention to the Government of Mexico. For this diplomatic assignment Stephen F. Austin, Eranso Seguin, and Dr. J. B. Miller were selected, though in the end Austin went alone. Burnett and the other delegates returned to their homes, and Austin left San Felipe on April twenty-second on his lone and fateful journey.

It was apparently either Austin or Hidalgo who undertook to accommodate Burnett in some private business by conveying a letter to the governor at Béltilla. Burnett was still seeking the concession of five leagues of land "according to the law and the uniform custom of the time." He addressed a petition to the governor of Guadalupe asking that his request be honored, and the governor transmitted the document to J. Francisco Hidalgo, erstwhile land commissioner of Texas and a personal friend of Burnett. Hidalgo, with the return to power of the liberal forces, was now a member of congress. He had seen Burnett's saw-mill and knew its value to the country. He, therefore, wrote the major that he would endeavor to have the petition granted, but with Burnett's characteristic luck, Hidalgo was swept to the grave by the dreaded cholera before congress ever convened. The petition was never presented.56

Burnett was glad to be home at Oakland, especially since Mrs. Burnett was looking forward to the birth of William Esté Burnett, which occurred on July 7, 1833. With mother and child well, the major and his partner continued the struggle with the
mill. The steam engine had not proven the success Burnet once thought it would be, but he was experiencing a happy time of life and was respected by his neighbors. If Texas ever gained her independence, Burnet would be certain to receive title to a league of ground; and if Mexico continued her dominance, the empresario Stephen F. Austin could be counted upon to press the claim of Burnet and the other east Texas settlers.

From this period in 1833 to the spring of 1834 (when he was appointed district judge) Burnet enjoyed the last tranquillity he was to know for some years. Events crowded forward which would soon sweep him and his neighbors from their homes to public duties and dangers.
Chapter III

Prelude to Revolution

When Austin arrived in Mexico City in July, 1833, the city was in the grip of a cholera epidemic (which shortly was to strike the Texas colonists of the Galveston Bay area). Austin, himself, almost succumbed to the disease, and thus he was unable to secure speedy amendment of the law of April 6, 1830. By November 25, 1833, however, the section forbidding American immigration into Texas was repealed with the stipulation that the change was not to become effective until six months later, or on May 26, 1834. A few other changes were made, such as a promise to consider tariff revision and a promise to recommend to the Saltillo legislature judiciary reform and trial by jury for the Texas settlers, but an independent state government was not forthcoming.

On October 2, when Congress was appearing rather unfavorably disposed, Austin wrote a letter to the San Antonio ayuntamiento (a Mexican civic body) expressing his disappointment, and stating that the ayuntamientos of Texas should take upon themselves the responsibility of organizing a state government. This letter provoked the indignation of the Mexican officials at San Antonio, and they sent a copy to the governor at Monclova where it was forwarded to Mexico City and reached the hands of Gomez Farias,
acting president in the absence of Santa Anna. Farias ordered Austin to be imprisoned, and on January 3, 1834, when Austin was returning to Texas, the order was executed, and Texas was thus deprived of the services of this important leader.

By summer of 1833 the cholera epidemic was rampant in Texas, and this served to get the minds of the settlers off politics. When winter came and the plague had subsided, the people were no longer as intense for statehood as formerly, and the news that American immigration was soon to be legalized was gratifying. In March and April, 1834, the Saltillo legislature passed three acts of interest to David Burnet, one of these being a judiciary act granting Texas trial by jury in conformity with the recommendation of the national congress. Thomas Jefferson Chambers, a talented young lobbyist at Saltillo when the act granting jury trial to Texas was passed, was appointed superior court judge, while David C. Burnet was named district judge for the court at San Felipe, although he had not solicited the position. As Chambers never organized his court (though he nevertheless was granted thirty leagues of land for his first year's salary), Burnet was to bear the distinction of being the first practicing judge of Texas, though he never received any compensation for his services nor money to pay his traveling expenses.¹

On May 20, 1834, Burnet resigned his office as United States Consul to accept the Mexican judgeship, and shortly afterwards was summoned to try a cattle rustling case in Brazoria. The judge called the court under some live oak trees near the scene of the difficulty. Messieurs Patrick C. Jack and William B. Travis (the same
two gentlemen who had instigated the uprising of 1832 and who had scarcely forgotten their own familiarity with the inside of a prison) were retained as lawyers by the plaintiff and defendant, respectively. While the neighboring settlers prepared a barbecue (the meat of which was furnished by Mr. Ben Fort Smith), Travis poured forth his argument, but it was of no avail when the court was confronted by the immutable evidence of a cow bearing the plaintiff's brand followed by a suckling calf with the brand of the defendant. The jury retired and soon brought forth a verdict of guilty which could have sent the convicted man to the toil of the Mexican silver mines and left his family destitute. However, Ben Smith had evidently called the judge and lawyers aside while the jury was deliberating and offered the means of a Solomon's decision. With the verdict announced, Travis immediately appealed the case, and Burnet granted the accused another hearing for the afternoon. The court then adjourned for the barbecue, and Smith called the plaintiff aside and bought both cow and calf from him. The two animals were quietly led off and the plaintiff sent home. When the session opened that afternoon, the counsel for the defense asked that the case be dismissed on the grounds that the evidence had disappeared. Judge Burnet thereupon discharged the defendant (who had claimed that the branding had been done in error) with a stern warning. Someone then suggested a dance for the evening, but Burnet and others evidently thought a sermon more in order. Therefore, a church service was held that night though the defendant was conspicuous by his absence.  }
Another important act of the Saltillo legislature was the extension of Lorenzo de Zavalla's empresarial contract by four years, thus extending the deadline to March 12, 1839. This was to be all important to the Galveston Bay and Texas Land Company, whose unfulfilled contracts to the grants of Burnet and Vehlein were to expire in December, 1835, without further renewal. It will be recalled that Zavalla had been governor of Mexico from 1827 until the revolution of 1830, which caused General Santa Anna to retire and Zavalla to leave the country. Governor Zavalla had sold his empresarial contract that fall and taken a position as European agent for the Galveston Bay Company. With the liberal victory of 1832, however, the Governor had returned from exile and in 1833 was elected to the state legislature of the province of Mexico. He soon became, by a special resolution of congress, governor of the state as well, an office which he was still holding the following year. Thus it was natural for the Coahuila legislature to honor the request for the extension of his colonization contract, when that request was presented by General Mason in the spring of 1834. Years later, when Burnet was secretary of state, he was to secure a favorable Supreme Court decision to an eleven-league bonus to the trustees of the Galveston Bay and Texas Land Company for the introduction of settlers in compliance with Zavalla's contract.³

A third transaction of the Saltillo legislature in its spring session of 1834 was the passage of the land acts of March 26 and April 19. These acts, as the basis of legislation the following
year, were to be of significance, though their importance with regard to Burnet was not immediately apparent. The law of March 26 called for the surveying and disposal at auction of all vacant land in Texas. The minimum fee for such land was to be ten dollars per labor (177 acres) with the maximum that could be located (although more could be bought) by any one person set by national law at eleven leagues. If no offer was made at the auction, the land could be sold subsequently on time payment to any person offering the minimum price. This law was a boon to speculators and was to result in a large issue of eleven-league grants, but it was not well adapted to the purposes of General Mason, who had neither the time nor the inclination to wait for surveys and auctions. It was undoubtedly his influence (although he denied it) that occasioned the passage of the law of April 19, 1834, which stipulated that the governor could dispose of four hundred leagues of land for the purpose of protecting the frontier from the Indians. It was apparently under this statute that General Mason obtained in June, 1834, a three-hundred-league grant. Thomas Jefferson Chambers (who, it will be recalled, engineered for himself in this legislative session the appointment of superior court judge with a first-year salary of thirty leagues) claimed that he prevented the passage of a bill to sell General Mason 20,000,000 acres (c. 4,517 leagues) of east Texas lands. At any rate, Mason did obtain three hundred leagues which he did not buy for his Galveston Bay Company but rather for himself and his partner, George Anthony Nixon, who (upon the request of Mason) was appointed that same month (June, 1834) as
The summer of this troubled year of 1834 saw a feud between the cities of Monclova and Saltillo occasioned by the removal of the capital to Monclova pursuant to the legislative decree of March 9, 1833. For a time there were two governors with each denouncing the actions of the other and proclaiming null and void all laws passed by the legislature while at the rival city. This farce prompted a number of reputable citizens to state that the government was destroyed and hence the union between Coahuila and Texas no longer existed and Texas was justified in establishing her own state government. However, more conservative figures, such as Burnet, reminded the people of the reform legislation that had just been enacted and the fact that Stephen F. Austin was still a prisoner. The clamor died down, but it was not over.

In the spring session of 1835 the state legislature continued its land profligacy with the laws of March 14, and April 7. The act of March 14 authorized the governor to sell four hundred leagues on even more liberal terms than previously, and this was the straw that broke the camel's back. The national congress immediately declared the law unconstitutional, and federal troops were dispatched to suppress the legislature. To meet this exigency, the law of April 7 was passed permitting the governor to take whatever suitable measures necessary to sustain the government of the state in its actions. It was apparently under this act that Samuel M. Williams, the private secretary of Stephen F. Austin and one

5
of the smoothest speculators in the state, secured along with
Robert Peebles and F. W. Johnson a grant for four hundred
leagues.

Now in the winter of 1834-5 when Williams was preparing to
leave on his journey to Coahuila that was to culminate so
successfully, Judge Burnet was apparently holding a court session
at San Felipe. Unable to visit the legislature himself because
of his judicial duties, Burnet asked Williams if he would not
seek to procure what Madero had failed to obtain in 1833—a grant
of land for Burnet and his partner Hurd as a reward for the
establishment of their steam sawmill. Williams replied in the
affirmative, and accordingly Burnet executed to him a power of
attorney authorizing him to take whatever actions necessary to
secure the five leagues. With this in mind, one can well imagine
Burnet's surprise when during the first week of June, while the
judge was preparing to hold a court session, Williams, Peebles,
and Johnson arrived in San Felipe with the news of the perfidy
of the colony's acting empresario. Williams had swindled more
than five hundred leagues for himself and friends, but he had been
unable to get a single acre for Burnet, who was still living on
the seventeen acres he had purchased from Lynch in 1831 and whose
mill had benefited the people of both Texas and Mexico. In a
storm of anger and bitter disappointment Burnet and Hurd sold
the sawmill to Branch T. Archer, and thus ended the major's golden
dream. With a location far better than that possessed by the
Harrises, Burnet had been unable to secure sufficient cheap timber
to weather the competition of the Harris mill and had lost over eight thousand dollars on the venture.

About a week after this revelation of infamy, while the Judge was conducting court at San Felipe, there arrived in town a military courier with a letter from General Cos to James B. Miller, the local ayuntamiento chief. Miller was informed that federal troops had captured the governor and had suspended the legislature in Coahuila with a proclamation of martial law. The assembled townspeople, drawn from miles around for the court sessions, surged forward in indignation and snatched the rest of the letters from the courier. Now the previous January the customs office and fort at Anahuac had been reopened with Captain Antonio Tenorio in charge. As in 1831-2, the colonists resented enforcement of the tariff, and soon Andrew Briscoe, an Anahuae merchant, was impounded with a friend for disturbing the peace and inciting unrest. When the San Felipe crowd seized the letters addressed to Tenorio, they found among them one in which General Cos assured the Captain that heavy reinforcements would soon sail to his relief and another letter from Colonel Ugartechea, commanding at San Antonio, stating that the troops then at Saltillo would shortly be on the march to Texas. The aroused citizens immediately avowed they would reestablish the state government, and meetings were held reviewing the dictatorial assumptions of Santa Anna from the previous January when he had ordered the summary removal of Gomez Farias as vice president. While this commotion at San Felipe was still underway, William
B. Travis began to collect men to expel Tenorio. On June 29
Travis with only twenty-five men and a small cannon served the
Anahuac commandant with an ultimatum, and the following day
the Mexican chief surrendered his arms and prisoners and
prepared to remove his garrison from Texas.

This rising turbulence was much to the advantage of the
disgruntled speculators, whose land grabs had been declared
unconstitutional by the national congress and who saw
independence as their best move. Thus the speculators led
the dissatisfaction. However, the transparent self-interest
of these money makers made the more settled colonists all the
more convinced that what was needed for Texas was not independence
but the reestablishment of a liberal Mexican regime according
to the constitution of 1824 with Texas having its own state
government. Land speculation, therefore, early became an issue
and a cause of division.

The embittered Burnet, unwilling to see the land claims of
Williams and his cohorts validated (as these gentlemen thought
would be the case with the acquisition of independence) and
fearing for the safety of his friend and empresario, Stephen F.
Austin (who was still a Mexican hostage), championed the
moderation party which urged cooperation with such Mexican
liberals as Lorenzo de Zavalla, who had resigned as the Mexican
ambassador to France and come to Texas in June as an exile and
bitter foe of his erstwhile friend, Santa Anna.

On August 8, 1835, at a public meeting held at Lynch's place
on the San Jacinto to draft resolutions concerning the condition of the country and the desirability of calling a general convention, Burnet drew up the memorial adopted by the gathering.

The judge began the statement by listing the unfavorable reports emanating from Mexico concerning the dissolving of the federal republic. He then outlined the political axioms held to be true by the Anglo-Saxon citizens of Texas, i.e., governments are designed for the people and may be destroyed by them; but if one portion of a population abolishes the existing government and establishes some other, another part of the people may with equal propriety reject the new system, cling to the old, or adopt some other form of government. On the basis of the available information the Texas settlers had no alternative but to consider the Mexican republic dissolved and to state that revolutionary turbulence was incomparably preferable to the quietude of military despotism or the odious leadership of a secularized priesthood. However, continued Burnet in his best judicial fashion, though the people of Texas were no longer under political or moral obligation to the central government, as adopted citizens of Mexico they should proceed circumspectly, trusting the distinguished native citizens of the country to take the lead in opposing a tyrannous regime. Nevertheless, the American settlers were ready to declare their abhorrence of any purely military government and to resist the imposition of such a government with all the means and energies at their command.

Had Burnet stopped at this point in the resolutions which
he evidently had prepared before the meeting began, he would have effected a clear and convincing argument that would have won him many friends. Instead, however, with a typical attempt at disinterestedness he continued. While, said the judge, the recent speculations made possible by the corrupt Monclova legislature were to be deplored, the frauds of a few provincials were not the cause of the radical changes in the government of Mexico. These unconstitutional changes were regrettable, but the Anglo-American citizens should not seek a contest with the powerful government of Mexico until it was apparent that that government intended to violate the sacred rights of the people. The mere denominational change from a federal to a centralized government was not in itself sufficient to warrant revolution on the part of the Texas settlers. Perhaps the operation of a republic was too involved for the Mexican people. The rights and privileges of the Americans could still be guaranteed, and the imperfect knowledge of the facts did not justify rashness. A convention should be called to act in the present emergency, and the delegates with more information at their disposal could put into execution the measures which in the calmness of their deliberations seemed conducive to "the peace of Texas and the unity of the Mexican nation." 8

In accordance with the resolutions, the assembled citizens of the San Jacinto River vicinity elected two representatives to the proposed general convention—David G. Burnet, the memorialist, and David B. Macomb, the secretary of the gathering. This
apparently was the first public meeting to adopt resolutions supporting a general consultation and to elect delegates to such an assembly.⁹

Williams and the other big speculators were now advocating all-out war against the federal government, and as a result Colonel Ugartechea had issued on July 31, pursuant to a command by General Cos, a circular order for the arrest of these men and had stated that unless the order were complied with an army would be sent into Texas.¹⁰ Burnet held no brief for Williams, but he sought to prevent hasty action on the part of either the national or local government, knowing that an armed invasion of Texas would precipitate full scale revolution with possible disastrous consequences for the American citizens of the province.

It will be remembered that Stephen F. Austin was imprisoned by the Mexicans in January, 1834, and while Austin awaited the disposition of his case, Colonel Juan M. Almonte was ordered to Texas on a secret mission, the purpose of which was to compile a report to the national government on conditions in the area. Almonte undoubtedly formed a good opinion of Judge Burnet, whose conservatism and allegiance to the government was well known. This reputation as a peacemaker which Burnet had with the government perhaps accounted for the rumors that began to circulate in the late summer of 1835 when the judge on several public occasions spoke out against the war mongers. The reports were that the national government was considering the approval of territorial status for Texas with Burnet as the governor. Perhaps
the rumors were true, and perhaps they were spread by Williams and others seeking to discredit the judge. Burnet, at any rate, took no stock in this talk and considered it all a joke, but "Joke or no joke," he would tell his friends, "one thing is certain, I will never accept an office under a despotic government."11

In August, 1835, Stephen F. Austin was at last released by the Mexicans, and on September 1 he arrived by ship at Velasco. The overjoyed colonists commenced preparations for a banquet at Brazoria on September 8, and on that momentous occasion Austin spoke unequivocally for a consultation to preserve the constitution of 1824. The Mexicans were coming, and Texas must be united.

Far reaching changes seemed to be in store for the colonists, but regardless of the type of government Texas was slated to have in the future, Burnet was determined that Williams and his artful friends would not retain the fruits of their recent baseness and that of a corrupt legislature. In September the judge put the finishing touches to a four-thousand-word denunciation of the 400-league grab of Williams, Peebles, and Johnson. This considered argument was to be of significance later; hence it is necessary to note some of its details.

Burnet began by remarking that it is a sound principle of political science that a very unequal distribution of land is adverse to the general prosperity of a nation and that such a grant as the 400 leagues (c. 1,771,200 acres) obtained by Samuel M. Williams was an apt exemplification. This sale was made by persons not competent to make it and hence was void from the
beginning, but to understand this question of competence, one must recall the origin of the land title. Originally, Spain possessed the territory by virtue of discovery and conquest. After the revolution of 1823, ownership of the soil passed to the Mexican people who had fought their war of independence en masse rather than as a group of separate political entities. Subsequently Iturbide usurped power and established a constitutional monarchy which was overthrown by a revolution that resulted in a government dominated by a supreme constituent congress. Title to the public domain thus passed from Spain to the several national governments of Mexico, all of which were antecedent to the erection of the federal system.

When the national government created the federal republic by delegating certain powers to the states, it required the states to accept the national constitution and the federal laws (a set up that reverses the American pattern). Hence the states were bound to comply with the federal colonization law which explicitly said in its third article that the states had to conform “themselves in all things to the constitutive act, the general constitution, and the regulations” of the national law. The second article of this fundamental act of August 18, 1824, emunciated the conjoint rights of sovereign and of soil by stating that the colonization law embraced all lands not then possessed by individuals, corporations, or towns; and the fourth article further strengthened the claims of the central government by proclaiming a national reserve of the entire coast to a depth
of ten leagues and the entire international border to a depth
of twenty leagues. Settlement in this area required the
special permission of the federal government, and such permission
had not been given Williams or any of the other speculators.
Supplementing all of this was the twelfth article of the national
colonization law specifically enjoining any citizen from
possessing more than eleven leagues of land.

As all of these requirements had been accepted by the
government of Coahuila and Texas in the preamble to its own
colonization law, the sale to Williams was void ab initio.
Concerning the 300-league sale to Mason, the same arguments
applied plus the additional regulation of the national law that
land could not be disposed of to non-citizens. Mason made no
claim to citizenship and thus had even less of a claim than Williams.
Thus Judge Burnet ably mustered the arguments to defeat the
claims of the big speculators and awaited the opportunity to
present his brief to the public.12

As summer drew to a close, it became increasingly evident
that the Mexicans were definitely on the move to Texas. The
surrender of Zavalla and the war party leaders was demanded by
General Cos as a sine qua non to any negotiation, and as the
citizens had no intention of meeting such a demand, war was
inevitable. Austin, as the chairman of the San Felipe committee
of safety, urged the assembly of Texas volunteers at a rendezvous
on the Colorado River for September 28.13

Burnet, who had defended the actions of the national government
in suppressing the corrupt state legislature, which had made the
grant to Williams, was becoming ever more convinced that Santa
Anna was not aiming at merely righting the wrongs of the Coahuila
government but instead was using the pretext of local mismanagement
to effect his own dictatorial desires backed by the army and the
Church. The proscriptive order of Cos, followed as it was by
the general’s occupation of San Antonio de Bexar in late September,
left little doubt as to the intention of the Mexicans; and a
skirmish at Gonzales on October 2 inaugurated the Texas revolution.

Austin, who had been living in the home of Williams since
his return and who was thus exposed to constant innuendo against
Burnet, wrote to the judge from San Felipe on October 5 as follows:

"My friend--All goes well and gloriously for Texas—the
whole country is in arms and moved by one spirit, which is
to take Bexar and drive all the military out of Texas—
This is as it should be—No half way measures now—war in
full

"I hope you will enter ardently and warmly in the cause—Now
is the time—no more doubts—no submission—I hope to see
Texas forever free from Mexican domination of any kind—
It is yet too soon to say this publically—but that is the
point we shall aim at—and it is the one I am aiming at—
but we must arrive at it by steps. And not all at one
jump—"It

On October 11 with only a few consultation delegates at San
Felipe and the prospects of a quorum by the fifteenth somewhat
doubtful, the delegates present organized themselves into a
"permanent council" to function until the convention met.
Perhaps the most important act of this council was to pass a
resolution proposed by Sam Houston, who had not participated in:
the speculative deals of 1834-35. This resolution recommended that the consultation void all land grants made under suspicious circumstances since 1833. This would effectively dispose of Mason, who had refused Houston's request to become an agent of the Galveston Bay Company, as well as James Bowie, who was the government-appointed land commissioner for the three hundred acres acquired by Mason in June, 1834, and Mason's own personal agent as well.\textsuperscript{15} It would also take care of Samuel W. Williams and Thomas F. McKinney, partners in land and mercantile speculation. Williams, who in addition to getting two huge land grants the previous spring, was interested along with McKinney in the eleven-league grants opened up by the legislation of 1834. Both men were dealing in the area around Macogdoches where Houston himself was interested. It will be recalled that Houston in the convention of 1833 had fathered the constitutional clause to prevent the establishment of a state banking institution. Yet Williams in April, 1835, had obtained along with his land a governmental charter to organize a state bank with himself as the president.\textsuperscript{16} Houston would dispose of that hallucination later.

Until the convention could act, the council declared on October 27 that all land offices were closed and all titles granted after that date null and void. The offices were to remain closed until February, 1836.\textsuperscript{17}

Judge Burnet was ill when, during the middle of October, he set out on the journey to San Felipe, which because of its printing press had been agreed upon as the meeting place
of the consultation instead of Washington-on-the-Brazos). To collect some money due him and without which he would have been unable to make the trip, the Major was forced to go by way of Brazoria. The long horseback journey through this mosquito ridden land of nine-months' summer further exhausted the already sick traveler, and shortly after he had departed from Brazoria the judge became deathly ill, and his life was saved only by the timely attentions of his traveling companion, a Mr. McDonald. McDonald returned the major to the home of Dr. Angier on Chocolate Bayou where for several days it was uncertain as to whether Burnet would live or not. 18

Other delegates met similar handicaps, and the consultation for lack of a quorum was adjourned to November 1. When he had recovered sufficiently to travel, Burnet (who evidently did not realize that the opening of the consultation had been postponed) returned to his little farm at Oakland. A day or so later, on October 24, he and other citizens of the Liberty-Lynchburg vicinity authorized the publication of an address written by Burnet. The major in this memorial proclaimed the ideas he would have expounded at the consultation. Remarkling that the Liberty committee of safety was well aware that many responsible citizens had opposed a rupture with the Mexican government, Burnet noted that the Liberty committee itself had favored peace while such could be had on honorable grounds. Now, however, with both state and national
constitutions destroyed by a congress which had asserted the constitution of 1824 superseded by its own deliberations and with centralism formally established by the decree of October 3, there was no alternative but resistance to a military and ecclesiastical despotism.

"The contest is for liberty or slavery; for life or death. . . It admits of no neutrals. Those who are not for us are against us. Those who refuse to save the country, cannot hope to participate in the benefits of its salvation. Union is always important. Our numbers are few, but they are a band of heroes, and they fear not the issue. The concurrence of every citizen is desirable. The few who still maintain their opposition are not dreaded; their number is small; their influence insignificant. But Texas 'expects every man to do his duty.' The door of conciliation is open, and all are invited to enter. . ." 19

A copy of the address was dispatched to the consultation which organized on November 3, and this body received it with such approbation as to order two hundred and fifty copies printed and distributed. 20 The last of the peace party had moved for war.

Some two weeks after the major's spirited address of October 24, Burnet learned that his friend Branch T. Archer (who, it will be recalled, bought the sawmill from Burnet the previous June) was now president of the consultation. Accordingly, the Liberty committee of safety wrote to Archer and suggested that the convention avoid making a premature declaration of independence. "What is unavoidable in politicks, is always justifiable, but a precipitous cession from Mexico, might incur the reprehension, and wean from us the sympathies of many friends
in the north."21 The consultation, in accord with this suggestion, announced for the constitution of 1824.

Before adjournment on November 14, the convention elected Stephen F. Austin, Branch T. Archer, and William H. Wharton as commissioners to go to the United States to solicit aid. Austin as a successful empresario knew the conditions in Texas better than any other man, and his familiarity with Mexican political affairs meant that he could speak with authority as to the chances of winning and retaining independence. Archer was a successful business man with many important friends in United States financial circles, and Wharton had been one of the instigators of the revolution. These men could inspire confidence in the Texas people if anyone could. Another act of the consultation was to declare the fraudulent land laws of the Teja legislature null and void. Thus the speculators who had gotten vast land donations and had instigated trouble with Mexico thinking to profit thereby would be frustrated.

With Austin delegated a commissioner, a new commander would have to be named for the army. Houston had been in the Texas army a short time just before he came to the consultation, and though most of the old settlers of the territory did not want him as their leader, he did have previous military experience in the United States. His ability to make friends easily had led to his appointment as commander of the volunteer contingent which had gone to the army
from the Nacogdoches area, and it had also led to his election as a delegate to the convention. Here at San Felipe Houston made his vibrant personality felt to such an extent that he was named the new commanding general. With both Travis and Fannin opposed to him, however, Houston would find it difficult to carry out any policy. Before adjourning, the consultation established a provisional government consisting of a governor and council to carry on the preparations for war.

Meanwhile, in the West the Texians were more than holding their own in a few skirmishes, but there was little major fighting—Cos had barricaded his forces in San Antonio while awaiting reinforcements, and neither Austin nor his successor, Edward Burleson, attacked (though Burleson wished to but was overruled by his staff). The impatience of the Texas troops increased until Benjamin Milam was permitted to enlist volunteers for a charge. Whereupon, Milam stepped in front of headquarters and, raising his hat, called out in an electrifying voice, "Who will go with old Ben Milam into San Antonio?" Some 126 men answered with a shout, and lining up, elected Milam their leader. At dawn on December 5 an intrepid force now grown to 301 soldiers moved into the city. Milam was killed on the seventh, but by the eleventh Cos had capitulated and signed an armistice for his eleven hundred troops, beginning a retreat to the Rio Grande on the fifteenth. A major victory had been won, and had Milam lived,
he would have been the commander of the army in its subsequent engagements. With the Mexicans routed for the time being, the volunteer citizens dispersed with only a nominal guard left at the Alamo. Meanwhile in Cincinnati, Ohio, a meeting (presided over by Burnet's relative, Nicholas Clopper) had been held in November to send a pair of twin cannon to the Texas forces. Elsewhere in the United States men and material were on the way.

Immediately after the defeat of Cos in December there were over four hundred foreign volunteers at San Antonio alone, and their restlessness made some action necessary. General Houston (who after his election as commander in chief had tried to recall Colonel Burleson and break up the army before San Antonio on the grounds that raw militiamen could accomplish nothing) accepted orders from Governor Smith calculated to keep the new recruits occupied, and James Bowie was instructed to organize an expedition against Matamoros. Now the governor was a Radical hater of Mexicans of all sorts (as was his friend, Sam Houston): whereas, the council, supported by Lieutenant-Governor James W. Robinson, favored cooperation with the Mexican liberals opposed to Santa Anna, of which there were a multitude. Before Smith granted permission for the attack against Matamoros, the council supported by Robinson had already broken with the governor and authorized
a similar expedition. The resultant use by the council-commissioned troops of supplies which Houston had designated for his winter garrison coupled with the defenseless position in which San Antonio was now placed produced a tirade of abuse from both camps. Fannin took orders from the council and Travis from the governor, and neither would obey Houston. This catastrophic situation was climaxed when on January ninth the governor prorogued the council with words of which the following was a sample:

"Look around upon your flock; your discernment will easily detect the scoundrels. The complaint: contraction of the eyes; the gape of the mouth; the vacant stare; the hung head; the restless, fidgety disposition; the sneaking, sycophantic look; a natural meanness of countenance; an unguarded shrug of the shoulders; a sympathetic tickling and contraction of the muscles of the neck, anticipating the rope; a restless uneasiness to adjourn, dreading to face the storm themselves have raised."

On January eleventh the council retaliated by impeaching the governor, and with the effective transaction of business now virtually impossible, the members issued a call for another convention to assemble at Washington-on-the-Brazos March 1, with election of delegates set for February 1. The Matamoras campaign was now in jeopardy, for if the new assembly declared for independence, all hope for the cooperation of the Mexican liberals was gone.

In this state of affairs Houston applied for and received from Governor Smith a leave of absence to treat with his Cherokee friends around Nacogdoches and to seek election as a delegate to the convention, the meeting of which all parties approved.
Judge Burnet, following the close of the consultation in November, had busied himself around his little farm. The December news of the fall of Bexar and the death of his gallant friend Milam made uncertain exactly what military steps the Texas forces would now follow, and the provisional government itself was so disunited as to prevent any citizen from knowing what to expect or what to do.

As the Mexican authority was no longer recognized, the Judge no longer felt obligated to hold court sessions (for which he had never received any remuneration anyway). Accordingly, when in the winter of 1835-6 two members of the locality murdered another member, Burnet apparently accepted a position as counsel for the accused. As to whether he was counsel during the trial or accepted the assignment after the two men were found guilty and thus sought to appeal the case is unknown. Anyway, on February 28, 1836, Burnet and twenty-six other Liberty citizens signed a petition to Acting Governor James W. Robinson asking clemency for the condemned men on the grounds that important evidence was by misadventure withheld from the court.⁴⁹ The petitioners undoubtedly realized that Robinson would be unwilling to handle the case in view of the assembling of the convention on March 1 which would take over the functions of the provisional government, but he was the logical official to place the request before the delegates for disposition.

Burnet had not been elected a delegate to the convention at Washington-on-the-Brazos. The return to Texas of Austin (who was
accepted by both the war and peace factions) and Austin's immediate declaration for war had discredited the major as a political spokesman. Also, Burnet had disposed of his mill, and the neighbors who had worked for him were thus no longer under any economic obligations to the judge who retained his somewhat condescending air and refused to solicit votes. Burnet, though chagrined by his unpopularity, continued his work on the local committee of safety.  

It was probably on Sunday evening, March 6, while the judge was at home with his little family that a special courier arrived at Lynch's ferry with a chilling message from the Alamo (a message already received by the convention at Washington). Immediate attention had to be given the haunting plea of those beleaguered men:

"We have contended for ten days against an enemy whose numbers are variously estimated at from fifteen hundred to six thousand men. . A reinforcement of about one thousand men is now entering Bexar from the west. I have repeatedly sent...for aid without receiving any...A blood-red banner waves from the church of Bexar, and in the camp above us, in token that the war is one of vengeance against rebels; they have declared us as such, and demanded that we should surrender at discretion, or that this garrison should be put to the sword. Their threats have had no influence on me or my men, but to make all fight with desperation. . .God and Texas -- Victory or Death!!" 31

The message of Travis thoroughly aroused all who heard it and caused the Liberty committee of safety to take quick action.
to decide which individuals in the community would go to the army and which would remain at home to take care of the women and children. Three draft classes were set up. Those citizens in the first class were to begin the march to the army from Harrisburg on March twelfth; those in the second class were to go when called, and those in the third group were to go as a last ditch emergency measure. Major Burnet placed himself in the first category, but as it was desirable and even necessary to see what plans the convention members had formed on the subject, the major decided to go to the convention site and to rejoin his men on the march.\textsuperscript{32} Accordingly, Burnet said goodbye to his infant son (now almost three years old) and his wife (who was expecting another child in September) and departed for the town of Washington which lay on the western bank of the Brazos just north of Groce's great cotton plantation. This "disgusting" hamlet was aptly described by the cultured William Fairfax Gray, a land speculator newly arrived from Virginia, as follows: "It is laid out in the woods; about a dozen wretched cabins or shanties constitute the city; not one decent house in it, and only one well-defined street, which consists of an opening cut out of the woods. The stumps still standing. A rare place to hold a national convention in. They will have to leave it promptly to avoid starvation."\textsuperscript{33}

Nevertheless, despite the deprecatory remarks of the more affluent visitors, the townsfolk had assembled what conveniences they could muster, with Lott's huge one-room tavern accommodating
some thirty lodgers together with his family, and Mrs. Mann's boarding house filled to overflowing. Wagons and hastily erected tents filled the several clearings adjacent to the shacks, now booming with business under the name of grogshop or hotel. The delegates themselves were meeting in an unfinished house having neither windowpanes nor doors, their only convenience a long rough table extending from the front to the rear wall. The night before the convention opened a fast moving cold front had passed accompanied by the usual torrential rain and some hail, and leaving in its wake a light freeze. As is customary, however, following one of these Texas "blue northers," the skies had rapidly cleared, and in this invigorating atmosphere the delegates had begun their work with cloth tacked across the windows to keep out some of the biting cold. However, before the azure-blue sky became dotted with clouds a few days later, the delegates had already begun to shed their coats and pull the sheets from the windows from a heat characteristic of southern Texas even in early March; though at night the cool air and radiation fog of this high-humidity region impelled the men to the more stimulating warmth of the grogery.

It was perhaps on the evening of March 11 that Judge Burnet crossed the Brazos at Groce's ferry and wended his way through the underbrush of the river bottom to the higher stump-studded ground that bore the name of Washington-on-the-Brazos. As he walked his tired horse through the well-filled clearings, he was greeted by numerous acquaintances who quickly spread the news of his
arrival, and thus it was that as he reined up before a temporary stable he was met by several friends who were members of the convention. Before the judge could dismount, he was asked by these gentlemen if he would not permit the submission of his name as a candidate for president of the government which would be established within a few days. The somewhat startled Burnet replied that as "he had not anticipated any such thing, he must be given time to consider of it and have the advice of friends about it."36

This desire of the convention to hurry up with its business and establish the new government was generated by the distressing message from Travis which had been received on the morning of March 6. Sam Houston, whose November consultation appointment as commander in chief of the army had been reconfirmed by the convention, had departed for the West on the Sunday afternoon following the reception of Travis's plea. Thus Houston was never under consideration for the position of president, and his friendship for Ex-Governor Smith would have prevented his election anyway, for the provisional government controversy between Smith and the council had been carried to the convention where it waged hot and furious. The assembly, which was attempting to stay clear of this controversy as much as possible, was inevitably drawn into the conflict in its fruitless attempt to secure possession of the archives. Governor Smith had left his public papers under lock and key at his office in San Felipe; whereas, Lieutenant Governor Robinson refused to meet any demands of the convention unless he
was addressed as "Governor" (to which office the council had elected him following the impeachment of Smith). The argument reached a peak on March tenth when the assembly instructed its secretary to serve a written notice to the late officials requesting immediate delivery of all public documents, and this demand apparently produced the few records held by Robinson and the council, but the bulk of the archives which were held by Smith remained at San Felipe until they were destroyed by the fire that raged that town on March 29. This background of an assembly divided between the supporters of Smith on the one hand and Robinson and the council on the other produced a desire for a presidential candidate acceptable to both factions. Thus, Burnet, whose sickness had prevented his taking part in the consultation and probably kept him out of the provisional government (for Henry Millard, who substituted for the judge, was subsequently a member of the council) was in the advantageous position of possessing high qualifications while at the same time being suitable to a majority of the delegates.

There were, of course, a number of prospective presidential candidates. Among these were Richard Ellis, Thomas Jefferson Rusk, George Campbell Childress, James T. Collinsworth, Robert Potter, Lorenzo de Zavalla, and Samuel Price Carson. Ellis was the convention chairman and hence in a preferred position, but by the time Burnet arrived Ellis had offended many of the men by his partiality in appointing Rusk, Collinsworth, Childress and Potter to head one or more committees while other delegates were not even committee members. By the eleventh a laxity was observed in the
meetings with mutterings about the favoritism of the president, and this hostility extended to some extent to Rusk, Collinworth, Childress and Potter. Thus Ellis had no chance of being elected to head the new government.362

Rusk was an impetuous young man of twenty-nine who had studied law under John C. Calhoun and practiced for ten years. In 1834 he came to Texas and the following year was appointed commissary of the Texas volunteer army where he soon attained the rank of colonel. His youthful rashness and his apparent inability to abstain from the governor-council quarrel made him unacceptable as presidential timber, though his military abilities were appreciated and had won him an appointment as convention chairman of the committee on national defense.

Childress was the author of the declaration of independence and a fine orator and lawyer, but he apparently had not taken a prominent part in the pre-revolutionary activities though he had come to Texas in 1832 at the request of his uncle, the empresario Sterling C. Robertson. He was said to be a man of personal magnetism, but for some unknown reason—unless he participated in the governor-council fight or because of his moody disposition—he did not meet the approval of the delegates.

James T. Collinworth, like Childress, was born in 1804. He was a lawyer who had served as United States district attorney in Tennessee from 1831 to 1834, at the end of which period he had come to Texas. A long-time friend of Houston, he had led the convention move to reappoint the general as commander in chief of
the army. Like Rusk, however, he had apparently indulged in the
governor-council argument on behalf of Smith, and this together
with the antipathy generated against him by Ellis's favoritism
ruined whatever chances he might have had for the presidency.

One of the best orators in the convention was Robert Potter
from western North Carolina. He had served in the United States
navy and been elected to the North Carolina legislature and the
national congress, and thus was on the verge of a brilliant career
when on August 28, 1831, he destroyed his future in one tempestuous
moment. By castrating two of his wife's acquaintances, he made
his name and the newly-coined term "Potterized" known and dreaded
throughout the South; but though he was jailed for his ignominious
deeds, he soon acquired his freedom. He wrote a pamphlet and
yelled from his jail window at passers-by, and astounding
enough within but a few months convinced the townspeople that
the two victims should be in prison and he should be in congress.
His sentence was commuted, and he was released to prepare again
for the public service. In 1834 he was elected to the state legis-
lature but was soon expelled on the trumped-up charge of "cheating
at cards." He then turned to Texas where he arrived in November,
1835. When the election for convention delegates was held on
February 1, Potter harangued a company of newly arrived volunteers
from the United States and soon convinced them that they should
insist on the right to vote. They did, and carried their point
with loaded rifles. Said a witness, "The First Lieutenant... swore that the men should vote, or he would riddle the door of the
Stone House, where the election was held, with rifle balls."

Potter was thus elected as a delegate to the convention where his persuasive manner and previous legislative experience produced his appointment as chairman of the naval affairs committee. The recentness of his arrival, however, coupled with his previous infamy gave him little chance of winning the presidential post, although his real ability might secure him a lesser station in the new government.

One of the greatest names in the annals of Spanish-American history is that of Lorenzo de Zavalla. Born in Yucatan and educated in Spain, Zavalla was for six years political secretary of the city council of his home town of Merida and afterwards imprisoned for aiding the revolutionary movement against the Spanish. He practiced medicine from 1817 to 1819 and then reentered politics. A member of the Spanish Cortes in 1820, he was after the Mexican Revolution a deputy to the Constituent Congress in 1822 and president of the Constitutional Convention of 1824. Subsequently, he was senator of the First Congress of the Republic of Mexico in 1825 and governor of the state of Mexico from 1827 to the revolution of 1830, which forced him into exile. The return of the liberals in 1832 brought him back to his country where in 1833 he was elected to congress, becoming that same year (by a special congressional resolution which enabled him to hold both offices) governor of the state of Mexico as well. This position he held until 1834 when he became minister to France. When Santa Anna moved to centralism in 1835, Zavalla, as a true republican, had no recourse but to resign his
ministership and come to Texas in voluntary exile. Here his sympathy with the revolutionists caused his erstwhile friend, Santa Anna, to do him the supreme honor of excoriating his name and declaring him the most wanted of all the proscribed. The fact that Zavalla, along with Burnet, had participated in the great speculation that produced the Galveston Bay and Texas Land Company was not too detrimental, for virtually every intelligent and enterprising man in Texas was a speculator in land, of which there was such an abundance that it was of little value unless developed by the type of entrepreneurs that comprised the Galveston Bay Company. No other person in Texas was more qualified to head the new government than this energetic and talented gentleman, whose education, political and military training, business acumen, scholarship (for he was the author of two important political works), and untiring zeal marked him at once as the most able of all the candidates, and indeed his fame was so renowned that had he been chosen to head the government he would have commanded the allegiance of a large number of Mexican liberals despite the Texas declaration of independence of March 2. Unfortunately, the fact that he was a Mexican would prevent his having the post, but his recognized ability would place him in the cabinet. 38

The man who was to give Burnet the greatest opposition for the presidential post was Samuel Price Carson, who like Potter came from western North Carolina where both gentlemen had risen to the United States Congress by way of the state legislature.
Carson was elected state senator in 1822 and 1824 and to the national congress in 1825, 1827, 1829, and 1831. The Calhoun-Jackson fight that came to a climax in 1832-33 led Carson to side with the great advocate of strict constitutional construction, and his constituents, a pro-Jackson group, refused to return him to Washington in 1833. Thereupon, this polished frontiersman (who was widely regarded as the greatest impromptu speaker in the national congress) turned to Texas, where he arrived in 1834 and settled on the Red River. He had scarcely reached the pine forests of East Texas, however, before he received word that his North Carolina constituents had elected him to their constitutional convention to be held in 1835. He therefore returned to North Carolina, and by the time he again reached Texas he learned that he had been elected a delegate to the Texas constitutional convention of 1836. Because of this delay, he did not arrive at Washington-on-the-Brazos until March 10, where the furor produced by the Governor-Council fight and the desire for quick adjournment immediately placed Carson in a suitable position for the presidency. Like Zavalla, Carson was preeminently qualified for such a post, but his poor health and the short time that he had to get acquainted with the delegates were against him. 39

From the time that Burnet arrived until the close of the convention two subjects were ever before the delegates—land speculation and the loans contracted in New Orleans in January by the Texas Commissioners, Austin, Archer, and Wharton.

Though Potter (who had arrived in Texas too late to profit by the gains of the big speculators and hence was against speculation)
tried on March eighth to have a clause inserted into the
collection to nullify the eleven-league grants and the other
profligate measures of the Coahuila legislature, his pleadings
were of no avail as he was over zealous. Not only would he
nullify the gains of the big speculators but those of the little
as well. By his proposal the maximum grant any man could receive
from the government would be one league and a labor of land
(empresarios excepted). This would hurt many of the delegates
themselves who as business men had helped the country by their
industry and hence had received more than the minimum amount of
land. Thus Potter, because he tried to accomplish too much, was
unable to get anything done on the subject. The arrival of Burnet,
however, caused the question to be reintroduced, for Burnet brought
with him to the convention the four-thousand-word legal opinion he
had written the previous September on the subject of the huge land
grants made by the state legislature. This opinion, coming as
it was from the first judge of Texas, a former empresario, and
business man whose own deserving claims for an augmentation of
land had been denied, and a person well known to all the delegates
as a gentleman of unquestioned veracity would produce the
constitutional clause substantially espoused by Potter without
damaging the claims of the small entrepreneur. Thus Burnet,
though not a delegate, made his influence felt at the convention
and paved the way for his subsequent election as president of the
ad-interim government.
The second important convention topic concerned the ratification of the two loans contracted in New Orleans by the Texas commissioners—one for $50,000 and another for $200,000. While the money was much needed, the terms were so unsatisfactory as to preclude acceptance by the convention. Of course, Austin, Archer, and Wharton had negotiated under the most trying conditions, and an interest rate of eight per cent was not too high even considering that the creditors were to be repaid in land scrip at the rate of fifty cents an acre; but to grant the right of prior location certainly seemed uncalled for. These men deserved an ample reward, but to give them prior location for more than 300,000 acres was preposterous and would permit them to grab off the choicest commercial sites in the country.

William Fairfax Gray, who had put up $10,000 of the $200,000 loan and was a lobbyist representing the other lenders, did not think too highly of Burnet, and perhaps the reason was the Judge's antipathy to the big speculators.

This question of priority of location was the main factor preventing adjournment and the establishment of the new government. Yet the delegates were so reluctant to ratify the terms made by the Texas Commissioners that the business dragged on from one day to the next, and Gray was approached by Dr. Everett who "asked me if the lenders of the $200,000 loan would not be satisfied with having the amount paid returned with interest. I told him I could only speak for myself, and asked him if he was prepared to return it. He said yes, there were some gentlemen who would advance the
money.\footnote{42} Triplett, himself, who had agreed to subscribe $100,000 of the main loan, could appear and make a favorable impression upon the delegates, but still the business could not be concluded and would be passed on to the ad-interim government to worry over.

While this matter was taking up the time of the convention, there arrived on the afternoon of March 15 a traveler with a rumor that the Alamo had repelled a treat attack. Some thirty minutes later a messenger galloped up with a express from General Houston giving the first definite news of the fall of the Alamo and the death of all its defenders. Several private letters which the messenger brought to individual delegates corroborated the dreadful intelligence, and the following morning, March 16, Dr. Sutherland arrived from Gonzales to deliver a first-hand report of this major disaster. Travis, unwilling to listen to Houston and unable to profit by the lesson so ably expounded by Milam, had confined his forces within the untenable Bexar rather than wage a wise but distasteful retreat in depth as far as the Colorado. Evening brought a handbill from San Felipe giving further graphic details, and each fresh arrival heightened the fears of the already nervously apprehensive populace. There was no chance now that the loan question would be disposed of by the convention. Chairman Ellis was no longer able to keep any semblance of order, and great confusion and irregularity developed.

One can visualize the setting. It is the evening of March 16. The delegates are in their unfinished building sitting and standing around the large rectangular table where rest the
candles and lamps flickering from an occasional gust of wind.
Ellis, as chairman, is at the head of the table, which perhaps
has been moved back against one wall to help make room for all the
members, who are trying without much success to squeeze into the
crowded quarters. Spies have been sent out to see if there is
any sign of the enemy, and at intervals one of these comes back
with his report. The outside noise of moving wagons and parents
attempting to assemble their children and belongings floats through
the still night air, which hangs like a pall affecting everything
and presaging disaster. Within the stuffy room the excitement
grows more intense, and the delegates swamp the floor proposing
one thing or another, several talking at once. Ellis finally
manages to get a word in and proposes to adjourn the session to
Nacogdoches, and some of the members prepare to leave the chamber.
Suddenly, however, the dimly lit tumultuous hall is silent, for upon
a bench commanding attention by his imposing manner stands an old
settler, a man of middle age, somewhat stocky and of classical
good features, without a mustache, though his beard, like his curly
black hair, is profuse. The austere wrinkles of his cheeks flank
a straight nose, and like the down-turned corners of his mouth, do
poor justice to the kindness and altruistic spirit of the inner
man. His entire bearing bespeaks authority, and now his flashing
eyes force the Ellis crowd to yield the floor. A former empresario
and the first judge ever to hold a court in Texas, he fought with
Miranda and fired the first gun in behalf of Spanish-American
independence, and he lived with the Indians in Texas before the
Austins thought of settling there. No rabble rouser nor grogshop politician, he is an eminent citizen who now speaks concisely and to the point. To adjourn the convention to Nacogdoches at this point would be to invite disaster. A government to manage the affairs of the country in this trying hour is an absolute necessity. The citizens must be united and the enemy repulsed...

The delegates listen and agree. Men like Zavalla and Carson add their own eloquent appeals for immediate action by the convention. The Ellis group, now somewhat ashamed of themselves, concur in the wisdom of closing the meeting satisfactorily. Thereupon, the members in a committee of the whole quickly finish the work on the constitution which is adopted by midnight, and the assembly then proceeds to the election of officers for the new government. For president, the old settler is nominated. His name is Burnet -- David Gouverneur Burnet -- and though not a delegate, he has for days been considered for the office. A man of "unblemished reputation, courteous manners, and intellectual attainments", he is respected by all despite his somewhat puritanical bearing. He had fought for the constitution of 1824 and denounced the speculators who sought to profit by dissension, but now, disillusioned, he will take the lead for war as he took it for peace. To oppose Burnet, the name of Samuel Price Carson is suggested, and the two men retire outside while the voting takes place. Both men are well qualified, and it is difficult to decide between them, but Burnet is better known and consequently gains the office which he had not really sought by the close vote of 29 to 23... Such,
perhaps, was the way the events transpired on this momentous occasion, as reconstructed from the few actual records that are today extant. 44

With the difficult job of electing a president over, the convention hurried through the task of selecting the balance of the officers. Zavala was made vice president, Carson secretary of state, Rusk secretary of war, Potter secretary of the navy, Bailey Hardeman secretary of the treasury, and David Thomas attorney general. Most of these men had taken a prominent part in the convention activities. Perhaps Hardeman and Thomas were the least known, though both seemed competent. The former had been a lieutenant in the War of 1812 and was now forty-one years old. Originally from Hardeman County in southwest Tennessee, he had come to Texas and settled in Matagorda in 1835. Thomas, some thirty-five years of age, was likewise newly arrived from Tennessee and had been elected a delegate from Refugio. As was the case with Houston, Potter, and others, he was chosen not by the established settlers but rather by volunteers fresh from the States who presented the loaded rifle as their authority to cast the ballot.

It was past two o'clock before the government was established and the officers sworn in. President Burnet then came to the lectern to deliver his inaugural address. He had consented to run somewhat reluctantly, but the fact that he had not participated in the governor-council quarrel had apparently placed him in a preferred position, and made him anticipate victory.
When the room was quiet, the president proceeded to deliver his inaugural address:

"...Fellow citizens of Texas, the day and the hour has arrived, when every freeman must be up and doing his duty. The Alamo has fallen! The gallant few, who so long sustained it, have yielded to the overwhelming power of numbers. But they perished not in vain."

Having shaken hands with the president upon the conclusion of his address, the delegates filed out into a night of sorrow and anxiety.

With his election as president, Burnet undoubtedly thought of the vast changes that had come over the state since first he saw it in 1818. Then he had roamed the prairie with the Indians in this sparsely settled region hunting the buffalo and wild fowl at a time when the Spanish authorities and American frontiersmen were seldom in the area. By 1820 the American frontier had reached the Mississippi, however, and a few years later the population of Texas was definitely on the rise. Still, by 1830 at the beginning of Burnet's permanent move to the territory, there were less than 20,000 settlers in the region—Burnet estimated the entire Anglo-American population at 3000 souls, and the Mexican population at 5000. Most of the Mexicans at that time lived at San Antonio, Bollia, and Nacogdoches, the three principle forts of the Mexican government. High up in the interior of the state lived an untold number of Indians, mostly Comanches—the same tribe with whom Burnet had lived ten years before. By now these Indians were becoming increasingly hostile as the white
frontiersmen increasingly encroached upon their hunting grounds. This encroachment had become so great that by 1833 Stephen F. Austin was able to estimate a combined Mexican and Anglo-American population of the area at 46,500, and increase which he, himself, as the most successful of the empresarios had made possible.46

Most of the settlements in Texas were along the coast and below the falls line of the Brazos, Colorado, and San Antonio Rivers. To the northward was still the hunting ground of the Indians—the delineating line being the old San Antonio Road which crossed the Brazos in the neighborhood of San Felipe. To the eastward, the frontier was the San Jacinto River. East of that river the only settlement was Nacogdoches, whose population was given by Colonel Juan N. Almonte in 1834 as 3500 souls. In December of 1832 when Sam Houston first arrived at the village, it was possible half as large. Thus great changes had taken place within a space of less than twenty years.47

Most of the Mexican population in the territory was Catholic in religion, and most of the incoming Anglo-Americans Protestant. Thus religion had become a factor in the discord which rent the state in 1836. Added to the cultural differences which separated the Mexicans and the Americans was the fact that the Mexican population was rapidly becoming outnumbered at a time when revolution at home was depriving the territorial garrisons of authority.
On all of this Burnet undoubtedly thought and wondered what the outcome would be. The people's representatives had trusted him with leadership, and he must not disappoint them. Tired as he was when he left the meeting of that night, the judge undoubtedly devoted his thoughts to plans for the morrow, no heed to danger or personal inconvenience, only thoughts of the people's safety and of a nation's victory before him.
Chapter IV
The First President of Texas

It was about four o'clock on the morning of March 17, 1836, when President Burnet and cabinet gathered together in the convention hall where only a half hour before the president had delivered his inaugural to a house of exhausted delegates. The big room now seemed quite empty, and the cool breeze that springs up just before dawn was piercing the sheet-covered windows and forcing the tired officials to stay awake despite their lack of sleep. Rusk, however, notwithstanding the vigor possessed by a man of only twenty-nine years, was exhausted both from weariness and too much alcohol, and he was slumbering in his chair as Burnet opened the meeting. A final session of the convention was set for nine o'clock, and it was in preparation for this assemblage that the judge had held over his cabinet. The questions of allaying the panic and financing the government were foremost problems, and the convention would expect some recommendations from the new officials. Thus the president was now seeking the views of his co-workers, each of whom attempted some comment—that is, all but Rusk who had his hands over his face as if meditating, though he was deceiving no one. "And, said the president, "What is your opinion, Mr. Rusk?" No answer. The nearest secretary gave Rusk a nudge, and Burnet repeated the question. Rusk thereupon jumped to his feet and said, "I think we are in a hell of a fix. We are worked down. Let's go over to the
saloon and get a drink, then mount our horses, and go fight like the devil, and get out of it.¹

By nine o'clock the convention mustered a quorum to hear the suggestions of the president, who submitted through Secretary of State Carson a message requesting authority to issue treasury notes. The members accordingly authorized the government to dispose of such paper at eight per cent interest (though apparently without any backing on land) and also approved the regulation of import tonnage and other duties (with the president responsible for the administration of this tariff). A motion to supply refugee families with food and clothing at state expense was sanctioned provided of course such goods could be spared. Colonel Triplett appeared and as the principal contributor to the $200,000 loan stated his willingness to accept certain modifications in the loan agreement, but as the members were not sufficiently familiar with the original terms, they decided to pass the matter on to the ad-interim government for decision. About this time a commotion from outside was heard, and upon inquiring about the cause of the disturbance, the delegates learned that an unknown horseman had just passed through without stopping and had cried out that the Mexican cavalry were crossing the Colorado at Bastrop only sixty miles away. This intelligence quickly put an end to the assembly which adjourned sine die.²

The government then busied itself attempting to stop the panic which was beginning to reach alarming proportions. The
Secretary of War rushed an officer to Groce's ferry with instructions to impress horses and ammunition and to permit no man to pass eastward with a rifle. Burnet issued a proclamation to the citizens of East Texas urging them to the field. The government, said he, was keeping well informed of the enemy's movements, and the settlers would be given any information necessary to insure the safety of their families. Rumors must be disregarded, and every available man must rally to the standard of liberty. This proclamation and a copy of the president's inaugural address were dispatched forthwith to the printer at San Felipe with instructions to run off a thousand copies of each.³

Washington in the meantime was growing deserted, and the dismal outlook was intensified by a cold front that hit the place that evening. While the thunder rolled and the rain beat down on the forgotten capital, the president could at least reflect that the resulting flood waters would impede the enemy and make Houston's task somewhat easier. The next morning a drizzling rain was still falling as the remaining officials prepared to leave for Harrisburg, which Burnet had suggested before his election as the most convenient governmental site.⁴ The town was in the heart of the denser population area, was a commercial port, and was on the great southern route to East Texas--and Burnet, Zavalla, and Hardeman lived in the vicinity. This relocation of the government's headquarters was justifiable, but it was to become a vital issue between Houston
and Burnet.

With the weather somewhat better in the afternoon, March 18, Burnet, Rusk, and Potter—who had remained to clear the area—set out for Groce's ferry leaving only tavern keeper Lott and family behind. As the trio jogged along to the southward, their progress was impeded by the sticky black mud that makes the area one of the finest farming regions in the world but is hardly recommended for horseback riding in the rain. It was evening before the threesome traversed the few miles to the ferry kept up by Jared E. Groce, where the Brazos bends sharply to the west, its red waters now on the rise making any kind of crossing a hazardous undertaking. By the time they maneuvered this barrier and arrived at the big plantation house maintained by the largest slave owner in Texas, they were thoroughly wet and tired and glad enough to accept the invitation of Groce to pause for the night where a score of speculators and government hangers-on had already found a haven. Secretary of State Carson had arrived before them, and Attorney General Thomas dragged in late that night. Thus the cabinet was complete except for Hardeman and Zavalla, and the latter was expected momentarily, though Treasury Secretary Hardeman had apparently gone on to his home at Matagorda to dispose of personal affairs before rejoining his associates at Harrisburg. Anyway, a quorum was present, and the government was thus able to conduct some of its business at this plantation, which thus served as the second temporary capital of Texas.

On the morning of March 19, a speculator of talents by the name of Thomas F. McKinney (who like his business partner, Samuel W. Williams, was a consummate liar), ate breakfast with the
other recipients of Groce's hospitality and afterwards laid a proposal before the government. Texas, said he, was indebted to the New Orleans merchandising firm of Thomas Toby and Brother (which wholesale firm supported the retail business of McKinney and Williams) for more than the fifteen thousand dollars which the government had to its credit in New Orleans. Therefore, the nation ought with propriety to turn this money over to Toby. If it would do so immediately, then Toby (alias McKinney and Williams) could supply an additional forty thousand dollars worth of supplies in short order.  

The statements of McKinney were true, but what he did not say was that the Texas Commissioners of Austin, Archer, and Wharton had in January named the New Orleans firm of William Bryan as general agent for Texas. In this capacity Bryan had outfitted four ships of war, had supplied the Texas army with virtually all its material, and had put over seventy thousand dollars of government notes into circulation—all on his own initiative and faith in the promises of Austin, Archer, and Wharton. McKinney knew this and had promised the general agent only a month before to do all possible to secure funds for his agency. In addition, McKinney had written to the provisional government commending the activity of Bryan and asking the government to support the firm.  

At Groce's plantation, however, there was no one present who knew anything about Bryan's commission—except McKinney. No officer of the provisional government had been carried over into the new cabinet, and the records
of the matter were still at San Felipe under the lock and key of Ex-Governor Smith. Thus it was that McKinney contrived to get possession of the nation's funds for his own advantage and in addition talked the cabinet and the gullible Burnet, no business man, into commissioning Toby as the government's agent for the disposition of 300,000 acres of land. This acreage was to be raised by asking settlers for land donations and promising repayment by the government at a later date with money or additional land (though the convention never explicitly authorized such disposal of the public domain). Burnet evidently accepted the decision of his associates on this matter, for all questions were decided by a majority vote, but how he could have agreed to McKinney's proposal is scarcely understandable in view of the antipathy engendered by his own bitter denunciation of Williams for the four-hundred-league swindle of the previous year. Perhaps the explanation is that the judge, in an effort to be an impartial administrator of the public funds, bent over backwards to do that to which he was personally adverse but which he considered to be in the nation's interest. Certainly his trust was misplaced.

Several other items of importance were disposed of by the government on March 19. For one thing, it commissioned George C. Childress (the author of the declaration of independence) as agent to go to Washington, D.C., to attempt the procurement of United States recognition of Texas independence. Childress was a personal friend of Jackson and well qualified for such
an assignment, but he would reach his destination with the news of Goliad, the panic, and the runaway scrape and hence accomplish nothing. To accompany Childress, Robert Hamilton was deputed as financial agent. Thomas Jefferson Green was commissioned to enlist United States volunteers for the army and promised reimbursement for expenditures up to fifty thousand dollars. This reimbursement was to come from the funds secured by Toby or from the loan contributors. If Green obtained as many as a thousand recruits, he would be entitled to the rank of general in the Texas army.

Perhaps the government's last important act of the nineteenth was the deputizing of M.P. Menard as Indian agent. Menard was from Nacogdoches in the heart of the Cherokee country and was a former chief of the most important of the Shawnee tribes. Thus he knew the individual Indians who were now allying themselves with the Mexicans hoping to secure title to a large area around Nacogdoches. Menard was authorized to spend two thousand dollars for presents, and his conciliatory efforts plus the threat imposed by the United States Army of General Edmund F. Gaines served to keep the Indians out of the revolution.

The morning following this day of great governmental activity Vice President Zavalla arrived at Groce's with several other travelers. Zavalla seemed willing to support the arguments of Triplett and Gray concerning the $200,000 loan, but still the cabinet could not reach a decision on this important matter. During the day a number of refugees crossed the Brazos
at the nearby ford, among them being the Negro servant of the murdered Travis. Interrogation of this slave made the officials more than ever anxious to defeat their hated enemy, and perhaps their army would do it at the Colorado. The next morning, the entourage departed after thanking their hospitable host, but the pleasantries ceased when Groce began to hand to each a bill for three dollars a day, man and horse.  

General Houston had written on March 15 that he planned to hold the Colorado, which was an excellent barrier because of the rising flood waters. Also, most of the people in Texas lived east of the Colorado. Thus, when Houston's letter reached President Burnet either at Harrisburg around March 18 or at Groce's plantation the following day or so, the government was satisfied with the general's strategy and set about getting as many recruits as possible to the army. Perhaps the messenger that carried the president's proclamation from Washington to San Felipe on March 17 learned, while waiting for the printer to complete his work, of Houston's intentions. It seems logical that the presidential courier (upon the completion of his business) would have crossed the Brazos at San Felipe and proceeded up the eastern bank of the river to intercept the governmental officials. Anyway, it is known that on the morning of March 18 many of the refugees east of the Brazos received copies of the president's proclamation urging them to the field and at the same time were informed that Houston was west of the Colorado receiving reinforcements and that the rumor that the enemy's cavalry was at Bastrop was false.  

By the eighteenth,
therefore, well informed citizens began to take a second thought about their precipitous flight, and within a few days the panic of the Brazos settlers had largely stopped, and a number of able-bodied men began to march to the West to augment the small army then in the field. Further eastward, however, where only rumor prevailed, the initial panic had increased.

General Houston, very wisely, had retreated from Gonzales on the Guadalupe River (where he had joined the small force there opposing the enemy), and even his critics largely commend him for his strategy in moving back, though they object to the haphazard manner of his withdrawal. Houston's retreat from the Guadalupe to the Colorado was justified militarily, but it increased the panic begun by the Alamo disaster. This retreat, which had begun on March 13, ended on March 19, when the Texas force had crossed the Colorado and established itself on the eastern bank of that stream at Beason's crossing. Here the army remained for a week, receiving steady reinforcements, and it was during this interim that the government proceeded from Groce's to Harrisburg, calming the citizens with the most positive assurances that the struggle for power would take place at the Colorado and urging every man to that encampment. Houston's letter of March 17 (asking for 800 recruits) had been received, and about the time the governmental group passed east of San Felipe on the way to Harrisburg the president dashed off another proclamation to the printer imploring the people to repair to the army.
On the evening of March 22 the traveling officials reached the home of Mrs. Jane Harris whose husband had founded the town of Harrisburg. It was late, and the group was lucky to find any latchstring out; thus there were no complaints over the crowded quarters. Burnet, Zavalla, and Carson as the three highest dignitaries were furnished beds, but the others had to sleep on the floor. The president and vice president were now in familiar territory, and the following morning they left Carson to manage affairs and went home to their respective families, Zavalla taking speculator Gray along as a guest. They had hardly traversed the fifteen miles to Galveston Bay before they saw the signs of an approaching norther. Pealing thunder was augmented by a darkened sky, and a heavy rain fell far into the night. The swollen rivers would make it difficult for the refugee families to move should Houston retreat from the Colorado. The next day Gray and Zavalla came over to Burnet's place for lunch and later the two officials rowed back up Buffalo Bayou to Harrisburg where the Secretary of State ably managed affairs in their absence.

As Burnet had previously placed the well-to-do Colonel Morgan in charge of the port of Galveston, Carson had written to Morgan requesting the Colonel to come to Harrisburg for conferences concerning fortifications and supplies (for Morgan had a general store and was thus able to furnish some goods to the government). Secretary of War Rusk had also written to John Rice Jones (the postmaster general appointed by the con-
sultation the preceding November) asking Jones to come to the
capital to discuss the establishment of a daily line of expresses
between the government and army.\textsuperscript{13}

On March 25, the day following the return of Burnet and
Zavalla, the officials received a letter from Morgan stating
that the settlers east of Galveston Bay (where it was not known
that Houston planned to hold the Colorado) and the Trinity River
were panic-stricken and flying in every direction. Accordingly,
the president, following the advice of his cabinet, immediately
proclaimed the entire country to be under martial law with mili-
tary districts defined and the local committees of public safety
empowered to impress any item necessary for the general welfare.
Any man who refused to report to his draft board for duty assign-
ment was to be considered a deserter and forfeit all rights of
citizenship.\textsuperscript{14} Thus President Burnet was doing everything pos-
sible to stop the panic and secure men for the army, and he
little deserved the castigation which Houston subsequently poured
upon him. Houston's viewpoint was that Burnet's removal of the
government from Washington to Harrisburg caused the panic in
the first place and hence prevented the army from getting re-
enforcements. As noted previously, however, the panic started
with the news of the Alamo disaster and increased with the
intelligence that Houston was retreating from the Guadalupe.
Harrisburg, with its port and transportation facilities com-
bined with its choice location, was far superior to Washington
as governmental site, and so long as the people knew that the
army was in the field and ready to defend the country, there was little actual panic, regardless of where the capital was. As seen, when the Brazos River citizens received Burnet's proclamations and learned that Houston planned to hold the Colorado, their fears diminished and they commenced to go to the army. Further east, of course, where the families were ignorant of Houston's plans to fight, and where the government's actions were largely rumor, the distress still existed, though it was beginning to subside even here by the latter part of March, and had General Houston stayed at the Colorado the entire country might shortly have rallied to the colors. So long as the army was between the enemy and the people, the men need not fear for their women and children, and they would go to the army; but if the army itself continued to retreat, the men had no alternative but to seek safety for their families. Thus when Houston on the evening of March 26 recommenced his withdrawal, he induced a second panic among those who had gotten over the first and increased the fear east of the Trinity where the people were just beginning to calm down. Not only did he thus prevent reinforcements from coming, but he actually caused his own force to dwindle, because many men who had left their families in an exposed position were now obligated to leave the army to look after their women and children. Thus Burnet reasoned, it was Houston, not himself, who contributed to the growth of the panic. This difference in viewpoint is important, for the hostility generated between the two men over this "runaway scrape" developed into a life-long
bitterness, and the fact that Houston scored a fortuitous victory over the Mexicans at San Jacinto but added fuel to the flame, for it gave the general a military reputation based on a single battle and thus paved the way for his subsequent political victories over Burnet. This is not to belittle Houston as an administrator, for his ability to get along with people made him an excellent politician; whereas the aloof and condescending Burnet was unable to manage his own affairs, much less those of the government. The difficult subject of the Battle of San Jacinto, which the foremost student of the period has aptly said is the mere culmination of a series of retreats, is hinged upon Houston's withdrawal from the Colorado, and it is largely on the merits of this withdrawal that Houston's military fame must ultimately stand or fall. 15

On March 25, the same day that President Burnet at Harrisburg placed the country under martial law, the cabinet took up once again the difficult question of what to do about confirming the $200,000 loan, and at long last they were able to agree with Triplett on the terms. The next day, March 26, was set for signing the contract, but when everyone was apparently ready, Attorney General Thomas said he had changed his mind, and the president accordingly postponed the signing. This was one of the major weaknesses of Burnet. He tended to follow the will of his associates regardless of his own personal opinion, and all government matters were decided by a majority vote. On important things, such as the loan decision, the judge desired unanimity, and this reliance on his cabinet largely explains
Burnet's vacillation though it is not the entire explanation.

The judge was older than the other officials, had lived in the
country longer, and knew the mass of the settlers much better than they.
Though well qualified themselves, the cabinet members looked to the
president for advice, and would usually do whatever he suggested. This
mutual attitude of respect explains the harmonious functioning of the
government. There was no squabbling such as had characterized the
provisional government. Burnet had seen the harmful results issuing
from that bickering and was determined to avoid a repetition of it.
But this very cautiousness and attempt at strict constitutional
compliance was more harmful to the country than the assumption of
dictatorial powers, especially in the extremities of these critical
hours. The president did proclaim martial law, but he should have made
the proclamation on March 17 immediately after his election. The
attempt to follow the will of the majority of his cabinet had caused
Burnet to commission Thomas Toby (alias McKinney and Williams) as
financial agent of the government when he knew from first-hand experience
that McKinney and Williams were self-seeking and unreliable. Again, Burnet's
judicial attitude prolonged unnecessarily the discussions of the loan question
and indeed adversely affected his entire administration. The country was in
an emergency situation in which time was all important; yet the president
dawdled in his governmental transactions. Certainly Burnet was busy, and
his desire for harmony is understandable, but his inability to act forcibly destroyed his worth to the government just as Houston's taciturnity and precipitous withdrawals marked him as unfit to lead the army. The country had neither a decisive president nor a judicious general.

The discussion of the $200,000 loan dragged on, with the president now requesting written opinions by the cabinet members on the subject. On the twenty-seventh Carson submitted his statement opposing confirmation but suggesting that the initial terms be accepted for the amount already advanced by the lenders. Zavalla was sick and hence unable to furnish much support to Gray and Triplett. The next day Zavalla was somewhat better, but Carson was sick, and Thomas continued with his negative attitude. On March 29 Secretary of the Treasury Hardeman arrived, and it was necessary to go over the matter again. Thus the affair dragged along.

On March 29, while the government was deliberating, Quartermaster General Felix Huston galloped into Harrisburg on route to Galveston with the astounding news that Sam Houston was retreating again. The government could hardly believe it, for General Houston had stated positively that he would defend the Colorado, and only a day or so before Secretary Rusk had received a letter written on March 24 in which the general had stated:

"Men are flocking to camp, and I except, in a day or two, to receive two hundred volunteers and regulars. Forty-eight muskets and a supply of ammunition came opportunely last night. In a few days my force will be highly respectable."
This new withdrawal would jeopardize all of inhabited Texas and place the Mexicans in a still more advantageous position. Houston must be out of his mind. At any rate, the government had to act. Most of the refugee families were strung out along the coast between the Brazos and the Trinity Rivers, and these people had to be protected. The rising flood waters would make it impossible for the refugees to escape the Mexicans, unless the enemy were held and defeated at the Brazos River. The men who of necessity had to leave the army to look after their families when the retreat was begun from the Colorado would now have to be given new assurances that the enemy would not pass the Brazos so that they would leave their families and return to the army. What a mess Sam Houston had produced! Burnet immediately dispatched a proclamation imploring men to go to the army and threatening the forfeiture of all citizenship rights unless they obeyed forthwith. Before dealing with Houston, however, and perhaps unduly alarming the settlers, the president would await confirmation of the quarter-master's ominous intelligence. Such confirmation was not long in coming, and by the following day, March 30, the fact of the army's withdrawal from the Colorado River was established beyond a doubt, and it was learned that camp was being made on the west bank of the upper Brazos opposite Groce's plantation some forty miles above San Felipe, which had been burned to the ground the previous day, reportedly by Houston's orders.17
There was nothing now between the Mexicans and the people, and hence men could hardly be expected to leave their families and go to the army despite the threats and pleadings of the president. The cabinet conferred, and it decided that Rusk as Secretary of War would go to the army with orders for Houston to fight or else turn over his command to the secretary. Because of sickness, however, Rusk was unable to depart before April 1, and his youthfulness and friendship for Houston would make of him but another recruit. A courageous warrior, he was a poor representative of the government.

The civil duties of the country were increasingly devolving upon the president. Zavalla was in such poor health that on March 30 he went home to recover, after first giving Burnet his views on the loan question. This thorny problem was consuming all of the government's time, and hence on March 31 when Edward Hall (the purchasing agent of William Bryan in New Orleans) arrived, Burnet had little inclination to discuss the merits of that unknown agency. The incredulity of Hall was expressed in the following note to the president:

"Harrisburg March 31, 1936

Mr. President

My visit here, was, with a belief that, the acts of the commissioners appointed by the Provisional Government to visit the U States for the purpose of obtaining a loan &c., had been spread before you, and that the appointment of Wm Bryan of New Orleans as General Agent to receive all monies, donations &c. for the Government hold correspondence, pay all Drfts, drawn by the purchasing agent, and that myself, as purchasing agent, to make all purchases, charter all vessels, and forward all supplies, required by the
Government, was all well known to you, and what was my astonishment to learn that no communication had been recd & that Mr. Bryan & myself were not even known by the Government..."  

Hall had no documents with him to support his statements, and the unwillingness of Burnet to nullify Toby's contract of March 19 and thus throw the financial situation into greater confusion is understandable. The attitude of the president was perhaps influenced by certain modifications of the loan agreement proposed by Attorney General Thomas that same day, March 31. The lenders had already subscribed $70,000—the entire amount of the $50,000 loan together with $20,000 of the $200,000 loan. At the original contract terms of fifty cents per acre, they were entitled to 140,000 acres or about thirty-two leagues on the money already paid in. If Triplett and Gray would agree for the subscribers to relinquish the right of prior location, the government would grant an immediate thirty-two-league bounty and in addition appoint Triplett (as the agreed contributor of $100,000 of the original $200,000 loan) general agent for Texas with powers to secure an additional loan of $500,000, hire a secretary, name other agents, and do whatever necessary to secure funds. To accept the claims of Hall at their face value would be to alienate Toby and possibly prevent Triplett from signing a modified contract. Of course, Burnet and the cabinet believed that Austin, Archer, and Wharton had overstepped their powers (by agreeing to alienate the public domain on the one hand and agreeing to the right of preemption on the other) and had offered to repay the $70,000 already put up with twenty per-cent interest and thus cancel the loans.
However, the government hardly had the money available for such action, and besides, Triplett and the other lenders wanted land, not a refund. The cabinet accordingly decided to make no decision on the various claims of Hall (as the agent for William Bryan) and to sign the modified contract which Triplett had expressed his willingness to accept. As a dispute on the matter of preemption was to develop subsequently, it is necessary to note the precise wording of the modified agreement:

"...The Government of Texas agrees to give a premium of thirty two leagues of Land to be divided between the two Loans aforesaid in proportion to their amounts, the Takers of the First or two hundred thousand dollars Loan relinquishing their priority of location over the Takers of the second or fifty thousand dollars loan and every one else..."¹⁹

On April 1 Triplett and Gray agreed to forfeit their pre-emptive rights, but they apparently did so in the belief that they would be able to locate their thirty-two-league grant immediately. That is, while no longer claiming the right to title ahead of everyone else, they did assert that they were entitled to stake out claims (along with anyone else with similar legal claims) to the land which they had already been granted. This was not prior location in the strict sense of the word, but inasmuch as the land offices of Texas had been closed since November, 1835, and no one else had similar claims (as the government had made no other grants), it would amount to prior location to permit these foreign financial magnates to receive title while forbidding that privilege to the regular citizens (whose claims were founded on Mexican law).
Nevertheless, Triplett and Gray were evidently given the impression by some of the cabinet members (if they were not actually told) that they could now apply for title. Perhaps the reason Triplett (as the principal lender) agreed to abandon his strict preemptive rights was his belief that title to at least part of the thirty-two-league bounty would be granted immediately by the government. With these concessions Triplett and Gray continued at Harrisburg until April 3 when President Burnet signed the commission legalizing the agency of Triplett. Thus fortified, the two speculators departed shortly thereafter for Galveston and Point Bolivar to pick out choice locations for future towns.20

Ever since his election as secretary of state, Carson had complained of poor health, and by the close of March he was feeling so ill that he requested permission to resign his post or at least take a leave of absence in order to go to a more healthful region. As the government had done everything possible as a unit, President Burnet agreed to the request of his associate and granted Carson a leave of absence to serve the government as an emissary to Washington, D.C. Hence it was that on April 1 (two days after the departure of Zavalla and the same day that Rusk left for the army) following the signing of the modified loan agreement with Triplett and Gray, Carson set out for the United States carrying with him letters to Secretary of State Forsythe, governmental agents Childress and Hamilton, and Burnet's old friend, Senator Henry Clay. It is
probable, also, that he took with him a proclamation from the president announcing that the government would grant a military commission to any man bringing a minimum of fifty-six volunteers into the country. The raising of fifty-six recruits would convey the rank of captain, three hundred the rank of major, five hundred the rank of colonel, and one thousand the rank of general. 21

With Zavalla, Rusk, and Carson gone, Burnet sent Secretary of Navy Potter to Galveston to inspect coastal fortifications. Here that philogyst soon encountered Mr. Solomon Page, who, with a husband in the army, was free to play a fast and losing game. 22

Burnet, Thomas, and Hardeman continued to busy themselves at Harrisburg, and their difficulties are exemplified by the following letter of April 3 in which Burnet wrote to Colonel Morgan, port commander at Galveston as follows:

"Harrisburg 3 April 1836

(Private)

Dear Sir: Yours of this morg [morning] is at hand. It is almost impossible to procure wood for the Steamer. Lazy hounds are lying about here as usual doing nothing.--- I will get the boat off in the morg I hope...

I have just been told you are packing up goods &c for M.O. You are wrong, Col. M.--decidedly wrong. When did you catch the infection pray? My word for it no hostile Mexican will visit the gallinippers of N.W. [New Washington] this season..." 23

Meanwhile, Secretary of War Rusk moved to the army where he found General Houston and his motley force camped in the
Brazos bottom near the ferry opposite Groce's plantation. The general's precipitate withdrawal from the Colorado a few days previous had resulted in open dissension with mutterings on the part of many concerning the general's competence. Nevertheless, the adroit Houston was gradually pulling his little army back together again, for unlike the aloof Burnet, Houston had a winning way with the common man.24

When the army reached Groce's ferry on the Brazos the last of March, Houston commandeered the steamboat Yellowstone, which by the merest chance happened to be at the plantation across the river loading cotton. This ship was capable of carrying 500 soldiers together with enough bales of cotton to protect the men from the enemy's fire. Thus the boat was of major importance at a time when the spring rains were making any kind of crossing of the 100-yard-wide Brazos a difficult undertaking. Knowing that he could move when he wished, the general continued in the Brazos bottom where the soldiers were joined by their once-again fleeing families, and Houston himself was said to enjoy the caresses of the erstwhile Washington boarding house hostess, Mrs. Pamela Mann.25

While the army rebuilt its strength over a two-week period, Burnet and the government were having their trials at Harrisburg.

Houston's retreat from the Colorado had made the panic much worse than before, and Burnet was doing everything he could to stop it. Rusk had been sent to the field to see that the
general fought at the Brazos and now Burnet tried to calm the families and secure reinforcements for the army. If recruits were to be had from the thousand-odd able-bodied but indifferent prospective soldiers east of the Brazos, it was necessary to find some suitable place for the families to stay, and within a few days the president was able to announce that a suitable camping place south of Buffalo Bayou had been established for the convenience and safety of the families whose men wished to obey the patriotic call. He also reported the fortunate capture of the provision-laden brig Pocket. Rumors persisted, however, that Houston planned to retreat again, and thus the president augmented his supplications by threats. Houston, said he, had fifteen hundred soldiers and would never withdraw from the Brazos. "Let every man gird on his sword, take up his rifle, and instead of turning back on the enemy and running away like a cowardly dog, face to the west." One proclamation after another was issued summarizing the military events that had transpired and urging the people to stop their flight and go to the army. The chairman of the Nacogdoches committee of safety was told to record the name of every man crossing the Sabine to the east at that point without authority and to confiscate the horses and guns possessed by such persons. Needless to say, should Houston retreat now, the swollen rivers and streams would make the fleeing families easy prey of the Mexican army, an advance force of which was then known to be at Fort Bend, less than a day's
march from Harrisburg.

Under these circumstances Attorney General Thomas wrote to Houston on April 12 as follows:

"There is nothing to stop [the enemy's] march to this place [Harrisburg], or Galveston, in twenty-four hours. There are a number of families here and in the neighborhood, who came here under the belief that they would be safe, who are now exposed to the attack of the enemy. You have assured the government that the enemy should never cross the Brazos; they have relied on your assurance, but they find your pledges not verified, and numberless families exposed to the ravages of the enemy. The country expects something from you; the government looks to you for action. The time has now arrived to determine whether we are to give up the country, and make the best of our way out of it, or to meet the enemy, and make at least one struggle for our boasted independence. The government does not intend to control your movements; but it is expected that, without delay, you will take measures to check those of the enemy."29

It was probably that same day (when the Mexicans crossed the Brazos and rumors began to pour into Harrisburg with some reports that women and children were being murdered) that Burnet addressed the following curt note to Houston:

"Sir: The enemy are laughing you to scorn. You must fight them. You must retreat no farther. The Country expects you to fight. The salvation of the country depends on your doing so.

David G. Burnet30

It was early on the morning of April 13 when the Mexican calvary headed by Santa Anna were preparing to march on the Texas capital that General Houston received the government's order to fight and learned of the Mexican crossing at Fort Bend. By one o'clock that afternoon the army had crossed the Brazos; and while the men were engaged in this undertaking, a small reenforcement arrived with two six-pounder cannon,
known as the "Twin Sisters", a gift from friends in Cincinnati, Ohio.

From Groce's ferry to Harrisburg is a distance of sixty miles, but it is only twenty-five miles from Fort Bend to Harrisburg. When one considers that the Galveston Bay region was the center of east Texas population and was the principal port and economic key of the state, for it had two sawmills and a host of other small industries, it is at once apparent that the Texians were outflanked, and only the most fortunate of circumstances could now produce a victory. Such circumstances were to be found in two factors: the foolish scattering of the Mexican forces by Santa Anna, and the fact that Santa Anna himself (though this was unknown to Houston) was at the head of the advance enemy force.

The proximity of the Mexicans and the fact that the citizen army was too far away for protection of the Galveston Bay settlers forced Burnet and his associates to look after the protection of their own and neighboring families. On April 12 Vice President Zavala, who had returned to the capital despite his poor health, went home in order to effect the safety of his wife and children. The following day President Burnet also left Harrisburg to save his wife and two small children from capture. Hardeman and Thomas stayed until the fifteenth, when they departed just ahead of the Mexicans.

Having assembled a few family treasures, the Burnet family
left Oakland on the morning of the fourteenth and went (probably by boat) to the home of Colonel Morgan at New Washington. The president left his wife and children in this somewhat safer spot and on the morning of the fifteenth started back to the capital on horseback. On arriving at Vince's Bayou, he learned that the Mexican advance force had been sighted only a short distance from Harrisburg, causing the remaining inhabitants of the capital to flee by any means available, many going aboard the steamboat Cayuga then at the town. The president himself boarded the steamer on its way down Buffalo Bayou, after sending his servant back to Morgan's place with the horses. That evening, April 15, the Cayuga docked at Lynchburg for the night, and President Burnet busied himself with many important matters. He conferred with Triplett and Gray who had returned from Galveston where they had laid off two sections of land (1280 acres) on the site of Lafitte's old fort. Thus if they could secure the government's approbation, they would have an admirable site for a town after the cessation of hostilities. The two speculators asked the president to approve their insular location, but he hesitated to do so. Apparently Burnet, Hardeman, Thomas, and Zavalla were present on this occasion. Hardeman and Thomas were evidently aboard the steamer on its trip downstream; whereas Zavalla (who, it will be recalled, had gone home on the twelfth) lived close to Lynchburg, and would have made it a point to see the president. Neither Burnet nor Hardeman (who was now serving as acting secretary of state) had apparently
made any commitment of immediate title guarantee to Triplett, but Thomas (as the author of the modified loan agreement) may have done so, and Zavalla was sympathetic to the lenders. On this difficult point the diary of William Fairfax Gray is enlightening:

"...There has been much difficulty in getting the Executive to sign the grant for land on Galveston, agreeably to their contract. The President at first refused, then assented, but said he must consult his Cabinet. He then signed; but Hardiman, acting Secretary of State, positively refused. Finally, he consented to sign for one section, on condition that no more should be asked at this time. They are afraid that the grants will be unpopular, and that they will share in the unpopularity. They acknowledge it is our right, according to the contract, but they are afraid to do right, afraid to be just. (This is not the right stuff to make a republican government of..."

While the governmental officials were at Groce's plantation on March nineteenth, Burnet had discussed with the cabinet the feasibility of soliciting land donations from the citizens who possessed clear title. The land could be sold to support the activities of the government, and after the revolution was over the contributors could be repaid in money or additional land. This seemed a sound proposition, and Thomas McKinney (as a financial agent) was commissioned to sell 300,000 acres from the contributions received. By the last of March several leagues of choice river-bottom land had been donated and more was in prospect when the president's fears got the best of him, and he announced that he could not promise repayment. At Lynchburg, however, on April 15 four additional leagues were acquired. Three days previous (on the twelfth) Triplett and Gray had
encountered one Ritson Morris, who as a patriot gave the general agent a letter stating that he would turn over to the president unconditionally one-half of the league that he had secured from the Mexican government. When Burnet received this letter, he wrote out a proclamation asking the citizens to follow the example of Morris, and he evidently enquired among the passengers of the Cayuga if there were others who might volunteer to sign over part of their soil to the government in this hour of peril. Five men responded favorably with a total additional grant of more than four leagues. These donations would give McKinney a part of the 300,000 acres he was commissioned to sell, but charity would not finance the revolution, and some other means of raising money would have to be devised. Thus while all were fleeing before the Mexicans and there was little hope of saving the country, some donations could be obtained. With the victory of San Jacinto, however, a few days later, these gratuitous grants would cease, and Burnet's efforts at constitutional correctness would thus void any practical achievements of financial equilibrium.

On the morning of April 16 the overloaded steamboat left Lynchburg for New Washington where President Burnet got off and a few additional passengers got on before the ship moved on to Anahuac to disgorge the families at what was then considered the nearest place of safety. Burnet and Morgan, together with a few neighbors and servants, commenced a hasty packing of the colonel's warehouse goods in preparation for the return of the
Early the next day the judge sent one of his trusted slaves back to Oakland, evidently to retrieve a few forgotten items. Shortly after breakfast when the men were once again engaged with their packing, a commotion was heard at a distance, and investigation revealed that it was the servant returning at a fast gallop and yelling: "Make haste, Mr. Burnet; the Mexicans are coming!"\textsuperscript{33}

There was no time now for the steamboat. The precious goods must be abandoned if the officials were to save themselves and families. A large flatboat already loaded with baggage was pushed into the bay, and this accommodated most of the people. The president, however, and his family embarked in a skiff whose oars were manned by two Negroes, but hardly had they gotten thirty yards from shore when a party of Mexican cavalry commanded by Colonel Almonte reached the bay. At this small distance Burnet could not have been mistaken for someone else by Almonte, who knew him; thus the president in order to minimize the danger to his wife and children stood up in the boat to "take the first shot," while his frantic wife in vain pleaded with him to sit down. All seemed lost, but the gallant colonel, unwilling to take the chance of harming the president's family, refused to permit his men to shoot. Thus the little group in the sluggish boats gradually drifted out of sight. A few minutes later, however, a large boat was seen bearing down rapidly from upstream, and this time there would not be any escape. Burnet clutched his dirk and swore that
he would not be captured alive, and the distraught Mrs. Burnet said she wouldn't either but "would take a child under each arm and jump overboard." Fortunately, the boat was manned by another group of fleeing families, and thus the president and his loved ones were saved, reaching Galveston just ahead of a violent rain storm which further increased the hazards of the fleeing families.34

At Galveston President Burnet, Colonel Potter, and Colonel Morgan began a feverish preparation of coastal fortifications. The provisions which Morgan had anticipated having were lost to the Mexicans, and if Galveston witnessed a repetition of the tragedy of the Alamo (should General Houston continue his retreat to the Sabine as he apparently was doing), there would not be sufficient supplies for a long siege. Hence the officials in charge decided to send the women and children to New Orleans by the schooner Flash and a few other vessels then at the island. While the families were boarding the ships, a report was received that the enemy had effected a landing on the western extremity of the island and was within three miles of the beleaguered citizens. Several naval officers authenticated the report, and it was therefore believed. The president accordingly ordered the garrison to prepare for battle and the ships in the harbor to ready their guns, but scouts that were sent out soon found the so-called intelligence a baseless rumor.35

As refugees continued to arrive at Galveston, Burnet probably learned within a few days of the accidental shooting of Attorney
General Thomas while aboard the crowded Sayuga on April 16 (after the steamer had left New Washington for Anahuac), and of his death on the nineteenth from blood poisoning. On the twenty-second the president received the resignation of Zavalla (tendered the previous day because of continued ill health). Thus the weary Burnet with only Hardeman and Potter of the cabinet on hand to help him was further burdened by the heavy responsibilities of his office. In addition to preparing the island fortress, looking after refugee families, and trying to find out what Houston and the army were doing all the while, the president no doubt worried over letters received from New Orleans that were sent by the governmental agents in the States. Austin, Archer, and Wharton in a letter dated April 6 were complaining of the government's failure to write and to forward a copy of the declaration of independence. Burnet, of course, had sent in the persons of Childress and Carson two special emissaries to Washington, D.C., and Childress had taken with him a copy of the declaration of March second. Perhaps Burnet should have written more often, but the news had been so consistently discouraging and the means of sending confidential information so uncertain that there had been no incentive. Besides, it was hardly more than a month since the president had taken office, and in that interim two personal representatives of the government had been dispatched with suitable documents and letters to the American capital. Thus the harried judge undoubtedly reasoned, but his failure to keep the agents of the Texas
government properly and continually informed of the progress of events during the revolution must be set down as a major and inexcusable failure.

It is likely that Burnet also received a letter from William Bryan protesting the actions of the government in transferring the government’s funds in New Orleans to McKinney and Williams. Bryan listed the various things which his agency had done for the republic and pointed out quite correctly that the appointment of Thomas Toby if sustained would destroy the credit of the infant nation (for Bryan had assured his creditors that the ten thousand dollars which the government had available would shortly be transferred to his account). His agency, said Bryan, had taken on responsibilities of some ninety thousand dollars for Texas and now faced bankruptcy. This gave Burnet cause for much reflection, but he could not act without his cabinet which was dispersed. Accordingly, on April 26 the president wrote to Bryan to the effect that he would take up the financial situation with his associates as soon as they could again be assembled.36

In addition, Burnet probably got Thomas Toby’s letter of April 16 stating that the panic had prevented the sale of any of the 300,000 acres of the public lands which McKinney had been authorized to dispose of the previous March 19.

Governmental responsibilities thus piled up with the president—because of the failure of Houston and Rusk to keep him informed—totally ignorant of the activities of the army and the victory of San Jacinto. One can imagine Burnet’s surprise and anger, therefore,
when on April 26 while he was in his headquarters, the president heard what appeared to be some kind of celebration, and when he asked the cause of the merrymaking, he was told that two messengers (Captain Robert J. Calder, a veteran soldier, and Private Benjamin C. Franklin, a lawyer whose abilities were to carry him to the supreme court of the republic) had arrived from the army and were even then dining aboard the schooner *Invincible* (then in the harbor) before delivering their official intelligence of a monumental victory over the Mexicans some five days previous. The usually calm Burnet became flushed with anger, and when the messengers eventually made a belated appearance, the president dressed them down for their impertinence in a scathing fashion. The men made a half-hearted apology about a leaky rowboat and of having gone without food for twenty-four hours, but for Burnet their delay was inexcusable.57

The president gave orders for the *Invincible* to prepare for sailing. This, however, would require several days, as for some inexplicable reason the schooner lacked a sufficient supply of wood fuel for its steam engine—and this at a time when an invasion of the island by the Mexicans was expected momentarily. Galveston, of course had but few trees. There was driftwood, however, and Burnet had been on the island nearly ten days. Thus it is difficult for the student of the period to explain away the president's failure to have the wood-burning vessels ready for an immediate departure should the necessity arise of a quick evacuation of the women and children. Within a few days, however, Burnet, Hardeman, and Potter (together with a few others) left for the battlefield, though it
was Lay 1 before Burnet met Houston at New Washington where the army had
moved its encampment, to escape the stench of some 600 dead Mexicans
at the battleground 15 miles away. The army had destroyed only a small
portion of the enemy then in the field, but the victory was significant,
for it had resulted in the capture of Santa Anna, the commander of the
entire Mexican army. Already the general had issued orders for Filisola
and Jacna to retire to San Antonio and Urrea to Victoria, and these
subordinates were apparently going to obey orders.

On Burnet's arrival, Secretary Rusk presented the president with
some treaty suggestions which General Houston had drawn up for the
consideration of the government.35 Houston, in fact, had already begun
negotiations with the captured dictator, who had been led to believe that
he would be granted amnesty in return for the orders he had issued to his
subordinates, Filisola, Jacna, and Urrea, on April 22. This assumption
by General Houston of the government's treaty making powers further
increased the enmity already existing between Burnet and the general
because of the panic. Thus the two would continue to bicker over every
minor point. Burnet, who blamed the capture of the government's supplies
at New Washington on Houston, now asserted that the $12,000 which had
been taken from the Mexicans after the battle belonged to the government
and would be used to provision the army. Houston replied that the money
would be used to pay the soldiers, and Burnet was forced to acquiesce.39

Again, Houston had been presented with a horse, owned by citizen
Alan Vince, though captured by the Mexicans. The horse had been ridden
by Santa Anna and was given to Houston over the protest of Vince.
It was a fine animal with rich trappings, and Houston (who was shot above his right ankle in the fighting—apparently by one of his own careless men) valued him highly, but then so did Vince; and the president forced the general to return the horse to its rightful owner.\textsuperscript{40}

General Houston's decision to go to New Orleans for medical treatment would leave Rusk as acting commander in chief. Thus a new secretary of war would have to be named, and on May 4 Burnet filled the position with a soldier who had distinguished himself at San Jacinto and who had previously aided the Texian cause in the United States. The replacement was Mirabeau B. Lamar, a dreamy-eyed visionary who had joined the army about the first of April. It was also on May 4 that the president appointed Peter Grayson as attorney general to succeed the deceased Thomas and named James Collinsworth as acting secretary of state.\textsuperscript{41} Thus a cabinet was again assembled for the first time since April 1.

The officials had many problems to discuss, the foremost of which was the question of what to do with Santa Anna. The defeated general had complied with every request, penning on the twenty-second an order for his remaining troops to retreat. Days before they received this note, however, the leaders of these jittery individuals had decided that prudence is the better part of valor. By April 24 the Mexicans had recrossed the Brazos, and by the twenty-fifth the forces of Filisola, Sesma, Gaona, and Urrea were concentrated some fifteen miles west of Fort Bend.
Filisola was commanding this army of 4000 soldiers, but under the pretext of insufficient supplies he refused to continue the march against the 800 Texians, choosing rather the safety afforded by the orders of a captured superior than the hazards involved in reuniting a nation and in winning for himself the glory he might so easily have obtained. The heavy spring rains that would have enabled Houston to stop and destroy the enemy at the Colorado were now making the Mexican withdrawal a difficult feat. Almost two weeks were required for the unopposed force to find a place on the Colorado where a return crossing could be made, but by May 9 this swollen barrier was passed. By the time President Burnet effected a treaty with Santa Anna on May 14, every enemy soldier not a prisoner was west of the Guadalupe and still retreating. 42

To return to Santa Anna and the government, the cabinet was divided in opinion. The hot-headed Lamar and Potter favored hanging for the instigator of the Alamo and Goliad atrocities, and the prisoner no doubt envisioned himself at the end of a noose. The more conservative, however, thought it wise to continue the discussions with the defeated general concerning a treaty. Thus on May 7 the disabled General Houston, the governmental officials, Santa Anna, and a large number of the captured boarded the steamer Yellowstone to sail to Galveston. Before disembarkation could take place at that island the following day, the rough Kentucky guards of the prisoners staged
a mass fight over some unknown triviality, and the deprivations of the president and others of importance were of no avail. When the military officers finally achieved a semblance of order, the governmental group together with Santa Anna left the ship and went aboard the Independence then in the harbor.43

A new army was entering the scene. The settlers whom Burnet had known for years had asked and received permission to leave the service following the Battle of San Jacinto, and soldiers fresh from the States were constantly arriving. These volunteers knew nothing of Burnet other than the fact that the president seemed to oppose everything the army wanted to do. Houston, on the other hand, was a hero to those who had not experienced the dissatisfaction produced by the panic and the "runaway scrape." The enmity between Houston and Burnet was fast increasing and would be made still more bitter by a new population that would now start flocking into the country praising the victorious general and castigating the financially ignorant president.

On May 11 Houston departed on the Flora for New Orleans, and about the same time the government, unable to find sufficient accommodations on the barren Galveston Island, established itself at Velasco, while the bulk of the Mexican prisoners were confined in the old fort at Anahuac. At Velasco on the mouth of the Brazos the government and General Santa Anna concluded on May 14 two treaties, one public and one private. By the terms Texas
granted her independence and Santa Anna was to be returned to Mexico to see that the Mexican government fulfilled its part of the agreement.

Having apparently disposed of one major problem, Burnet and his cabinet once again took up the subject of finance. They decided that it would be undesirable to replace their own appointed agents (i.e., Thomas Toby—alias McKinney and Williams—and Robert Triplett) with the provisional government-commissioned William Bryan. Hence no action was taken on the claims of Bryan, who was left to seek through a distant congress the justice he was denied by the president.

On May 15, the day after the signing of the Mexican treaties, two events of financial importance took place of which the first was the departure of Triplett for New Orleans. It will be recalled that Triplett had been named general agent on April 3 and had gone to Galveston thereafter with Gray. By April 15 he was back at Lynchburg where he had secured the president's ratification of some Galveston acreage. The general agent then left for New Orleans by ship, but when he reached the Sabine he learned of the Texian victory at San Jacinto and returned to verify the good news. At Velasco he received Burnet's promise that the government would return to the contributors all donations of land made while the country was in a state of panic. Triplett's reason for desiring such action was as follows. The lenders whom Triplett and Gray represented had been granted
141,696 acres (c. 32 leagues) of the public domain with expectations that they would take up the $180,000 balance of the $200,000 loan and receive in exchange 360,000 additional acres. All of this, however (i.e., the 141,696 acres plus the 360,000 acres), were in unlocated lands with the exception of 1280 acres at Galveston. This meant that title could not be had until the government reopened the land office, and no one knew when that would be. On the other hand, Thomas McKinney on March 19 had secured for Thomas Toby a commission to dispose of 300,000 acres from donations made by the settlers. Although it is true that Burnet's decision that the government could not promise repayment to the citizens forestalled heavy contributions, a number of leagues had been given outright to the government, and Toby was empowered to sell this land. This meant that Toby would be disposing of land to which there was already title; whereas Triplett would be handling land to which there was no title. Thus it would be difficult for the general agent and his friends to sell their land rights until Toby had entirely disposed of his. Therefore, in accordance with the wishes of Triplett as well as those of the donors (who with the war apparently over now wanted their unsold contributions back), Burnet promised that he would return all donations.45

The second important act of May 15 was a proposal of McKinney and Williams, made apparently just after Triplett had departed for the United States. The two business partners stated that they had been unable to do as much for the infant nation
as they wished because of the poor financial basis of the government. Only a fraction of the 300,000 acres which they (alias Thomas Toby) were authorized to sell had been received in charitable donations. Therefore, they proposed the following. An agent should be appointed by the government to collect the 300,000 acres in accordance with the original plan of March 19; that is, the citizens who gave land should be authorized repayment in money or additional land at a later date. Secondly, in order to meet the present exigencies, Thomas Toby should be commissioned to sell an additional amount of land from the public domain—say 2,000,000 acres.46 Certainly if the cabinet was empowered to dispose of 32 leagues to Triplett and his friends to absolve a condition that was not at all obnoxious, the officials had the right to sell further public lands in such an emergency as the country was now in. If further lands were not sold, the lenders would have the right of prior location without having bargained for it, for they would be the only ones possessing grants of the government. Hence there would be no competition in selecting locations (as all claimees under Mexican law would be forced into long and expensive litigation for grants to which they did not already possess clear title).

This reasoning of McKinney and Williams seemed to the governmental group to be sound, and Burnet appointed Zavalla and Grayson as a committee of two to examine the merits of the
proposal. On May 20 McKinney and Williams submitted another note asking for permission to sell whatever amount of land they might be authorized to dispose of in sections of 640 acres at fifty cents an acre. That same day Zavalla and Grayson reported to the president on both applications. They stated that it was their belief that the government was legally empowered to sell the public domain, as taxation could not be relied on, and land was the only means available for raising money. An emergency existed, and the past important aid rendered by the applicants (supported by Thomas Toby) justified the government's permitting them to sell sections of the public land at fifty cents an acre.47

After submitting his second proposition to the cabinet, McKinney wrote to Rusk on May 20 stating that the government was seemingly "insensible to the necessity of supplies being procured" and would not "authorize me to supply the army and place me on a footing by which I can be paid. . . . it will be, in my opinion, necessary for you and your officers to make a plain talk to them or I fear they will still sleep."48 Thus the army was prodded into putting pressure upon the president.

While the president mulled over the matter of finance, he had also to deal with dissatisfaction in his cabinet. For one thing, Collinsworth was talking of resigning. It will be remembered that in the convention of the previous March, Collinsworth was chairman of the military affairs committee and had been the one to propose that Houston's November commission as commander
in chief be renewed. Thus he was a friend of Houston, but in the words of Henderson Yoakum who knew him, he "was a man of fine talents, great urbanity, and a devoted and valuable friend to Texas in her struggle. He had a pleasant wit, was a most admirable companion, and of scrupulous integrity. He had emigrated to Texas to rid himself of a [bad] habit, which unfortunately pursued him, and brought him to a premature grave." What the bad habit Collinsworth possessed is unknown, though it may have been that of drinking too heavily. At any rate, he had hardly been appointed acting secretary of state on April 29 before he wished he had not accepted. On May 13 [peeped because of the high offices bestowed upon newcomers such as Childress, Green, and Triplett (though he was then holding the highest honor the president could confer)], he wrote out his resignation which he officially submitted on the twenty-third. The resignation of Collinsworth forced Burnet to appoint another secretary of state before taking action on the propositions of McKinney and Williams, for the president liked unanimous support when at all possible. He therefore filled the position on May 24 with William H. Jack, a long-time settler and reputable lawyer of Brazoria.

The day Collinsworth resigned Burnet wrote to Samuel P. Carson requesting his resignation as secretary of state. The reason, he said, was the great difficulty of getting anyone to serve as acting Secretary. The president observed that the government had heard nothing from Carson in the two months
since his departure, but then Burnet had not written the secretary a single line.

At this time, Lamar and Potter were so dissatisfied with the president's decision on the disposition of Santa Anna that Lamar talked of resigning, and Potter abandoned the conferences to take up his residence at Galveston, where he luxuriated with Mrs. Page and managed the duties of commander of the port. Neither Lamar nor Potter had been willing to sign the two treaties with Santa Anna, and it was May 26 before Jack learned of the existence of the secret treaty and thereupon threatened to resign. 51

On May 25 (two days after the resignation of Collinworth and the day before the resignation of Lamar and Grayson and the threatened resignation of Jack) the president and his cabinet considered and approved the report of Zavala and Grayson on the applications of McKinney and Williams. Accordingly, Toby was commissioned to sell 500,000 acres of the public domain at fifty cents an acre. The commission of March 19 (to dispose of 300,000 acres) was voided, and all citizen contributions that had not been sold were to be returned. Thus Burnet redeemed his promise to Triplett and the charitable settlers, but in doing so he committed two serious errors. The first was the signing of a commission without the knowledge of the general agent, who had not yet had time to examine the claims of Bryan and Toby in New Orleans. The second mistake was to permit Toby to dispose of the 500,000 acres at fifty
cents per acre. This was the same price which Triplett and
the other loan contributors had paid for their thirty-two
leagues and had agreed to pay for an additional 360,000 acres.
If Toby were to be allowed to sell a half million acres at this
minimum price (and make a big commission while doing it), the
loan contributors who had paid the same price for their leagues
would be unable to dispose of their grants at any profit what-
soever. Indeed, they would take a loss, for they had already
incurred heavy expenses. Furthermore, there would be no incentive
for these financiers to take up the balance of the $200,000
loan, and they would not do so. Thus Burnet in his ignorance
increased the existing confusion and dealt a mortal blow to
solvency.

On May 26 the president attempted to appease Collinsworth
and Grayson and at the same time benefit the country by appointing
them commissioners to the United States relieving Austin, Archer,
and Wharton. Because of the poor mail service, Burnet had not
apparently received any of the letters which the three estab-
lished agents had written, and the president had not communi-
cated with any. Supposedly, this was because of the previous
unsettled state of affairs and because Childress and Hamilton
and later Carson were sent as personal representatives of the
government to the United States. These independent agents,
however, regardless of their high qualifications, tended to
do more harm than good, for no one knew exactly who was in
charge; and the failure of the president to write to any of
the men was inexcusable. There were ships leaving Galveston every few days for New Orleans, and had Burnet kept up a regular correspondence with an agent in that city to publish documents and notices and to forward mail to Austin, Archer, and Wharton in Washington, D.C., the republic would have been incalculably better off. Burnet, however, had demonstrated repeatedly that he was no business man, and while the nation had accidently recovered from Houston's foolish military strategy, it would flounder under the inept political administration of Burnet.

On May 26 Lamar resigned because "the duties of my office are incompatible with my love of tranquility and ease."53 The same day William H. Jack officially accepted the post of secretary of state though as he remarked, "My own health... is so wretchedly bad that I fear it will not be in my power to continue long in the cabinet."54 That night Jack was informed of Lamar's resignation, and upon inquiring the reason for it, he learned of the existence of the secret treaty with Santa Anna. This caused the new secretary to write a lengthy letter to the president on the following day stating his disapproval of the president's policy and asserting that he would never have accepted a position in the cabinet had he known of the treaty. Burnet, however, was determined to follow through on the matter and had already decided to send Zavala and Harde- man to accompany the defeated general to Vera Cruz. To the student of military strategy, this appears utterly foolish.
Burnet, however, was trusting and would lean over backwards to be fair to his bitterest enemy (the appointment of McKinney and Williams as financial agents exemplifies this). Furthermore, as Jack himself admitted, there was no other man so qualified as Zavala for such a mission. At the outbreak of the Texas Revolution Zavala was the most popular man in Mexico, despite his proscription. His marked abilities were well known, and liberals everywhere looked to him for leadership. At the same time Santa Anna had lost favor with the army because of the manner in which he had conducted the Texas campaign. Filisola, Sesma, Gaona, Urrea, Woll, and others were willing to bear ample testimony on this point. Thus it seemed to the president that there were good reasons for the government's policy.

On May 28 Collinsonworth and Graysen prepared to leave for the United States, while Zavala and Hardeman readied themselves for the voyage to Vera Cruz. Thus, as was the case during the panic, the cabinet was rapidly being dismantled. When on the thirtieth Burnet, Zavala, and Hardeman told Jack that they were determined to carry out their agreement with Santa Anna and return the dictator to Mexico, the secretary of state once again put his opinions on the subject in writing. Nevertheless, on June 1 the two commissioners and Santa Anna (with his suite: Colonel Almonte, Colonel Nunez. and his secretary, Ramon Martinez Caro) boarded the Invincible preparatory to sailing. Santa Anna handed
the president's brief farewell address thanking the people of Texas for their kindness and generosity, and the company then made ready for departure. That same day, however, some 230 volunteers from New Orleans arrived at Galveston on the steamer Ocean. The soldiers were commanded by General Thomas Jefferson Green, General Kempec Hunt, and Colonel James Pinckney Henderson; and by the next day these gentlemen had learned of the plans to release the Mexican leader. Perhaps Secretary Jack spread the word, or perhaps the news merely leaked out. Anyway, it was not long before the entire Wesco citizenry knew of the government's intentions. Excitement reached a fever pitch, and public meetings were held at which Burnet was accused of accepting a large bribe, with the riffraff processing to hang both the president and the general.

In this state of affairs the Ocean arrived at Wesco from Galveston on the evening of June 8. Early the next morning a certain Captain Hothell mustered his company and presented that he was going to bring the Mexicans ashore. The news rapidly spread and soon a mob of several hundred citizens and horsemen had gathered at the little shack occupied by the president, who, however, Burnet drove out to address the crowd. He defended the treaty with Texas, saying that as far Houston had already promised the general immunity from personal violence before the president ever arrived at the army encampment after the battle, the government could hardly have done anything else but negotiate. The agreement with
the general had been made in good faith, and in compliance with the treaty the Mexican army had already left Texas. It now remained for the Texian government to fulfill its part of the bargain.

Grayson mounted a stand and spoke for the president, and John A. Wharton also defended the government in a long speech. The worst thing that could happen to the country, said he, was for the military, and especially strangers, to seize dictatorial power. This but further inflamed the soldiers who were supported in their demands by General Green and Colonel Henderson. Jollinsworth now arose and climbed upon the platform to speak. Before he could open his mouth some boisterous called out, "Pull a cap over that man's eyes!" A few others echoed the cry, and soon the whole crowd was yelling for Jollinsworth to sit down. The commissioner accordingly left the stand, and Lamar then jumped up and as an ex-secretary of the war department rebuked the soldiers for their outrageous conduct. Jollinsworth, said he, had been a member of the cabinet when the treaty was signed and hence had every right to justify his course. Furthermore, Jollinsworth and Wharton had been among those participating in the capture of the general and had distinguished themselves in the Battle of San Jacinto. Certainly such men deserved as much to be heard as new comers who had arrived after the fighting was over.

The crowd was so cross abashed and shortly commenced to cry out, "We want Jollinsworth! Hear him! Hear him!" That sensitive patriot, however, was disgruntled and refused to oblige.
Whereupon Lamar was called to the front and asked why he was defending the government when he had written a letter to the president opposing the release of the general. To this query, Lamar replied that while he felt the same way as the soldiers about the matter, he would rather see a thousand Santa Annas released than to have the army dominate the nation. He then read the letter he had written on May 12 and concluded by stating that while he was opposed to the action of the government he had confidence in the motives of the president and his cabinet. General Henderson then arose, and made a long inflammatory speech pledging the mob that Santa Anna would not leave. Pointing to the soldiers before him, Henderson said with a bow to Burnet that he spoke in the voice of two hundred rifles. The crowd all guffawed at that sentiment, and the talk commenced again of hanging both Burnet and the general. Green and Hardeman then almost came to blows, and Jeremiah Brown, captain of the Invincible, said he would not sail even if President Burnet ordered him to.

The government was beaten. There was nothing now to do but give in. Burnet obtained the promise of General Green to safeguard the prisoners and then ordered the Mexicans ashore. Santa Anna refused to comply, and accordingly Hunt, Green, Henderson, and Hardeman were sent to bring the dictator and his suite off the ship. On June 4 the captives were landed at Quintana, across the Brazos and away from the mass of the soldiers. Here the Mexicans were marched through a jeering populace to McKinney's store where
Burnet told Santa Anna that he would not be harmed, but that
the army had forced the government to cancel the voyage.
General Green was asked to appoint a suitable guard for the
protection of the prisoners, and Hubbell was named to the post.57

When the army took charge of affairs on June 3, Vice
President Zavala resigned because "the present Government of
Texas has lost the moral confidence of the People and is therefore
no longer able to carry into effect their measures."58 Hardeman
and Jack suggested to the president that the rest of the officials
might with propriety follow the example of Zavala and turn the
government over to the people, but Burnet for once was determined
and refused to do anything that might precipitate further
military rule.59 To keep more soldiers out of Texas at a time
when they were no longer needed, Burnet wrote to Triplett in New
Orleans asking that gentleman to "take such means as you may deem
discreet, to prevent their coming until further notice from the
Government."60

On the afternoon of June 4 when the president was in deep
despair, he received a letter from the army commanded by General
Rusk. The letter was dated May 26 and was signed by many of the
officers, though not by Rusk. It will be remembered that
McKinney had written to the general on May 20 in a manner
calculated to stir up the soldiers, and perhaps McKinney also
gave Rusk the rumors current about a secret treaty. At any rate
the officers were demanding that Santa Anna be kept for disposition
by congress, and they berated the president for "rioting on the abundance of the public stores" while the army ate "beef without bread and frequently without salt."

This dissatisfaction was primarily the result of the government's lack of credit. William Bryan had been ruined by the appointment of Toby, and now Bryan and the many agencies of New Orleans who had done business with Bryan in behalf of Texas were either unable or unwilling to do anything further for a republic whose policies were uncertain. Triplett, who but for the vacillation of Burnet, could have secured before this time the balance of the $200,000 loan, was now in New Orleans and so dissatisfied with Toby and with the Texas government for its day-to-day decisions that he was preparing to give up his position as general agent and to refuse to extend the balance of the loan. With both Bryan and Triplett advertising the instability of the government, there was little chance for success by Toby.

The old settlers who respected Burnet for his honest efforts were out of the army, (and few of them were at Velasco), and the new soldiers who saw the president not as a person but as an administrator were thoroughly disgruntled. Yet the president, though not a financier, was doing what he thought was best for the country; and when one reads the following by Colonel Forbes, he can perhaps imagine Burnet's reaction to the accusation of "rioting on the public stores:"

At the time of my visit to Velasco," says Forbes, "in May, 1836, the president's style and manner of living were most simple. His residence was but little more
than a mere shanty. His amiable and accomplished lady, without any servants or hired help, superintended and managed in person her domestic arrangements; and their household and table comforts were sufficiently sparse and limited to have called forth the admiration of the Spartan lawgiver."62

The government, and especially Burnet, had reached a nadir of unpopularity.

The government had hardly recovered from the encounter with General Green when another ship load of volunteers arrived commanded by a Captain Postlewaite. These soldiers, like those under Green and Hunt, had been promised large bonuses of land for fighting in the Texas army. Upon their arrival, however, they learned that their actual rewards would be much smaller than they had been led to believe. Many of these men reacted much like Captain Postlewaite, whose disappointment was described by a newly arrived officer as follows:

"Captain P. left President Burnet and returned to his hotel, where he had several distinct propositions made to him by Officers in the Texan service, to join them with the men under his command, avowing their object to be, to scour the country, and take everything valuable which they could find, until they had paid themselves, and then to return to the United States, as they said they did not expect the Texan Government to pay them a cent for the service they had rendered or the expenses they had incurred..."55

Burnet attributed much of this spreading of misinformation to agents appointed by the provisional government, and in particular to Thomas Jefferson Chambers against whom he held a personal grudge, for Chambers had received from the Mexican government thirty leagues for services he had not performed, while
Judge Burnet had received not even traveling expenses. While
the president was having trouble with such men as Postlewaite,
his received a letter written by Triplett from New Orleans on
May 30 in which the general agent said that the government had too
many agents and that every office not absolutely indispensable
should be abolished. He wanted, said Triplett, to give up his
own position as soon as possible. Thus it was that Burnet on
June 10 tried to deal with the situation as stated by Triplett
by issuing a proclamation disavowing all agents except the firm
of Thomas Toby:

"...no other person is from this time authorized to act
for or bind this Government or to receive any thing for
the benefit of Texas, by way of donation or otherwise,
except them (Thomas and Samuel Toby) or their subagents...."

This proclamation gave the coup de grace to the credit of
Texas. Bryan, Carson, Hamilton, and all other financial agents
were ruined beyond recovery, while Toby (whom Triplett by the
first week in June—after his letter of May 30—came to consider
unfit to handle the affairs of Texas) was established as the
exclusive governmental representative. Toby and his brother had
insulted the general agent on his arrival in New Orleans by
refusing to permit Triplett to examine the firm's accounts or
even to give him any kind of statement concerning their transactions
for the republic. When Triplett on June 9 learned indirectly
that Toby had been commissioned to sell 500,000 acres of Texas
lands at fifty cents per acre (the same price paid by the loan
contributors for their 32 leagues and which they had promised to
pay for an additional 360,000 acres), the general agent was furious and immediately resigned his post—not knowing that the president would abolish his office the following day, June 10, without formal notification. The unbusinesslike Burnet had further confounded an already confused situation and had utterly destroyed the credit of the nation.

On June 9 Santa Anna had sent a written protest to the president over his removal from the Independence, and this was answered on the tenth by a note in which Burnet apologized for the nation's non-compliance with the treaty. The government, said he, was over-powered by "the influence of a highly-excited popular indignation."65

On June 11 Santa Anna was removed to Columbia for safekeeping, and the president sought to find something that would keep the army occupied. He thus suggested a campaign against the Indians, for news had just arrived of a May 19 Indian attack on Fort Parker at the headwaters of the Navasota. General Green accordingly took to the field, but Rusk (who had followed the retreating Mexicans under Filisola as far as Victoria on the Guadalupe River) saw no value in such action and refused to move his troops.

On June 19 the government received word that an army of 4000 Mexican soldiers had left Matamoros with orders to reinvoke Texas, and General Filisola was reputed to have another army of 5000 troops with similar plans. Thus President Burnet on the twentieth issued a call to the people asking them to rally to the standard once more. Here was a campaign that all the troops would accept
and would get the army out of the way of the government.

In the period of relative inaction following San Jacinto, Rusk had expressed a wish to resign as commander of the army, and now with prospects of additional fighting, the restless Lamar brought to Burnet's attention the previous statement of the general. Thus it happened that the president on June 25 appointed Lamar a major general assigned to replace Rusk as commander in chief. While the new leader prepared to leave for the West, Secretary of War Somervell (who had succeeded Lamar in the cabinet on May 30) got together some supplies for the troops in an attempt to meet the complaints of Rusk that the army lacked everything. Complained General Rusk:

"We have nothing. We have no artillery. We have not sufficient of small arms. We have but very little powder and lead, an essential article in the war. We have very few wagons and teams. We have no steel mills; no tent cloths; no spades, shovels, or axes; no clothes; no medicine; and but a small stock of provisions; and all we ask is to be well set up once. We will try and take the supplies after that from the enemy."

If Somervell, though, thought that he was going to take the few military items received from New Orleans and send them to the troops at Goliad while the troops at Velasco and Galveston were not properly supplied, he was mistaken. Says an observer at Galveston:

"The Secretary of War came down with a Quartermaster and steamboat to carry his loading, consisting of provisions, clothing, &c., to the main army.—Captain Switzer, volunteer emigrant from Ohio, who had lately arrived wanted some clothing for his men and determined that unless he was first supplied with such articles
as he desired, the expedition should not proceed. He took possession of the fort under the command of Colonel Morgan, loaded the cannon and prepared to fire on them if they attempted to move without his permission. He then sent a file of men on board and took the vessels into his own possession and sent the honorable Secretary with his Quartermaster and steamboat back to Velasco.

While the government was in a quandry, lacking even a semblance of authority, Stephen F. Austin arrived at Velasco (on June 27) from the United States, from where he had been recalled by the president's directive of May 28 replacing him and all other agents (except Triplett and Toby) with Collinsworth and Grayson. Austin immediately went to Burnet to inquire the reasons for his recall and to tell the president of the harmful effects of Burnet's failure to keep the Texian agents in the United States continuously informed of events in the republic.

This period around the first of July was a troubled one for Burnet. Lack of credit made it impossible to get much in the way of supplies, and as the newly arrived soldiers would not go to the West without them, the government would have to be content with holding the Colorado River against what seemed an impending attack. Said Burnet in a letter to Colonel Morgan:

"We have reason to believe the enemy are pushing ahead in large force. Our army will fall back to the Colorado as I think. The people are called upon to rally on mass. No time for fugitives now."  

Rusk (who, with prospective action, had regained his interest) wrote to Burnet on July 8 asking for more authority over the armed forces. The bearer of this letter to the president was one Lieutenant Colonel Millard, and when this disgruntled soldier
reached Velasco, he decided to take matters into his own hands.

Thus it was that he sent the following note to President Burnet:

"Sir, By virtue of power vested in me by the commander-
in-chief and by virtue of my office I arrest you and
confine you to your quarters. -- I also demand the
books and papers which you have pretended to be of
public import.

You are herewith furnished with the charges and
specifications preferred against you."69

This, of course excited Mrs. Burnet, who sat up all night
with a shotgun across her lap waiting for the arrival of Millard's
henchmen, who never came. The Buckeye Rangers, composed of some
of the president's Cincinnati friends, had spread the word that
their rifles stood behind the government.

This total lack of government authority was further exemplified
by Major General Lamar's reception at the army's western
headquarters.

Lamar reached the western army on July 14, but when he stated
that he had come to relieve Rusk, that gentleman said he had no
intention of being relieved; and some of his subordinates said
that if the general were replaced, it would be by one of them and
not any appointee of an incapable president. This was the final
straw. When Lamar told Burnet what had happened, the president
said he was through. Someone else could have the job which Burnet
had never wanted in the first place.

On July 23 the president issued a proclamation announcing
a general election for the first Monday in September. The
citizens could at that time select a permanent government, and in
addition vote on the question of whether or not to accept the
constitution which had been drawn up by the convention the previous
March, and state their position on the subject of annexation to
the United States.

The die was cast. It was now only a matter of time before
the ad interim government shed its onerous responsibilities.

By August it was apparent that the anticipated Mexican
expedition was not going to materialize, and to keep the unruly
soldiers busy until he got out of office, Burnet willingly acquiesced
in the request of Rusk to attack Matamoros. This campaign was
never to be carried out, but it was successful as far as the
government was concerned, for the troops were kept busy with their
preparations in the West while a peaceful election was held in the
East, and the president and his associates eased the reins of
constitutional government over to the people.

The inability of the government to furnish the soldiers with
supplies forced Rusk to abandon his plans with regard to Matamoras,
and he wrote to Houston on August 15:

"Almost every act of the Cabinet has been calculated to
destroy the Army and I fear (although I am very loth
to impute improper motives to any one) that it has been
so intended by them...I have no confidence in the present
Government doing anything to increase the Force of the
Country or benefit the Army. They have drawn down upon
themselves the indignation of the People, in relation
to their mismanagement with Santa Anna and now they seem
to have nothing else to do but to attempt by misrepresentations
to throw as much of the responsibility as possible upon
you and myself."71

The eyes of the government as well as the army and people
were upon the approaching election. There were no big questions at issue and no political parties to present candidates. The old issue of independence had been settled by San Jacinto, and new divisions of the tariff, maintenance of the armed services, and annexation were only just beginning to emerge. Acceptance of the constitution and annexation were of course to be voted upon on September 5, but the result of the election was to demonstrate their lack of importance as issues, for there was almost unanimous support for the two, while the old Austin and Wharton rivalry had disappeared with the friendly association of those two gentlemen while on their mission to the United States.72

On July 20 (a few days before Burnet issued his formal election proclamation but after he had announced to friends that he was going to make it) William H. Wharton and Branch T. Archer (who had returned from the United States and were then at Velasco to report to the government along with Austin on the accomplishments of their mission to the United States) asked Austin to become a candidate for the presidency.73 It was not until August 4 that the distinguished empresario and patriot leader formally announced for the post and August 9 when his acceptance of candidacy was published in the Telegraph. Meanwhile, other prospects appeared. On July 23 when friends had published the candidacy of Austin, the friends of former Governor Henry Smith also announced his name for president as did the friends of Archer and Lamar for vice president. Thus Smith was apparently taking over the old Wharton
faction that had opposed Austin in the pre-revolutionary era. By the middle of August, however, Archer had withdrawn his name for the secondary position and announced instead his candidacy for the House of Representatives from Liberty, in which he was subsequently successful. The default of Archer was balanced off by the nomination of Houston for president by the citizens of San Augustine on August 15. It was said by Moses Austin Bryan that Stephen F. Austin's denunciation of McKinney and Williams (his former secretary) for their part in the land speculations of 1834-35 caused the two business partners to organize the mass meeting held at Columbia on August 20, at which General Houston was again proposed for the presidency.

When Houston entered the race, Smith bowed out of it, though his name stayed on the ballot. Austin's association with the government placed him on the defensive from the beginning. It was said that he was a partner in the land speculations of his former secretary, Samuel Williams. He was also denounced as having been the means of saving the life of Santa Anna. While in the United States he had done nothing but "eat fine dinners and drink wine." Houston, on the other hand, really didn't want to run, but for the good of the country he would. If either Austin or Smith were elected, there would be a partisan government, but Houston had no personal aims at all. The "Victor of San Jacinto" was a friend of President Jackson and could procure United States recognition if anyone could.

There was never any question as to who was going to win,
regardless of the able defense Austin tried to muster. The wounded Houston was a hero to a new population that had overrun the state. The government and everyone remotely connected with it should be discarded. Thus when the votes were cast on September 5, Houston received 4,374, Smith 743, and Austin 587. Both Henry Smith and General Rusk had been mentioned for vice president, but neither really tried for the office. Hence Lamar won that position with a resounding majority.77

Shortly after the election, Burnet's ten-month-old son became sick and on September 23 died of whooping cough. The next day Secretary Hardeman—who apparently had been away from the government for some time—also died. Thus Burnet had little that he could look back upon with pleasure. His entire tenure of office had been an unhappy one. Of the original government only Burnet and Zavala remained. Thomas and Hardeman had died, Carson left the country because of poor health, Rusk had gone to the army, and Potter done virtually as he wished at Galveston and New Orleans. Congress assembled on October 3, and Houston was scheduled to take office on the second Monday in December. There was nothing, however, to make Burnet want to stay in office longer. He and Zavala both wanted to leave. Thus on October 21 the faithful Zavala resigned for the third and last time, and the following day Burnet's private secretary, M. Ricord, read the president's farewell address to congress, and the ad-interim government came to an end.78
Chapter V

The Rise of the Party System in Texas

Following the close of the ad-interim government, Burnet was glad to be free of all political shackles. He felt that his lack of popularity was unjustified, and he was thoroughly tired of being criticized for things that he did not consider his fault, such as the panic, the disastrous credit situation, and the failure to obtain United States recognition. At Oakland (which had been vandalized in his absence during the panic), he and Mrs. Burnet and their three-year-old son William Este passed a peaceful existence for some weeks, though they were busy putting the place back in order. By January, 1837, the judge was again restless and uncertain as to what he was now going to do for a livelihood. Thus, when the opportunity presented itself, Burnet announced for senator from Brazoria County.¹ The seat that was open was that William H. Wharton had won in the congressional mid-summer election of 1836. His subsequent appointment as minister to the United States left the position vacant, and on November 30 it was won by James Collinsworth (the Houston man whom Burnet had invited into his cabinet and later sent to the United States as a governmental agent). Collinsworth, who never seemed satisfied with his high offices, had resigned as Houston’s Attorney General in order to become a senator, but
he resigned the senatorship to accept on December 16 the position of chief justice of the supreme court. The office was thus again vacant, and Willis Faris, William G. Hill, Dr. E. Harris, Dr. Anson Jones, and Judge Burnet all put forth their names as candidates. Burnet undoubtedly thought he stood a chance of winning. His locality, however, was rapidly filling with people opposed to him politically. The burning of Harrisburg the previous year had given Houston's friends, A.C. and J. K. Allen, the opportunity to lay out a town in the vicinity. Although they were unable to get the site of old Harrisburg, they did get what turned out to be an excellent location on the upper part of Buffalo Bayou; and with no other sizeable settlement nearby, they were safe from serious competition. To attract customers, the brothers named their new town after the celebrated president, who returned the favor by pushing through congress a bill (November 30, 1836) making Houston the capital of Texas until 1840. The new settlers knew Burnet mostly by reputation and held him responsible for the country's ills. Hence the ambitious ex-president was defeated for the senatorial honors by William G. Hill, and Burnet therefore made plans to enter the practice of law.

In May, 1837, the judge entered into a partnership with Isaac N. Moreland, who had come to Texas from Georgia in 1834 and settled first at Anahuaã and then at Liberty. In 1835 Moreland became secretary of the Liberty ayuntamiento, in which position
he came to know Burnet, then active in local political affairs. Moreland joined the Texas revolutionary army in the fall of 1835 and participated in the battle of San Jacinto as a captain of artillery, afterwards returning to civil life to take up the practice of law. 3 Thus it was that in the same month of the reestablishment of the capital, these two neighboring citizens, each trying to readjust his life, formed a partnership at law with their office at Houston.

Congress had been willing to move the capital to the bayou city because of the poor housing facilities at Columbia, where the president and legislature had taken office. There was really no building for congress to use at Columbia. The state department had a clapboard shed room for its records, but the treasury department had nothing. Thus a better location was really necessary, but the president’s opponents thought that the city named after him was not the proper place. Yet, as nothing better could be suggested (San Felipe as well as Harrisburg had been destroyed during the revolution), the town of Houston was made the capital and congress adjourned until accommodations were to be had. 4 In May, 1837, when the adjourned session of the First Congress convened in Houston, there were as yet hardly any buildings, and what there were were for the most part rude log cabins. To impress visiting dignitaries, President Houston had arranged for a conference with the leaders of several Indian tribes, and thus a day or so after the opening of congress the president and his cabinet entertained several hundred savages,
who after dancing around a May pole, pledged their good faith and drank to the health of the nation. Following the "big talk," the Indians dispersed thoroughly drunk, scalping several citizens before reaching their camp.\textsuperscript{5}

At Houston Judge Burnet had an opportunity to observe the new administration at close range. The new president had pulled a master political stroke at the outset of his term by appointing Stephen F. Austin as secretary of state and Henry Smith as secretary of the treasury. Thus Houston's campaign rivals were drawn into the cabinet and placed in a position that would prevent either from attacking the general. Thomas Jefferson Rusk was made secretary of war, Samuel Rhodes Fisher secretary of the navy, and James Collinsworth attorney general (though the death of Austin on December 27—following the death of Zavala on November 15—left Rusk to become secretary of state and William S. Fisher secretary of war). William H. Wharton, who might have given the president some difficulty, was removed from the senate by appointment as minister plenipotentiary to the United States.\textsuperscript{6} Thus the master political strategist moved to destroy the opposition. The allegiance to Houston was personal, but the president was soon to lay the basis for a party system based on issues.

Perhaps the first point of controversy was the question of what to do with Santa Anna. The dictator had been moved from Quintana to Columbia and finally to the home of a Dr. Phelps at
Orizimba, some twelve miles away. Stephen F. Austin had suggested to Houston that there was little to be gained by further detention of the conquered general, and Santa Anna had repeated to the president the promises given to Burnet in the Velasco treaties. President Houston, who while outside the government had opposed the prisoner's release, now became convinced that he had no choice but to return the general to Mexico by way of the United States for the prisoner was certainly doing the people of Texas no good in captivity. When the president announced his plans to congress, however, he was met with a torrent of abuse. Lamar, as president of the senate, let the debate drag on, but in the end, Santa Anna was released and ultimately landed at Vera Cruz, February 23, 1837. The following week he ran for the office of president, and received but two votes. His return had been too long delayed for any benefit by him or the people of Texas.

One of the biggest controversies that was to develop during the Houston administration was the location-of-the-capital issue. As has been seen, the ad-interim government had established itself at Velasco, and the permanent government had begun its work at Columbia. Neither place, however, offered proper facilities; and the president accordingly asked for a change of location. The members of congress quite naturally introduced a variety of bills, each delegate naming his own district as the temporary capital. In the ensuing confusion the town of Houston
was chosen by a majority of one vote. The narrow margin of this victory caused much dissatisfaction which was to be carried over to succeeding congresses.

Another point of issue was the tariff. President Houston came from the Nacogdoches area, and this fact influenced his policy on both the tariff question and the Indian problem. Nacogdoches, as all of the region east of the Trinity River, was mainly concerned with the overland trade. Goods that were received in that region came from the United States, and they came by land. Hence it was no concern to these easterners, the "Redlanders," (so called from the east Texas soil which contains an abundance of iron ore, and hence is reddish in color), whether there was a high tariff or a low one. They never paid it, for while it is virtually impossible for a ship to escape the customs officer, it is a rare thing for an overland merchant in a sparsely settled region to get caught. In December, 1836, therefore, Houston men pushed through congress a tariff with low (revenue) duties on necessities and high (prohibitive) duties on luxuries. Money almost immediately began to trickle into the treasury, but the tax was being paid by the West (i.e., the settlers of the Brazos and Colorado River areas and the San Antonio vicinity) and the South (i.e., the settlers of the Galveston Bay area). This increased Houston's popularity at home while lowering it elsewhere. The truth was, however, that the tariff was necessary. The ad-interim government had not been
able to raise any money to speak of from its land sales because of the government's poor management, and neither could Houston's administration, but for a different reason. The panic which struck the United States in 1837 made it difficult for Texas to sell its land or to dispose of promissory notes based on land. Depreciation was setting in, and no large-scale speculator wanted to buy real property so long as prices were falling. Hence the tariff was the only reliable means of financing the nation at this time, for the people could easily evade such things as business, property, and poll taxes. The party spirit was also fostered by the president's policy of peace and friendship towards the Indians. The Indian question had confronted the citizens since before the revolution, but until Houston's administration the settlers seemed agreed that the best Indian was a dead one. It will be remembered, though, that Houston had lived for some time with the Indians at an earlier period of his life. He grasped the Indian problem as most white men never did, but congress did not share his views. On December 16, 1836, the Texas senate declared the Indian treaty made the previous February by Houston and Forbes to be null and void. Instead, congress authorized a battalion of 280 riflemen to patrol the frontier. In May, 1837, Congress passed another bill to increase the number of riflemen from 280 to 600 serving for a six-month period. Thus congress refused to accept the president's Indian policy.

The administration's land policy was an additional point of conflict. In November, 1835, all land offices were closed 🎨
by order of the consultation. They remained closed under Houston, who opposed the reopening of the general land office initially on the grounds that the land had not been surveyed and sectionalized as demanded by the constitution. Later (in October, 1837) when it was plain that congress was going to reopen the office regardless of the wishes of the president, Houston's grounds of opposition was that a northeastern boundary line had not as yet been run between the United States and Texas.

Again, the question of how large an armed service should be maintained was an issue. To cut expenses, Houston furloughed the entire army in 1837 with the exception of 600 men who were left on call duty. This produced indirectly a great deal of drunkenness and misconduct, as is usually the case when an army is suddenly released from duty, and the soldiers find themselves with nothing immediate to do. The navy, too, whose coastal patrol action might have afforded some reason for its existence, was disbanded by order of the president.

All of these actions afforded the enemies of Houston an opportunity to rally a formidable opposition party in preparation for the election of 1838. Though Burnet could have little objection to the release of Santa Anna and the location of the capital at Houston, only twenty miles from his Oakland home, the judge did oppose the president strongly on the tariff, the administration's Indian policy, and the sudden dismantling of the
armed forces. The tariff was a heavy burden to the citizens of Galveston Bay and in the river valleys of the western part of the republic. The president's unworkable Indian policy was denounced even by General Rusk and other administration supporters and was uniting the frontier citizens against the president (whose treaties kept the Indians away from Nacogdoches but left them free to war on the other settlements). The destruction of the army and navy left the people without protection from either Mexicans or Indians, and led to much grumbling on the part of the newly released troops (who in the depression brought on by the panic of 1837 were unable to find anything to do as civilians). This opposition that was coming to a head in the fall of 1837 even in Houston's own territory was stated by Ezekial W. Cullen in a letter to Lamar:

"Our elections for Congress are over and so far as I have been enabled to ascertain the Opinions of the Candidates, (successful ones I mean) and more especially the feeling of the people, they are entirely opposed to the pseudo patriot Sam. Houston.

The President & his 12 Apostles are not popular in the East--The location of the Seat of Government--The high imposts & tonnage duties--Refusing Govt. paper, or drafts, in payment for Govt dues--Not opening the Land-Offices--Making a tour to the East, & a stump speech in St. Augustine--Too great a partiality to Indians. These & Many Other things of which I do not Wish to speak at this time has procuced a wonderful change in the minds of the people with regard to Uncle Sam."
President Houston had failed to place the government on a sound financial basis; his Indian policy was derided even by his friends, his land policy was against the wishes of the people and their representatives, and even his policy of curtailing expenses by reduction of the armed services was questioned.

While Houston was losing his prestige, the popularity of Burnet was slowly increasing. The brief respite from politics and a return to a relatively peaceful life with his family had enabled the judge to retain his former composure, and in the spring he had helped form the Philosophical Society of Texas, of which organization he became the corresponding secretary.⁵ Burnet busied himself with the usual run-of-the-mill law business, but his background as both judge and president gave him a respectable place among the Houston bar. It was this background that caused many of the foreign creditors of the Mexican government to seek him out as counsel in filing suit for the payment of Mexican bonds or for the sale of these bonds to other investors.⁶ The Mexican government, however, was utterly penniless, and the news of San Juan in February led throughout the country into a new revolution, and this disconcerted state of affairs made many keen observers in Mexico believe that the ill-conceived Matamoros expedition should now be carried out. By June one knew American then in Matamoros could say:

"We have not only 3,000 Mexican troops in Matamoros, including officers, lame, sick and blind. Senatorial left here about 5 weeks ago to attack Monterrey. He took with him the flower of the army—about 1,600 men. It is reported to be (but cannot vouch for the truth of it) that Monterrey has cut him all to pieces. The present Government cannot stand two months longer. Now is the time for the Texanians to come on and take Matamoros, every one is anxious for it, and some are more so than myself—do urge them along...."⁷
Burnet's law business picked up some in the fall with the flood of
furloughed soldiers and sailors flocking into the city and the return of
congress which met in special session on September 25 to settle the vexatious
land problem. Congress passed over the opposition of Houston an act opening
the land office as of the first Thursday in February, 1838, and further
infuriated the president by questioning the propriety of his dismantling the
armed services and arraigning his own secretary of the navy before the bar of
the senate on charges of smuggling and embezzling public funds.

With the celebrated impeachment trial of Samuel Rhodes Fisher,
Secretary of the Navy, the popularity of the Houston administration reached a
low ebb. Burnet was chief counsel for Fisher, whose troubles actually began
on the morning of April 17, 1837. On that date the Texian Independence (now
which was William H. Wharton, who was returning as minister plenipotentiary to
the United States) was captured by two Mexican brigs-of-war, just off the port
of Galveston. The excited citizens, standing on the shore alongside the charred
Secretary of the Navy, cursed the "imbecile government" that permitted the few
vessels of the Texian fleet to remain within the harbors of the United States
rather than harassing the Mexican coast. The deeply mortified Fisher vowed
that he would do something to retrieve the lost character of the navy, but that
same month two ships en route from New Orleans to Galveston with provisions for
the army, the Champion and the Julius Caesar, were captured by the enemy. Still,
within a few weeks, however, the secretary had placed in service, equipped as
best he could, the Brutus and the Invincible. Half-rigged and half-manned, with
worn-out sails and miserable provisions, the two little vessels set out on a six-
weeks' cruise with the secretary of the navy aboard as passenger by virtue of a
leave of absence tendered by President Houston. From the extremity of Yucatan to
the Brazos Santiago these daring men harassed the enemy and kept the entire Mexican coast in a state of constant alarm. Having fought for some three months and captured six ships, the two vessels returned to Galveston, where they found two Mexican brigs patrolling the coast. The Invincible engaged both at once and succeeded in driving them away, though she herself sank at the entrance to the harbor. All hands were saved, and these gallant men received the plaudits of the people for their achievements. When the secretary of navy, however, reported to President Houston, that commander, ever-envious of those who claimed success, denounced his secretary as a smuggler and embezzler of public funds and after excoriating the participating officers as pirates, stripped them of their rank, and dismissed them from the service. 12

Had the president forgotten his own instructions to Fisher the previous April?

"You will proceed to Velasco forthwith, and...will devise such measures for the defence of the coast, as may seem to you best, with all the means, which you can command. Do the best you can, as you will be upon the spot and can judge of the course most proper to be pursued." 13

As if to mock the whole affair, the president, on September 15, issued "Letters of Marque and Reprisal" against Mexico. 14 The stage was set for one of the most violent conflicts of Houston's administration, and as if to vindicate the president in his avowed policy of dismantling the armed services, the severe equinoctial gales of hurricane-like force so common to the Gulf coast in the early fall destroyed the Brutus and the balance of the Texas navy--and this at the very moment the senate naval affairs committee was discussing the Fisher affair. 15

For some six weeks the senate committee mulled over the confusing case until at last, unable to reach any decision, the committee, on November 19, asked to be relieved of its duties and that the case be decided by the senate
as a whole with counsel allowed both parties. This was done, and Judge
Burnet and General Rusk came forward as counsel for defense, while old
speculator, William Fairfax Gray, and twenty-four-year-old David S. Kaufman
(both aspirants for political appointments), were counsel for prosecution.

On November 24, the trial began with Gray reading Houston’s
accusation against Fisher and supporting testimony of Thomas Toby, the govern-
mental purchasing agent in New Orleans and (as has been noted previously) a
somewhat unethical individual. Fisher was accused of suggesting a plan to Toby
whereby the two of them would cooperate in smuggling tobacco into Mexico and
also would sell two government vessels and retain a portion of the money for
themselves. Anyone who knew the two men intimately would have realized that
if there was any conniving, Toby, rather than Fisher, probably initiated it,
and with the refusal of Fisher to take part in the plan, Toby could very well
have gone to Houston with the charge against Fisher.

In the trial Burnet spoke with bitterness and displayed a burning
hatred for President Houston, and was followed by Rusk, who spoke clearly and
forcibly with much common sense. On the second day, Colonel John A. Wharton,
the brother of William H. Wharton, spoke for the accused. William had escaped
from the Mexicans a short time after his capture aboard the Independence, but
John A., on a mission to relieve his brother, was himself captured, though he
eventually escaped also. Colonel Wharton was denied a political appointment
by General Houston, who had a personal grudge against the Colonel, apparently
because of Wharton’s heroism at San Jacinto and his subsequent recognition as a
military hero by the people. When Wharton testified, he burst forth with a
furious tirade against the president which a spectator described as “the bitterest
invective ever uttered by man.”
Prosecutors Gray and Kaufman realized the weakness of their case and treated the accused with deference. The Senate dismissed the charges, and Houston's prestige plummeted into an abyss. It was now a year before the next presidential election, but already it was apparent that Houston had no chance of reelection.

With the close of the Fisher affair, Houston's opponents began to look around for a suitable presidential candidate for the election of the following year. Lamar, Burnet, and the two Whartons were all possibilities to be explored. Vice President Lamar, after that first congressional session at Columbia, had decided to return to Georgia to place his private affairs in order, and had departed shortly after the first of April, 1857. Thus the country had no vice president for the spring congressional session of May 1, the special session of September 25, nor the regular session of November 6. The dreamy-eyed Lamar, however, did not apparently care that neither his friends nor the president appreciated his absence. He could not get along with Houston, anyway, who was, said Senator Everitt, "worn-down by one continued course of Debauchery, is fast sinking under its Effects and is at times Entirely unfit for business of Every Kind." The President was continually bothered by his shattered ankle, "suffering the most excruciating pain that ever agonized the human frame," yet through it all able to grimace humorously and damn Lamar for his absence "without the consent of Congress and against the will and advice of the Executive". Though Lamar pleased no one, he did not really displease many, and his prolonged stay in Georgia kept him from being associated with the administration's inept policies, while leaving unsullied the lustre of his military splendor and retaining his name before the public as a man of presidential timber. In mid-October, Lamar left Georgia for Texas, which he reached in late November. On December 1, a number of his friends asked him to be a candidate for the presidency,
and he accepted in a public letter printed in the *Telegraph and Texas Register* on December 9. The campaign of 1838 had begun.

Burnet was, meanwhile, making a political come-back as a result of the depression of 1837 which made it impossible for Houston to place his administration on a sound financial basis and because of Houston's unpopular stand on the major issues of land and Indians.

During the summer and fall of 1837, some 6,000 immigrants had entered Texas from the United States by the middle ferry of the Sabine River alone. The large number of new settlers flooding the country was affecting the political situation markedly. These men had come for land, and for President Houston or anyone else to oppose the reopening of the land office (which had been closed since November, 1835) was sheer political suicide.

Nevertheless, Houston did oppose it on the grounds that until further surveys were made, a reopening would merely aid the speculators—forgetting that everyone in Texas, including himself, was a speculator in land. A politically wise congress, however, ever responsive to the wishes of the voters, passed over the veto of Houston, on December 14, 1837, a law opening the land office as of the first Thursday in February, 1838. Perhaps the real reason for Houston's opposition was that land surveying and a friendly Indian policy were incompatible. Houston had stated in his inaugural address to congress on October 22, 1836, that his administration would pursue a "just and liberal course" toward the Indians and would attempt to prevent all encroachments upon their rights." Therefore, said he, "at least for some time to come, restrictions should be laid upon all surveying beyond the limits of the settlements". Though immigrants who entered Texas for the purpose of joining the army and receiving a free gift of land were not to receive such a donation if they entered after October 1, 1837, there were nevertheless thousands of persons
who were already legally entitled to vast quantities of land and others who
stood ready to buy equally vast quantities as soon as the land office opened
its doors.27

Houston's irritating policy of delay continued to the end of his
term, however, and as late as June, 1836, the county surveyor of Goliad was
complaining to the secretary of state that

"Great confusion has been created in this part of the country
by the want of laws defining the county boundaries. Several
months since I applied to you for the boundaries of this
county but found that none had been made..."28

To which the secretary of state replied in August, "the laws...have always
been sent to the different counties so soon as published in sufficient numbers
to furnish".29

The passage of the land act of December 14 necessitated the enlarge-
ment of the army if surveys were to be made in territory frequented by the
Indians, and on December 18 congress passed over the veto of the president
"An Act to Organize the Militia".30 The subsequent unrest that quickly developed
in the Indian territory resulted in a delegation of citizens from Robertson and
Milam counties going to the president and asking for further protection of the
frontier. To this request Houston was said to have replied that he "hoped every
man, woman, and child that settled north of the San Antonio Road would be
tomahawked".31 His friends, the Cherokees, were north of that road.

Judge Burnet was now at one with the people on virtually every issue,
and Houston was at odds. Burnet favored a quick reopening of the land office,
for he, himself, wanted the grant which he had never received as one of the
original settlers of the Mexican state. Hence, he favored action against the
Indians that would make possible the opening up of vast quantities of virgin
land and the reception of his own personal donation. His stand on both of these
issues necessitated his favoring a larger army, and this could lead not merely to a strong Indian policy but also an aggressive policy toward Mexico. With regard to the latter, however, Burnet was opposed to aggressive action against Mexico and wanted only a moderately large army that would be able to defend the frontier. Other opponents of Houston, however (such as Lamar) thought the time was ripe for an offensive against Mexico, for that nation was in a state of ferment, and the inability to pay even the interest on the bonds of foreign investors had led the French navy to place a blockade around Mexican ports early in 1838. Mexico had so many troubles of immediate concern that in 1838 at least there was little talk of an expedition against Texas.

At the conclusion of Burnet's successful defense of Fisher, the judge was increasingly spoken of as a candidate for president at the next election. His popularity had increased a good deal since his defeat in the special senatorial election of the previous February, though perhaps most of this regained prestige was a result of Houston's own political failures. The Wharton brothers, formerly Houston's friends, had become his bitter opponents. William had never really wanted to resign his position as senator from Brazoria County (which post he had won in the mid-summer election of 1836) to accept Houston's appointment as minister to the United States (November, 1836), for he was convinced that the president was merely trying to rid himself of a potential rival. As he remarked to one or two of his friends, Houston was sending him into honorable exile. Nevertheless, he had accepted the position, though (as has been noted) he was captured by the Mexicans when they took the Independence on April 17. Houston's refusal to permit Colonel John A. Wharton to lead a punitive expedition against the Mexicans to liberate his brother infuriated the colonel, who was already angry at the president for his inexplicable failure to name him as one of three commissioners authorized by
congress to purchase a few naval vessels. Accordingly, when John A. Wharton himself shortly escaped from his Mexican dungeon, both he and his brother joined the ranks of Houston's critics, and it was John A. who delivered a vituperative attack on Houston at the Fisher trial where he was a principle witness for the defense.

In addition to the two Whartons and Fisher, virtually every member of the President's cabinet was dissatisfied with the manner in which Houston had managed the administration's affairs. With the exception of a few old cronies such as Thomas F. McKinney, Samuel May Williams, and Henry Millard (who had led the conspiracy against President Burnet in July, 1836), and such pseudo-friends as Mosely Baker and Anthony Butler (who had been forced out of his position as United States Charge d'affairs to Mexico and had come to Texas as a land speculator), most of Houston's strength was from newly-arrived immigrants. The old settlers, including his friend, General Thomas Jefferson Rusk (who was disgruntled because of Houston's land and Indian policies), were increasingly turning against him.

From all of this David G. Burnet could and did profit politically. Burnet was in sympathy with the settlers of his Galveston Bay section, whose large number of recent immigrants had come to respect this man who was so obviously devoted to what he conceived as his moral responsibilities. By February the judge was being increasingly pressed to run for president, and in the Telegraph of March 31, he finally announced his position. Said he:

"One distinguished citizen, General Lamar, has already been presented to the people. He is my personal friend... I know of no sufficient reason...why I should compete with him... You are free to use my name for the Vice-Presidency."32

By the time of this announcement, the law firm of Burnet and Moreland was probably on the rocks. For some reason the two men had increasingly drifted
apart, and perhaps the reason stemmed from Moreland's national guard activities. Major General Rusk was in command of the guard and had as his aide-de-camp William G. Cooke and William W. Hill. Cooke had previously served as inspector general of the army and was in December named by Houston as General Stock Commissioner. Hill was then a representative of congress. Commanding the second regiment was Brigadier General Mosely Baker, and his aide-de-camp was Major Isaac H. Moreland, Burnet's law partner. Every one of these men supported Houston politically. This being the case, it is difficult to understand why Burnet ever affiliated himself with Moreland. Certainly by December, 1837, the relations between Burnet and Moreland were deteriorating, and perhaps the break occurred around December 25. That Christmas day, a messenger galloped into Houston from San Antonio and informed the excited citizens that on the morning of December 20, a large body of Mexican troops had attacked San Antonio and entirely surrounded the city. Perhaps by now the town had fallen. So excited were the Houstonians that the national guard was alerted, and Moreland prepared to leave for the West. On the thirtieth, a letter was received saying that only about 50 Mexicans had participated in the raid of the twentieth, and this group had been repulsed. However, said the letter, Texas should prepare for an early attack by the Mexicans in the spring.

The national guard, therefore, began its preparations for the spring campaign. Though President Houston had opposed the activation of the guard, the officers who were appointed probably felt that to some extent they owed their appointment to the president. Moreland's close association with his superiors, who were Houston's supporters, probably led him to a gradual friendly break with Burnet. Following Burnet's announcement for the vice-presidency, Moreland actively supported the administration in its efforts to find suitable opponents to Mister
end Burnet, and Burnet evidently carried on his law practice alone.  

By March the Judge was actively campaigning, and in addition was turning his legal talent against the administration. He had won the case of Fisher, and now in the spring of 1838 he took up the cause of Sidney Sherman, Colonel Sherman, who had distinguished himself at the battle of San Jacinto, had served subsequently as a recruiting officer. He was thus entitled to a certain sum of money for his salary and expenses. The government denied him by President Van Buren, who would look no competition in the military field and was rapidly alienating the friendship of every hero of San Jacinto. The president refused to permit the auditor to handle the account, and Sherman therefore brought suit against the government with Burnet as his counsel. Several prominent witnesses were called to testify—men such as John H. Wharton, who had previously been a close friend of Houston but now spoke of the president as a “bloated mass of inebriety”. The result of this case was the same as that of Secretary Fisher, — decision in favor of the plaintiff and further honors to Burnet and the administration opposition. 

By the spring of 1838 the election campaign had begun in earnest with Lamar back in Texas as an announced candidate. Houston (who, though not a candidate, was strongly opposing Lamar and Burnet) was called to task by the West for his Indian policy, for he had refused to fight the Indians. To this charge of complacency, the president replied in the sympathetic newspaper, the Colorado Gazette and Adventurer (Notecards), that he had had at his disposal for frontier defense only 350,000 (which Congress had been unable to force him to use) and hence had been unable to give the requisite protection. Said he, "I did not render the protection required. I had no newspapers to tell the cause".—this despite his subsidizing of the newly established Galveston Civilian by giving that paper the public journal to print.
In May Rusk announced in a long public letter that he would not accept the requests of his friends to become a candidate. He would not be thirty-five (the minimum age for the office) until three days after the election, and he wished to "avoid the turmoil and confusion consequent upon the holding of office." Thus, the followers of the general were broken up, with some turning to Lamar and others proposing the candidacy of Peter W. Grayson. In the Telegraph issue of May 26 the letter group addressed a petition to Grayson asking him to run.

Grayson accepted, and the administration readied him for the campaign by appointing him naval agent and then minister plenipotentiary to the United States. The new candidate was immediately confronted with charges of having refused to participate in the battle of San Jacinto, of signing the treaty with Santa Anna (though Burnet who had made the treaty was running in the opposition), of speculating in Mexican lands, of supporting the 400-league purchase of Williams in 1835, and of opposing the reopening of the land office. Unable to make satisfactory reply to his enemies, Grayson journeyed to the United States on his government assignment and was at Beans Station, Tennessee, on July 9, 1838.

Says John Rogers, then at Beans Station:

"Mr. Grayson blew his brains out with a pistol & it was seen from some of his papers that he was partially deranged from 1820 to 1830. Suinse (since) that he has been entirely at himself until lately. He stated that it was returning with redoubled fury--these are all the particular Reasons so far as we have knowledge of."  

The administration was now without a candidate, while Lamar was receiving increased support. The Houston Banner, Nacogdoches Chronicle, Nacogdoches People, Matagorda Bulletin, and the Houston Telegraph were for him, though these same papers were divided over the question of the proper vice presidential candidate. As there no longer seemed any doubt as to the
presidential race, the attention of the people turned to the vice presidential candidates. Burnet, A. C. Horton of Matagorda, and Joseph Rowe of San Augustine were running for the secondary office. Burnet confined his campaign to the newspaper articles he and his friends wrote, but Horton (and Rowe to a lesser extent) "stumped" the country. Said an opponent:

"We have been informed by a gentleman who has recently arrived from Colorado, that Col. A. C. Horton is now in that section, strolling like a peddling Jew from village to village, and making stump speeches, for the purpose of impressing upon the minds of the good citizens of the west, correct opinions concerning his qualifications for the office of Vice-President! This method of electioneering may answer very well for grogshop politicians, but it cannot be successful with the sober, respectable, and intelligent portion of the citizens of Texas: they will never sustain the men who degrade themselves so far as to resort to such pitiful means, in order to secure an office." 43

Horton and Rowe (who was not widely known) were branded as speculators. Rowe, it was said, had engaged in pre-revolutionary land grants, while Horton as a member of congress had sponsored the incorporation in 1836 of the Texas Rail, Navigation, and Banking Company. This organization which Branch T. Archer had founded after his return from the United States had been gotten through the legislature by liberally giving shares of stock to influential congressmen. Horton had received a share and purportedly later sold it for a profit of $12,000. When Burnet and others broached the subject during the campaign, Horton would only reply, "It is false." 44 Again Horton was accused of cowardly action during the revolution when he refused to permit a small group of men under his command to go to the support of a company of Texas soldiers who were surrounded by a relatively large force of Mexicans. The encircled Texians were commanded by Fannin, and Horton's failure to come to their aid made certain their capture and led to the subsequent Goliad massacre. 45 Horton was unable to refute this damming criticism.
Burnet, of course, had to answer the old charges of inefficiency during the period of his presidency and of speculating in Texas lands as an empresario. Shortly after his announcement as a candidate, the judge wrote a lengthy letter to the Telegraph in reply to the questions of five men of Liberty concerning the scrip issued by the Galveston Bay and Texas Land Company. Burnet pointed out that he had sold his entire rights to the company in 1830 and was thus not responsible for the scrip subsequently issued by the corporation. He had not been an accomplice of General Mason in the speculations in east Texas lands; in fact he had denounced all the money grabbers as early as the fall of 1835 when he had written his opinion of the 400-league-swindle of Williams. This opinion was now reprinted by the Telegraph.

While Burnet was issuing his broadsides, Horton ("Old Sorrel") was canvassing the republic in a carriage, followed by his servants. When an Indian revolt occurred in August, Horton participated in a campaign to clear the frontier of savages, but when he commenced to hand out election circulars, his motives were brought into criticism. In the words of a soldier at Nacogdoches: "Rowe and Horton were both present in the campaign or Excursion but the latter lost the expected fruits of his patriotism by the display of Circulars that was made about that time. Most persons concluded that it was sham or in other words that his object was votes instead of bullets." 48

None of the three vice presidential candidates were popular, but Burnet was at least considered to be honest. Said Anson Jones: "Burnet is a good, honest man enough, has patriotism, and means well enough, and has decided talent; but he lacks tact and judgment, and is always too much under the influence of his prejudices, which are very powerful. He has every kind of sense but common sense, and consequently will never do for a statesman." 49

The Telegraph and Texas Register and the People supported Burnet as
against the Banner and Matagorda Bulletin for Horton. The Horton papers quoted an article in the New Orleans Picayune which read:

"Down again--David G. Burnet, late president of Texas, has been appointed sheriff for the Parish of Natchitoches, in this state." 49

To this, the Telegraph replied:

"We trust the first official act of the sheriff of Natchitoches will be to hang the rogue who fabricated the above falsehood." 50

To all of the remarks against him, the "Old Puritan" merely jutted out his jaw and continued his resolute way, convinced that the people would make a fair decision.

With the death of Grayson, the ever-restless James Collinworth entered his name as a presidential candidate, but when he shortly afterwards became despondent and drowned himself in Galveston Bay, the field was once again cleared of opposition. 51

On Monday, September 3, 1838, the citizens of Texas put Lamar and Burnet once more into office. Lamar got 6,987 votes as compared to 264 for his opponents; whereas Burnet received 3,863, Horton 2,080, Rowe 1,313, and Rusk 22. Victory was a sweet sensation.

On December 9, 1838, the out-going and in-coming administrations assembled before an immense crowd of people in front of the capitol at Houston. The out-going president was accorded the privilege of delivering a farewell address, and Houston, ever-seeking to disconcert his opponents, harangued the gathering for three hours. At the end of this time even Lamar's friends had begun to drift away, and the new president, too mad to speak, directed his secretary, Algernon P. Thompson, to read his address. The most notable part of this message dealt with the question of annexation to the United States, concerning which Lamar reaffirmed his opposition. The formalities of the occasion over, the crowd
spent its enthusiasm at a riotous all-night ball. A new era had begun. A few days later, President Lamar submitted a detailed message to Congress outlining the policies which the administration proposed to follow with regard to the Indians and the frontier, financial affairs, and foreign affairs. Lamar had been elected on a program of hostility to the Indians and expansion of the frontier, and his views, now reexpressed, were thoroughly supported by the people and by Congress.

It will be remembered that the Indians allied themselves with the Mexicans during the revolution, and had it not been for the threat posed by the presence in the Nacogdoches area of the United States army under General Gaines, the Indian menace might have been more serious than it was. After the revolution Congress passed several bills to protect the frontier. A battalion of 280 riflemen was provided for the safety of the outlying settlers, and later the number was raised to 600 men. President Houston on March 1, 1837, directed his secretary of state to urge the United States to hold the Caddo Indians in check:

"The last treaty between them, and the United States, threw them upon us, with feelings of hostility against all Americans. They regard us as a part of the American family."

When Houston placed the army on inactive duty, Congress gave him the power to call out the militia for the protection of the frontier, but he was adamant, and refused to commission the militia. As the Indian hostilities continued through the summer of 1837, Congress passed and sent to the executive an act requiring the president to commence active operations against the Indians. To this threat of legislative force, Houston naturally rebelled and refused to sign the bill. The Indian outrages continued, and the frustration of the exposed citizens is well expressed by Jesse Grimes in a letter of April 30, 1838:
"The Indians are frequently harrassing our frontiers. Francis Holland was killed on the 4th. Col. Sparks and --Barry on the 8th, on the waters of the red fork of the Trinity and Henry Moss on the 15th, near Dunn's Fort supposed to be by the Kickapoos."

In the late spring of 1838 Houston did (somewhat belatedly, and when he was on the point of leaving office) sign a bill providing for the protection of the frontier. The situation was now becoming alarming, however, for the menace was widespread with the Indians allying themselves with parties of Mexican troops. It was not merely the northeastern section of Texas that was endangered, but also southwest Texas in the neighborhood of Goliad and Corpus Christi, and as Erasmus Seguin remarked in a letter to the secretary of state, "...The Indians are very numerous and not as supposed a mere party of robbers." In the vicinity of Goliad alone some 200 Mexicans were said to have joined the Indians in stealing horses and attacking isolated settlers. Something obviously had to be done.

In the summer of 1838 it was reported that some 300 Mexicans had joined a large group of Indians around Nacogdoches, and General Rusk, with 600 men, accordingly took the field. To defeat this Mexican-Indian group would mean that the Cherokee home grounds north of the Angelina River would have to be invaded, and President Houston, always a friend to the Cherokees, forbade Rusk to cross the Angelina. Rusk, however, disobeyed this order of the president and marched his soldiers through the Cherokee region, though not penetrating the real heart of the Indian settlement. This show of force dispersed both Mexicans and Indians for the time being. In the words of Rusk:

"His Excellency President Houston has acted strangely. Indeed had I been governed by his peremptory orders I have not had the least doubt that an Indian war would have been now raging here but a timely demonstration of force by marching six hundred horsemen through their country excited strongly that which can only be depended upon in Indians--their fear."
Despite the campaign of Rusk, in September, the Indians rose up and attacked the whites at Saline northwest of the Neches River some seventy-five miles and at Fort Houston on the Trinity River. In October the Kickapoos and Cherokees were again threatening the Nacogdoches area, and more serious trouble seemed to lie ahead.

This being the situation at the time of their taking office, it was natural for Lamar and Burnet to espouse a strong anti-Indian policy. Thus from the moment the administration came into power, preparations were begun to put down the Indians.

On the same day as the president's message, December 21, a law was enacted providing for a regiment of 840 horsemen to be enlisted for a three-year period to protect the frontier. On December 29, a bill was passed establishing a regiment of 472 rangers to serve for a six-months' period, and on January 26, 112 additional horsemen were provided for. Congress and the president were as one, and the provision for short-term enlistments drawn mostly from the frontier settlers laid the basis for the present famous corps of Texas rangers.

The second part of the president's congressional message dealt with financial affairs. Lamar and Burnet had campaigned against the existing high tariff, yet they realized, and Lamar stated in his message, the impossibility of lowering the import duties to any great extent when the country was still in the throes of the depression that had begun the previous year. Land should be more uniformly assessed, and the collection of this tax should be rigidly enforced. Lastly, a national bank should be established comparable to the First and Second Banks of the United States. All the money that could be raised would be needed to finance the rejuvenated army and the contemplated new navy. Hence,
it was hoped that the $5,000,000 loan which President Houston had been authorized on May 16, 1838, to solicit could now be obtained, especially in view of the fact that the public debt in December, 1838, was already $1,942,000.

Concerning foreign affairs, the president remarked upon the failure of the United States to approve annexation and expressed his belief that Texas would be better off anyway as an independent nation. As for Mexico, Lamar promised to humble that nation with a show of military force that would bring an end to the periodic invasion fears of western settlers.59 The president had outlined his policies for the next three years, and congress was predominantly favorable. Time would show the wisdom of the measures.

Lamar chose a somewhat nondescript cabinet, some of the men at least chosen contrary to the wishes of the vice president. Burnet would probably have preferred for the position of secretary of state his friend Francis Moore, editor of the friendly Telegraph and Texas Register; but Barnard E. Bee was chosen. It will be remembered that Bee had been secretary of the treasury from October 1 to October 22, 1836, during the closing days of Burnet's ad interim administration. He was a newcomer to Texas, however, anxious for advancement, and when Houston became president, he quickly made friends with the new administration. When Secretary of War William S. Fisher resigned in July, 1837, because of ill health, Bee was appointed to fill the vacancy. Bee was given Rusk's former position. When Rusk loomed as a potential candidate for president, Bee supported him, but when Rusk bowed out of the race, Bee quickly threw his support to Lamar.60

For Secretary of War, Lamar chose General Albert Sidney Johnson, whom President Houston had named commander-in-chief of the army to replace General Felix Huston in January, 1837. Huston had taken it upon himself, following
Mexican threats of another invasion, to order the evacuation of San Antonio. President Houston countermanded the order and thus saved the inhabitants of the city much suffering and loss of property. Shortly thereafter, Houston sent Johnson to the army to replace Huston, and the general arrived in camp on February 4. The angry Huston picked a quarrel with Johnson and after an exchange of words challenged him to a duel. Huston was an expert sharpshooter; Johnson made no claims for marksmanship. In the duel that took place on the morning of February 5, General Johnson was seriously wounded through the hips, and the army was thrown into utter confusion. If Huston thought that he had saved his position, however, he was sadly mistaken, for a short time later when Huston was temporarily away from his troops, President Houston furloughed almost the entire army. General Johnson slowly recovered, and it was perhaps natural that he supported the candidacy of General Rusk when it appeared that that officer would seek the presidency. Rusk was commanding the Texas National Guard and a good man for a soldier to have as a friend. When Rusk cast his support to Lamar, however, Johnson followed suit. It will be recalled that Felix Huston had opposed Lamar that July day in 1836 when Lamar, like Johnson, sought to take over as commander-in-chief. The mutual antipathy of the two men for Huston perhaps bred a spirit of kinship, and Lamar thus offered the future Confederate hero the position of secretary of war.

For the position of Secretary of Navy, President Lamar appointed General Memucan Hunt. Hunt had first arrived in Texas around the first of June, 1836, and had been one of the leaders of the group that prevented Santa Anna from sailing. His training and ability plus numerous high-placed acquaintances in the United States led to his appointment by Houston as minister to the United States. His failure to obtain annexation caused him to advocate continued independence. Said he, "We must either whip Mexico into an acknowledge-
ment of our independence, or procure its recognition by England or France before we can hope for any definite action upon the subject by the United States."

Hunt's general accordance with Lamar's principles was perhaps the reason for his appointment as secretary of the navy, and this in turn probably led to the appointment of General Richard G. Dunlap as secretary of treasury. Dunlap was from Tennessee and long a close friend of Hunt. He first arrived in Texas in the fall of 1838 and made a trip to San Antonio. His horse having become lame, he borrowed the finest animal possessed by Congressman John J. Linn, and in an Indian fight a few days later the general's party was ambushed. He broke through the ring of his attackers, however, closely pursued by the Indians who had just killed many of Dunlap's friends; and his magnificent steed cleared an almost impassable gulch which the horses of his pursuers were afraid to attempt. Thus the general escaped and shortly afterwards was invited into Lamar's cabinet.

For Attorney General, Lamar chose John C. Matravers who had come to Texas from Mississippi in the fall of 1837. Subsequently, he had helped Burnet defend Sherman's rights against the Houston administration, and hence he probably had the respect of the judge. As to whether Burnet really wanted him for the position, however, is uncertain, for Burnet had written to Lamar in the fall of 1838 as follows:

"Let me draw your attention to one gentleman of unexceptionable character and high qualifications for the office of Attorney General—I mean Judge John Scott of this City—He is a profound lawyer, an honest man, a warm patriot, and has been during the canvass, a zealous friend—There is but one objection to him and that is, locality—"
Watrous, nevertheless, was appointed attorney general, and for postmaster general Lamar left the office in the hands of the incumbent, Robert Barr, who had spoken against Lamar while the latter was in Georgia. Thus Lamar chose a cabinet of men who had served under Houston, or who were new to the country, or who had preferred Rush for president. Regardless of their ability, they lacked political cohesion, and this would work to the disadvantage of the administration. Lamar had gained the presidency, but unless he could solve quickly and with the leadership of the cabinet he had selected the problems of unemployment, inflation, lack of credit, Indian hostilities, and recognition of Texas independence by Mexico and the major European powers, he would lose the confidence of the people.
Chapter VI
Difficulties of a New Leader

Perhaps everyone of Lamar’s cabinet appointments was contrary to the better judgment of Burnet. Almost all of the men were newcomers to Texas—as was Lamar. Burnet, however, tried to get along with people, and he was soon to prove his ability as Lamar’s best political associate. Though Burnet differed with Lamar on the necessity of making war against Mexico, and other issues, his sense of duty would compel him to follow the wishes of his superior rather than his own judgment in the difficult times that lay ahead. Lamar had laid down his program to congress; Burnet as the president of the senate would attempt to carry it out.

On December 12 Burnet was received by the senate as its presiding officer, and a week later had the unpleasant duty of officiating at a funeral held before both houses of congress. Colonel John A. Wharton had died on the seventeenth. That his death was unexpected may be seen from the fact that only a short time before, on December 11, he had been nominated for the position of chief justice of the supreme court. Now the entire capitol went into mourning, flags flew at half-mast, and business ceased so that the populace could attend the rites held in the congressional chamber. Said Vice President Burnet in his eulogy:

“The keenest blade on the field of San Jacinto is broken; the generous, the talented John A. Wharton is no more... A braver heart never died. A nobler soul, more deeply imbued with the pure and fervent spirit of patriotism, never passed its tenement of clay to the more genial realms of immortality. He was young in years and as it were, at the very threshold of his fame; and still it is a melancholy truth, to which every heart in this assembly will respond in painful accordance, that a mighty man has fallen among us. Many princes of the earth have perished
in their prime, surrounded with all the gorgeous splendors of wealth and power, and their country has suffered no damage. But surely it will be engraved on the tablets of our history, that Texas wept when Wharton died...."  

A few days after Wharton's funeral the senate placed Senator Robert Wilson of the district of Harrisburg and Liberty under arrest, apparently because of disrespect shown Vice President Burnet. "Honest Bob" as the part owner of the lumber mill at Harrisburg had forced the judge out of business in 1834, and since the revolution had been a strong Houston supporter and a detractor of Burnet. Wilson was known for his unethical business transactions before the war; yet his district had been flooded with new immigrants during the revolution, and these people took no cognizance of old rumors. The burning of Harrisburg by Santa Anna had destroyed Wilson's mill and virtually everything else; consequently glad-hander Bob had turned to politics and was elected senator in the fall of 1836. His open contempt for Burnet, however, was apparently carried to an extreme, and in January, 1839, the senate read him out of office. Said Vice President Burnet: "By the act of this Senate the senatorial chair from Houston is declared vacant. Robert Wilson, you will go hence; and in the future I trust that you will endeavor to be a better man!"  

In the special election that followed, Wilson was reelected through the support of his friends—Sam Houston, the Allens, the Harrises, Thomas McKinney, Samuel Williams, and others. The senator returned to the capitol and was carried into the senate chamber by a number of his close supporters. He was borne in triumph to the balcony and there delivered a speech of triumph, and was seated, but he was careful thereafter to conduct himself with propriety. When congress later in the year added Galveston to the district of Harrisburg and Liberty, Wilson lost his political equilibrium and was defeated in the fall of 1839, though other Houston supporters were making a comeback.
During January Burnet pushed through the senate two bills of importance. One of these made an appropriation of public lands for the benefit of general education, and was modeled upon the United States land ordinance of 1785. The other was the first homestead act ever passed by any nation. Burnet also found time in his usual business-like way--after everyone else had already preempted the choice lands of the republic--to begin the search for his own homestead. It will be remembered that the land office had been reopened the first Thursday in February, 1838 (through the congressional act of December 14, 1837). Now, a year later, Burnet wrote to his friend, Andrew Neill, as follows:

"I avail myself with pleasure of your kind offer to attend to my land certificates--Some months ago I committed my own head right for a league and labor and a certificate issued to a Mr. Hammikre and assigned to my infant Son, William E. Burnet, for 640 acres to Mr. Trimble, for location--He told me some time ago that he had located both certificates on the San Christoval--but no returns have been made at the office and I am somewhat anxious about it--I am an old Settler in Texas, and have been traduced as a Speculator--but I have not yet a title for one league of land in the Country--"  

It will be recalled that one of the major issues of the preceding Houston administration was the question of the permanent location of the government. The capitol was moved from Columbia to Houston in May, 1837, only on a temporary basis with the understanding that a permanent location would be chosen by 1840. As President Houston and his friends preferred the government to remain at Houston, however, congress was unable to agree on any suitable place while Sam Houston was president. With Lamar now controlling the government, the western members of congress could count on a speedy location of a permanent site more centrally situated for the entire country. Thus it was that on January 14 congress passed an act by which five commissioners were appointed to select a
permanent capitol site. The men were chosen partly because their districts seemed to represent a fair division of the populace. They were Senators Albert C. Horton of Matagorda, and Isaac W. Burton of Nacogdoches; and Representatives Louis P. Cooke of Brazoria, Isaac Campbell of San Augustine, and William Menifee of Colorado. To make certain that the town of Houston was not selected, the administration-dominated congress specified that the location be between the Trinity and Colorado Rivers and north of the old San Antonio road, which crossed the Colorado at Bastrop; the Brazos near Tenoxtitlan; and the Trinity at Robbin's Ferry. Congress specified that the new capital city be named after Stephen F. Austin, and in a supplementary act cancelled the requirement of the 1836 congress that the government location could not be changed prior to 1840. Hence if Houston's henchmen should by any chance control the congress to be chosen in the fall, they would encounter a fait accompli; for Lamar and the faithful five planned to have the new town site selected, lots surveyed and up for sale, the capitol under construction, and the archives moved before the fall elections were held.

The frontier defense plans of the administration have been mentioned. The army was to be reactivated, and both regular troops and short-term enlistments drawn from the frontier settlers were to be used in putting down the Indians, the most troublesome tribe being the Comanches. During January, three companies of volunteer troops were organized and others were in the process of organization for a big spring offensive to be commanded by Secretary of War Albert Sidney Johnston. General Rusk, who with the death of Colonel John A. Wharton was now the main contestant for the position of chief justice, planned to go along on the campaign, as did Colonel Edward Burleson, who it will be recalled had at one time commanded the Texian army (November, 1835). Burleson
resigned his position as senator from Bestrop, Fayette, and Gonzales on January 19, and began preparations for the campaign that could lead to a generalship or even the presidency. 7

In January, Mexico was on the verge of capitulation to France. The French government under pressure from its merchants who were Mexican bondholders had placed a blockade around Mexican ports in 1837 in an attempt to force a financial settlement. Mexico was utterly bankrupt and in a state of revolution besides, but the foreign threat served to unite the centralists at least against a common foe. France, backed by the British fleet whose commander had instructions not to interfere, intermittently bombarded the Mexican coast, capturing, in November, first Vera Cruz and later the fortress of San Juan d'Ulloa. President Bustamante was compelled to accept the services of Santa Anna, who in January was making plans to retake Vera Cruz while his superior was gathering an army to put down the revolt of the northern provinces under the federalist generals Mexia and Urrea. 8

With Mexico in no position to carry out the centralist threats of a new invasion, the Lamar administration laid plans for bolstering its armed services against both the Indians and the Mexicans. The revival of the army has been noted, but Lamar, perhaps unwisely because of the huge expense, also favored a navy. On January 10, congress approved a contract for $120,000, authorizing General James Hamilton to purchase the steamship Zavala. Hamilton had been a member of the United States house of representatives from 1822 to 1829, when he became governor of South Carolina. In 1831 he left this high position (thus paving the way for Robert Y. Hayne to resign as senator and become governor, and John C. Calhoun to resign as Vice President of the United States following his quarrel with President Jackson, and take Hayne's place as senator) to assume command of the army of South Carolina in antici-
pation of the invasion threatened by President Andrew Jackson. The nullification crisis ended temporarily by the compromise tariff of 1833, Hamilton became a member of his state congress, where he was serving during the Texian revolution, a strong friend of Texas rendering many invaluable services to the new republic. His military experience and his numerous friends prompted Sam Houston and the Texian congress to offer him on December 31, 1836, the rank of major general and the position of commander-in-chief of the Texian army. Private circumstances prevented his accepting this offer, however, and he remained in South Carolina as president of the Bank of Charleston. Here he served his state financially as he had served it so well politically and militarily by successfully negotiating a European loan. His friendship for Texas and his brilliant past successes prompted the Lamar-controlled congress, in 1838, once again to seek his aid, and this time he consented to serve the republic as commissioner of loans. Because of the panic of 1837, President Sam Houston's agents had been unable to secure any financial aid from abroad, but with General Hamilton managing the situation and prosperity gradually returning, better things could be expected. The appointment was confirmed by congress on December 26, at the very moment that a certain New York merchant by the name of James Treat was being recommended to the president for similar diplomatic duties that he was shortly to assume. Though Hamilton was not a citizen of Texas and hence was criticized by the political opposition which only two years before had praised him, he was a friend of Nicholas Biddle (who had managed the Second Bank of the United States until the financially ignorant Jackson forced it out of existence) and other American and European bankers of prominence. All of Hamilton's resources would indeed be needed, for the Texian congress was rapidly increasing the indebtedness of the nation.
The administration had come into office confronted with a national debt of nearly two million dollars and a currency worth only forty cents on the dollar. By the end of January, the national debt was nearly double that which it had been hardly a month before. To outfit the 840 horsemen authorized by the act of December 21, $300,000 in promissory notes were printed. When 472 additional troops were authorized on the twenty-ninth, an appropriation for $75,000 was made. To meet other requirements for the defense of the frontier (such as the act of January 26 authorizing an additional group of 112 rangers), congress on January 24 appropriated the sum of $1,000,000. The steamship Zavala would cost an additional $120,000; and to augment that vessel, congress authorized on January 26 the sum of $250,000 for the purchase of a ship of eighteen guns, two brigs of twelve guns each, and three six-gun schooners.

These appropriations of vast quantities of promissory notes were made by congress largely in anticipation that the $5,000,000 loan which the Second Congress had authorized on May 16, 1838, would be realized in the immediate future. So confident was the administration that General Hamilton could effect the desired loan, that congress on January 22, authorized the borrowing of another $1,000,000, both sums bearing interest at 6%. This six-million-dollar fund was to be the basis for the various issues of treasury notes, in addition to the public domain. On the same day that the extra one-million-dollar loan was sanctioned, congress provided that the first $300,000 realized from the sale of the public lands should be set aside as a sinking fund for the redemption of the bonds. Thus the bonds were to redeem the treasury notes, and the public domain was to redeem the bonds. The administration's program was sound if the $6,000,000 could, as was supposed, be borrowed at a low interest rate with repayment over a long period of time. The public lands constituted some
of the finest territory on the whole North American continent, and Mexican recognition of Texian independence—obtained either by force of arms or by diplomacy—coupled with defeat of the Indians and a continued increase of population would raise the value of the land by several hundred per cent within a few years. The entire success of Lamar's administration and of any hope which either Lamar or Burnet might have entertained for a presidential victory in 1841 thus rested primarily on the sale of the bonds and secondarily on the attainment of recognition and the defeat of the Indians.

General Hamilton's success might offset a failure to realize one or both of the secondary components, but the success of the secondary factors alone could not under any condition offset a failure to realize the primary objective, for too many promissory notes had already been issued for their redemption to be satisfied solely by the sale of public lands. The general's failure would leave the currency without backing and even more worthless than it was already, and the inflation would wreck the country and the administration.

After the appointment of General Hamilton as loan commissioner, the administration turned its attention to the secondary objectives. On February 14, Martin Lacey, an old Indian trader, was named agent to the Indians for the purpose of getting them to accept peacefully the policy of expulsion which the administration was determined to enforce. After all, thought the administration's leaders, the vast Oklahoma territory north of the Red River was the hunting ground of the buffalo, and the Indians had no real need of and certainly no legal right to the Texas territory. No one really expected Lacey to succeed, however, and the frontier settlers continued to be uneasy. Said an observer of the current unrest as far south
as Robertson County:

"The frontier in this section is in a miserable condition. They have been and are now on the eve of breaking up, at least those who are able to get away. A great many are widows who are unable to get off others have had their horses stolen and are left without the means of moving. I have urged them to stay assuring them that the Government would protect them as soon as practicable. They have determined to stay until the first of April if they have to stay in their houses, but if they do not get protection by that time they will break up..." 12

With Hamilton engaged with seeking a loan and the army preparing to move, the administration occupied itself with consideration of the major secondary objective—recognition of the independence of the republic by Mexico. On February 19, Bernard E. Bee resigned as secretary of state in order to accept an assignment as minister to Mexico. When Bee was a colonel in the Texian army in the fall of 1836 (he had been Burnet's secretary of treasury from October 1 to 22 and thereafter was given an army assignment by President Houston), he was given the responsibility of accompanying Santa Anna to Washington, D.C. The fact that he apparently got along well with the general perhaps gave him the idea that he could now accomplish something in Mexico where Santa Anna was returning to power. Bee, however, was somewhat ostentatious and loved to make a show of his position and abilities. He, undoubtedly, could never have given up the position as secretary of state to become a mere secret agent to Mexico. Yet, such an agent could have accomplished more than an ambassador. In the opinion of the able Joel R. Poinsett, United States Minister to Mexico from 1829 to 1831:

"Santa Anna or who ever might be at the head of the Govt. could not receive Bee in his public capacity without first acknowledging the very thing which was the object of the mission, Viz—The Independence of Texas—thereby concluding the Treaty before it was begun!" 13

The cabinet, foreseeing the difficulties to be surmounted by Bee, instructed that gentleman to proceed as a special agent and not to make known
his real title and instructions until he had determined whether or not the Mexican government would treat with him. He was given considerable leeway in his actions, but the following was a sine-qua non: He must obtain recognition, and he must get the Rio Grande rather than the Nueces as the Texas-Mexican boundary. If necessary, however, he could offer $5,000,000 for the disputed territory.

In April Bee arrived in New Orleans where he conferred with General Hamilton (who was there seeking a loan) and a Mr. Gordon, the local agent of the powerful British mercantile firm of Lizardi and Company, which was the principal representative of the English bondholders of the Mexican debt, then totalling some fifty million dollars. Bee had not yet begun his voyage, but Gordon (and hence the British minister to Mexico and the Mexican government) soon knew his instructions. On April 29 Gordon wrote to Sir Richard Pakenham, British Minister to Mexico, informing him of the details of the Texian mission. Neither Gordon nor Pakenham (nor any other official British agent) was in favor of Texas independence so long as it appeared that annexation to the United States was the ultimate goal. Texas, however, had withdrawn its application of annexation in November, 1836, and President Lamar was known to be opposed to it. Hence Britain, the major power of the world, began to change her previous attitude. Mexico, throbbing with revolution and unable to protect her own ports from the French, could obviously not recover Texas. Hence, wrote Gordon, Pakenham should encourage the Mexicans to make the best of a bad situation. Let the Mexican government cede the territory between the Nueces and the Rio Grande to the British bondholders, and then transfer the area to Texas for the sum of $5,000,000. The Mexicans would get some badly needed money, the British would get partial payment of their loans, and the Texans would get their coveted independence and a suitable boundary.
While Bee was thus making his plans rather public on the verge of sailing for Vera Cruz, the Texas government was progressing with its other affairs. James Webb had taken the place of Bee as secretary of state, and on March 13, pursuant to the wishes of the president and cabinet, Webb commissioned General Richard Dunlap (a former brigadier general of the East Tennessee militia) as Minister to the United States. Dunlap's chief assignment was to procure the mediation of the United States between the two belligerents. In addition to recognition of independence, Texas desired a treaty of amity and commerce with Mexico. Lamar had first intended his friend, Bernard E. Bee, for this position and had informed Dr. Anson Jones, the Houston-appointed minister to the United States, that Bee would relieve him. He had reconsidered, however, because the Mexican mission was considered the more difficult, and the United States assignment was tendered to Dunlap. About this same time though Dunlap, who was secretary of treasury, discovered some irregularities in the previous administration's handling of the department, and the several-week delay which this produced prevented the general from reaching Washington before May. The fact that congress was out of session at the time the appointment of Dunlap was made was to result in some embarrassment to the administration, for when the new congress convened in November, Dunlap would not be approved. Anson Jones, though appointed by Houston, was not unfriendly to Lamar at the time of his removal, for he rather expected to be replaced by the new administration. However, the administration's failure to cultivate his friendship caused Jones to turn away from Lamar whom he subsequently described as "altogether of a dreamy, poetic order, a sort of political troubadour and Crusader, and wholly unfit by habit or education for the active duties and everyday realities of his present situation." 16 That the doctor was not a friend of Houston, however, may be seen from the following
entry in his diary:

"Gen. H., I fear, does not care how completely Lamar ruins the country, so that he can hide the errors, the follies, and wide-spread ruin, of his own past administration, and have it to say 'I told you so: There is nobody but old Sam after all.' "17

The death, from an accidental gunshot wound, of William H. Wharton in March (at the plantation of his father-in-law Jared E. Croce) left the senatorial position of Brazoria County vacant, and the acquisition of this seat by Anson Jones would place a bitter enemy of the administration in Congress.

On March 31 the Presbyterians of Houston led by such men as Vice President Burnet organized the Presbyterian Church of Texas in the senate chamber of the capital. The end of the revolution was now bringing thousands of immigrants, mostly Protestant, and a rapid development of Protestant churches was to follow; though the Catholic, as a minority religion identified with the Mexican government and its compulsory religious policy, was to have a somewhat slower development.18

The five commissioners empowered to select a suitable site for the permanent capital of the republic made their report on April 13, and they recommended the hamlet of Waterloo some thirty-five miles north of Bastrop on the eastern bank of the Colorado. This beautiful spot on the edge of the foothills of the Rockies was immediately condemned by the political opposition as being virtually uninhabited and well within the Indian territory. It was, however, in a remarkable healthy region of rolling hills overlooking a majestic river. It was centrally located with regards to the country's future development, and its selection was pleasing to the frontier settlers, who could now expect a better frontier defense when the politicians themselves were exposed to the Indian dangers. The administration immediately made plans for
surveys the territory, selling lots, and erecting buildings, in preparation
for the congressional session of November.

In 1837 President Houston had opposed the reopening of the land office
on the ground that the United States-Texas boundary had not yet been run; yet
the president did not push the boundary project. In 1839, therefore, the Lamar
administration attempted to reach some kind of suitable agreement with the
United States. On May 1, General Sam Houston resigned as secretary of the
army to represent Texas on the boundary commission. At the same time Attorney
General Watrous resigned to return to his private law practice. Secretary
of State James Webb now became attorney general at Lamar’s request, and
Vice President Burnet was made acting secretary of state.20 Said the president
to Burnet:

"In inviting you to a temporary discharge of the duties of
this Department, I am aware of the objections you make to
it upon the ground of your holding already one of the
highest offices in the Government, but knowing as I do
that the duties of the one cannot by any possibility come
in conflict with other, as a permanent appointment will be
made before you can be called upon to discharge any of the
functions of Vice President, I can perceive no impropriety
in the measure, and if there be any, I am willing to take
upon myself all its responsibilities."

I have no motive in making this request other than a desire
to avail myself of the best talents of the Republic in
administering the Government...."21

While the administration at Houston was undergoing first one change
and then another in personnel, organizing the armed forces, preparing for an
offensive against the Indians, and planning for the governmental move to Austin,
Texas, General Hamilton and Colonel Bee at New Orleans were busying themselves
with their respective missions.

On April 1, just before he sailed for Philadelphia, Hamilton wrote to
James Webb, now acting secretary of treasury (after the resignation of Dunlap)
as well as secretary of state, informing him of "the dreadful state of the money market here \[New Orleans\]... the fate of Texas may hang on the question of recognition because the Loan may depend on it." 22 At Pensacola, on the third, he noted that the success of a European loan would depend on recognition by France (which held a smaller percentage of the Mexican bonds than did Britain and hence was less partial to Mexico). On the fourteenth, at Augusta, he expressed his disgust with New Orleans: "... owing to the panic in the money market nothing could be done with the 8% cent Bonds... New Orleans I am satisfied is the last place in the world that the Govt of Texas ought to attempt a financial negotiation..." 23 On April 19, the general supplied the following interesting information:

"I have rec'd a letter from Mr. Nicholas Biddle under date of Apr 11th in which he says--'In relation to the Texian Loan all I can say now is, that what I could have done whilst in the Bank I think I can do as well if not better while out of it--I am now at liberty to widen the sphere of association with other institutions that I might be disposed to embark upon it.'" 24

On the twenty-third, Webb wrote to Hamilton noting the urgency with which the cabinet viewed the loan:

"...if an advance of $500,000 can be had on the Bonds in Philadelphia it will be a most desirable relief as the withdrawal of the 8% cent Bonds from the N. Orleans market, has tended to give a slight additional depression to the circulation of the promissory notes of the government..." 25

The Bank of the United States, now chartered by the state of Pennsylvania, did give Hamilton a loan of $400,000 as Biddle had promised. The money, however, was in post-notes having a 7½% discount loss when transferred into United States currency which itself was worth only a fraction of its value. Hence the loan was not as advantageous as anticipated. Congress

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had already established a sinking fund of $300,000 (to be set aside as money from the sale of public lands came into the treasury), but this was only for the $5,000,000 prospective loan. Hamilton suggested similar backing for the $1,000,000 authorized loan (of which the $400,000 Philadelphia loan was a part), but Lamar made no promises. It was an accomplishment, however, to have as a reference the president of the biggest bank in the United States.

While General Hamilton was thus concluding one small loan and making preparations for a European trip in order to effect a larger one, Colonel Bee in New Orleans was preparing for his voyage to Mexico. His conversation with Mr. Gordon, the agent of Lizardi and Company, has been noted, as has the confidential letter which Gordon wrote to Pakenham, British Minister to Mexico. This letter, however, was evidently mailed after Colonel Bee had left New Orleans. At least Pakenham did not divulge its contents to the Mexican government until after that government had already informed Bee that as a public functionary he was \textit{persona non grata}. The colonel arrived at Vera Cruz on May 8, and was courteously received by the Mexicans, who had heard rumors of his mission but as yet were not fully informed concerning it. His arrival, however, was at an inauspicious time. About May 1, the Centralists, led by Bustamante, had routed the Federalists under Mexia (who was captured and shot) and Urrea (who narrowly escaped with his life), and President Bustamante was still engaged in the process of wiping out the balance of a scattered opposition. While some semblance of unity was returning to the Mexican nation, that nation was controlled by those who were determined to regain Texas by any means available, despite the fact that the French had thoroughly defeated the forces of Santa Anna (when that general in February attempted to retake Vera Cruz), and had forced the Mexicans to accede to a dictated treaty on March 9. As the
first step of their aggressive policy, the centralist chieftains planned an Indian uprising in Texas. Shortly after Bee arrived in Mexico seeking recognition and a treaty of amity and commerce, one Manuel Flores (an Indo-Mexican agent) was killed in a frontier engagement, and on his person were papers showing without a doubt that he was deputed by the Mexican government to excite the Indians to make war upon the frontier settlers of Texas. 27

The ostentatiousness of Bee, who was unable to keep his mission a secret, plus the defeat of the Federalists, the end of the French blockade, and the discovery by the Texas government that Mexico was the instigator of the frontier Indian uprisings all contributed to the defeat of Bee’s mission. For all these obstacles, however, the colonel might still have succeeded had he made his trip as a secret agent and begun his negotiations secretly with Pakenham, a real power behind the throne, for he represented the most powerful nation in the world, and the principal creditor of the Mexican government. Bee was rebuffed by the Mexicans as soon as he let it be known that he was an official representative of Texas. To have received him in his public capacity would have been to confer the recognition which he had come to seek. The proposals he had to offer were not even asked; yet when Pakenham shortly afterwards received Gordon’s letter of April 29 and made its contents known to President Bustamente and Foreign Minister Gorostiza (who in 1836 at the time of the Texas Revolution had been minister to the United States), these individuals were definitely impressed. Gorostiza, it is true, while acknowledging that the independence of Texas appeared to be a fait accompli, said that the Mexican government could not risk popular sentiment in granting the wishes of the Texas government. However, hinted the foreign minister, the Mexican government might be willing to avail itself of the services of the British in suggesting an armistice. Though rebuffed, Pakenham was convinced that Mexico could not
reconquer Texas, that Gordon's proposals were sound, and that if the Mexican officials were actually offered the $5,000,000 which Colonel Bee had been authorized to give in exchange for recognition of independence and the Rio Grande as the Mexico-Texas boundary the government would be unable to refuse.

Said the minister:

"Reconquest is admitted to be impossible, and yet a feeling of mistaken pride, foolishly called regard for the National honor, deters the Government from putting an end to a state of things highly prejudicial to the interests of Texas and attended with no sort of advantage to this Country." 28

After considerable delay, Bee returned to New Orleans in early July where he found a letter awaiting him from Colonel Almonte, the mutual friend of Bustamante and Santa Anna. The president, said Almonte, wished Bee to reopen his mission. Pakenham had received Gordon's letter and had spoken to the government. Bee, however, decided against an immediate return, for he now believed that Washington would prove a better atmosphere than Mexico. 29

During the many weeks of Bee's fruitless mission a certain James Treat of New York was increasingly being recommended to the Texas government as a suitable person to send to Mexico as a secret agent. It will be recalled that in December, 1838, James Morgan had first recommended Treat to Lamar. He was subsequently endorsed by others of importance, among them being General John T. Mason, former agent of the Galveston Bay and Texas Land Company, General Richard Dunlap, Texas minister to the United States, and General Hamilton, Texas Loan Commissioner, who said:

"There is a Gentleman in New York, a cordial friend of Texas, named Treat, who has been many years in Mexico is intimately acquainted with Santa Anna and corresponds with a close friend of the Mexican President, from whom he has received several letters lately, translations of which, I have seen, in which this person represents that he is amply empowered by Santa Anna to conclude the secret articles of a pacification..." 30

Treat, indeed, was in correspondence with a secret agent of the Mexican government. So was Bee, however, for he had no sooner received
Almonte's letter than he became acquainted with a representative of Santa Anna (the same one with whom Treat was corresponding) who let it be known that the payment of a suitable financial consideration to certain high-placed Mexican officials would work wonders with regards to the obtainment of recognition and a treaty. Treat himself reached New Orleans in July and so impressed Bee that the latter highly recommended him to Lamar. In view of the fact that they had no money for bribing Mexicans, the two decided to turn the whole matter over to Lamar and congress once more, and hence no further action would be taken before November.

Meanwhile, the result of the capture of the Mexican documents on Manuel Flores in May thoroughly aroused the citizens of Texas against both the Indians and the Mexicans. The government had little trouble, therefore, in completing its preparations for the big offensive against the northeastern Indian tribes. In early June, Judge Burnet (who was serving as acting secretary of state as well as vice president) was appointed as Indian Commissioner by President Lamar, along with Secretary of War Albert Sidney Johnston, General (and now Chief Justice of the Supreme Court) Thomas Jefferson Rusk, and private citizens James W. Burton and James S. Hayfield. As the Cherokees were then giving the government a considerable amount of trouble, and as many settlers felt that this tribe had been unduly pampered by Sam Houston during his presidency, Lamar and his friends were determined either to get them to retire across the Red River peacefully or to push them across that natural boundary by force of arms.

Though Houston had repeatedly said that the Cherokees possessed sound claims to the territory in the vicinity of Nacogdoches, both under Mexican law and as a result of the treaty which he and Forbes had signed
with Chief Bowles in February, 1836, in point of fact the Cherokees had no legal right to the territory, though they did possess a sound claim in equity. They had been led to believe as early as 1821 that the Mexican government had given them title to the territory, though the agreement was never ratified by the Mexicans. Not knowing the intricacies of law, they thought they owned the land, and again when they signed the treaty with Houston in 1836 they thought that their claims were acknowledged by the Texas government. They had been pushed out of the United States by Jackson where their title was sound, and now they did not wish to forfeit similar rights in Texas. 32

In 1822 Richard Fields (who until his assassination in 1827 was the principal chief of the Cherokee tribe) wrote to the Mexican government (that only the year before had won its independence from Spain) as follows:

"Feburey the first Day 1822

"Apacation mad to the subsprem Governer of the Province of Spain Dear Sir I wish to fall at your feet and omblay ask you what must be Dun with us pur Indians [.] we have som Grants that was give to us when we live under the Spanish government and we wish you to send us nusw by the Next mal whether the wil be Rebered [reversed (?)] or Not [.] and if wer commited we wil com as soon as posble to persent ourselves befoer you in a manner agreeable to our talents if we do pesant ourselves in a Rou maner [.] we pray you to Rite us [.] our intension ar good to wards the govern-ment [.] you sas [sic] a chaf of the Charkee Nation.

Richard fields" 33

The Mexican government expressed good wishes toward the Cherokees but never gave them title, though an agreement was signed on November 8, 1822, which the Indians perhaps considered to be a treaty. It was to the advantage of the government to bestow border lands upon these friendly Indians, for the Cherokees would thus serve as a buffer to keep out of Texas more hostile tribes; yet while the government permitted Fields and his people to remain around Nacogdoches (then a frontier fort), it repeatedly put off the date of actual
transfer of title. On March 9, 1826, the government confirmed the empresarial contract of General Arthur Wavell south of the Red River and north of Nacogdoches, and on December 22, 1826, confirmed the grant of David G. Burnet that bordered on Nacogdoches. These two grants embraced most of the territory where the Cherokees were then residing, and when on October 15, 1831, General Vincente Filisola was given the colonization right to the border lands between Nacogdoches and the Sabine, the Cherokees were effectively cut off from any chance of permanent title to the land where they were then living and which they coveted above all other. On August 21, 1833, Juan Martin de Beramendi, Vice Governor of the State of Coahuila and Texas, acknowledged the right of the Cherokees to a land grant but conceded that in view of the existing empresarial contracts it was not possible to give the Indians the land on which they were residing, though the government would be willing to bestow any vacant lands upon them. Chief Bowles (who had replaced Fields) and his people, however, declined any other settlement and awaited the time that the honorable congress would recognize the prior rights of the Indians and nullify the empresarial contracts as they applied to the Indian territory.

The extension of the empresarial contracts to December, 1835, worked to the further disadvantage of the Indians, and the closing of the land office by the consultation in November, 1835, less than a month before the Mexican government might have conferred valid title to the Cherokees, ended all hope that this friendly tribe might have had for legal ownership. "Old Sam," it is true, had made a treaty with "The Bowl" in February, 1836, but congress had refused to ratify it, and now Sam was gone and could not defend his friends in time of trouble. With the presidential victory of Lamar, Houston had gone to the United States, and he had not yet returned. His political enemies, the speculators, and the newly arrived immigrants could treat the Cherokees with
impunity. The capture of the documents on Manuel Flores had aroused the entire citizenry against all the Indians of the nation, and Burnet, as acting secretary of state, had promptly sent copies of these documents to Minister Richard Dunlap for transmission to the United States government and for subsequent publication in the Congressional Record. The antipathy of the people of Texas would destroy all Indians, friend and foe alike, and while the claims of some of these savages might be sound in equity, none knew better than Burnet that they had no basis in law.

In June Vice President Burnet and Secretary of War Johnston headed a party sent by Lamar to negotiate with the Cherokees and other Indians. The commissioners arrived at the main Cherokee village around the first of July and commenced negotiations with Chiefs Bowl and Big Mesh. The Indian leaders expressed their willingness to accept a suitable sum as reimbursement for their agricultural improvements and transportation and remove across the Red River to Arkansas, but repeated delays over a two-week period finally convinced the Texas leaders that the Indians were merely playing for time in order to organize their warriors and obtain reinforcements. The procrastination wearied the Texas troops, and on the morning of July 15 their leaders—Judge Burnet, General Johnston, General Rusk, Adjutant General McLeod, and Colonel Burleson—decided to wait no longer. They refused to give Chief Bowl the additional time he requested. Accordingly the Texian army moved in force toward the Indian encampment. Firing immediately broke out, and the Indians commenced a slow retreat. Intermittent skirmishes occurred over the following ten days, though most of the actual fighting was confined to the first three days. On the second day of the engagement while the Indian braves were staging a holding action to permit the withdrawal of the women and children, nearly a hundred warriors were killed.
Adjutant General John McLeod was wounded, and Burnet came forward to take his place and displayed the same courage and daring he had exhibited under Miranda and during the Texas Revolution. Among the last of the savages to retire was the eighty-year-old Chief Bowl. He had done his best for his people in peace and war and had counseled peace with the Texians, though Big Mush and the younger leaders would not accept. Now this great leader, unthinking of personal danger, conducted his tribe's last stand against the whites. The women and children safely evacuated, the warriors began to withdraw from their positions, and Bowl, plainly recognizable to the whites, turned his back as if to scorn his enemies and slowly walked away. The sight of such courage caused most of the Texas soldiers to withhold their fire, but two miserable men, Henry Conner and Robert Smith, raised their rifles and shot him in the back. 37

By July 25, the Cherokees were permanently out of Texas, and soon afterwards the Shawnees came to terms and also withdrew to the United States. The Comanches remained as the principal savage enemy, and they would be dealt with shortly.

Following the defeat of the Cherokees, Burnet returned to his little home on the San Jacinto where he had a brief rest until August ninth, except for a few trips to the Houston capitol. During this period he learned that his nephew R. Wallace Burnet (the son of his half-brother Jacob Burnet) had taken office as Texian consul at Cincinnati on July first. He also received a letter from General Dunlap who informed him of several points of interest. James Treat was on route to Texas, and Dunlap had notified the American secretary of state that Memucan Hunt had been appointed by the president as boundary commissioner to aid in determining the United States-Texas boundary.
Also, General Dunlap had seen Alphonse de Saligny, secretary to the French minister to the United States. Saligny had gone to Texas in April to investigate the feasibility of locating a consulate there and now was in Washington en route to France where he planned to turn in a favorable report. Burnet probably also heard from General Hamilton (the loan commissioner) and General James Pinckney Henderson (minister to France since 1837). Hamilton was on his way to England to seek recognition, and Henderson was on the verge of obtaining both recognition and a commercial treaty.

While Secretary of State Burnet was mulling over these matters, James Ttreet arrived from New Orleans, and new discussions began on diplomacy. On August 9 Ttreet was commissioned as an agent of the Texas government with virtually the same instructions originally given to Bee. In case the Mexicans insisted on the Nueces as the boundary line or made any other extravagant demands, Ttreet was to counter with a request for a boundary beginning at the mouth of the Rio Grande and thence up that stream to El Paso, due west to the Gulf of California, and also along the southern shore of that gulf to the Pacific. Said Burnet:

“This boundary will not be strenuously insisted upon but may be initiated as a counter poise to any extravagant expectations on the part of Mexico and as a premonition to that government of the ultimate destination of that remote territory.”

The frontier settlers were more at ease following the army’s demonstration of its power, and the administration planned for an early move to Austin. On August 9 President Lamar and Secret Agent Ttreet boarded the steamship Corro which chugged down Buffalo Bayou to Galveston Bay where it anchored for a time near Burnet’s Oakland home just to the east of the mouth of the San Jacinto. The judge joined the party, and the group crossed the bay to Galveston where Ttreet awaited passage to New Orleans. He planned to go to
New York to put his personal affairs in order and then sail to Vera Cruz. Having started Treat on his mission, Lamar and Burnet proceeded up the Colorado River to the site of the new capital, which they reached on August 19. The site had not been selected until April, but the surveying was soon completed and lots put on sale around August 1. Lamar was pleased to see that already houses were being built, and, in addition to the capitol building, two large hotels were under construction. Within a few weeks the government archives would be transferred here and other preparations laid for the opening of congress in November.

Perhaps as early as August, 1839, the presidential campaign of 1841 began. As to the exact date that Lamar informed Burnet that he would not stand for re-election, no record has been found; yet his ill health continually manifested itself and reduced the incentive of his running again for office, while at the same time Burnet's able management of the affairs of state made both Burnet and the people believe that he had a good chance to win the presidential office. Burnet was never sick and apparently was immune from yellow fever, which continually afflicted the citizens of such swampy towns as New Orleans and Houston, and which was in epidemic stage in the fall of 1839.

The election of Burnet as vice president was interpreted by his friends as an endorsement of his actions as ad-interim president, and his leadership in defeating the Indians and his acquiescence in moving the capitol to Austin had given him the full support of the frontier settlers, while his promises of a lower tariff pleased the coastal citizens. If recognition could be obtained—and every letter from Dunlap, Hamilton, and Henderson indicated that it probably would be given by England, France, and Mexico in the immediate future—and if Hamilton could obtain the $5,000,000
loan he so confidently expected (backed by the high recommendations of Nicholas Biddle), then the administration could count itself eminently successful. However, the large issued of paper money now on the market made it imperative for Hamilton to obtain the European loan. The country was already in an inflationary spiral with the currency becoming increasingly worthless. This would hurt the administration in the fall election, and some curtailment of expenditures, plus a higher tariff might be necessary, but a loan would place the nation on a sound financial footing and would ultimately justify the administration before the people. If Hamilton failed, however, all was lost.

In August General Hamilton and Albert T. Burnley, his associate, arrived in England and immediately visited General Henderson, Minister to France. Henderson crossed the channel and introduced the two gentlemen to the British foreign affairs minister, Lord Palmerston. Palmerston told them that his nation believed in the permanency of Texas independence and that Britain would be glad to recognize said independence, but must first await the result of a mediation offer which had been tendered to the Mexicans. As for a loan, a crop failure the previous year had forced England to buy abroad and hence had drained the country of its specie. The money situation was so bad that the Bank of England itself had been forced to borrow two million pounds Sterling from France, and the best English securities were hardly moving. After this rebuff, Hamilton and Burnley had a conference with a committee representing the principal holders of the Mexican bonds and were told that the Mexican government had already given the bondholders a lien on the disputed Texas territory roughly between the Nueces and the Rio Grande; hence the way was open for a threeway settlement among Texas, Mexico and Britain. The two commissioners perhaps unofficially proposed that Britain use her influence to get Mexico
to acknowledge the independence of Texas with the Rio Grande as the boundary. Texas would pay Mexico $5,000,000 for the disputed territory, but as Mexico had already given a lien on the land to the British, the money would be paid directly to the bondholders, who would then release the territory to Texas. The proposition was roughly the same which Bee had been authorized to make to the Mexican government; yet in this case no money would actually pass through the hands of the Mexicans. The British government was interested in this scheme, but felt that an armistice was first necessary.

The failure of Hamilton and Burnley to obtain either recognition or a loan in London caused them to go to Paris where General Henderson was on the verge of completing an arrangement that would give Texas both recognition by the French government and a commercial treaty. Hamilton made it plain to Henderson that he had not come to relieve him but to get a loan, though he would advise him concerning recognition and a commercial treaty. Nevertheless, Henderson was piqued and attributed the arrival of Hamilton (who was more concerned with getting a loan and recognition than in getting a commercial treaty) and the arrival of Monsieur Alphonse de Saligny (who also arrived in August fresh from Texas) with the defeat of the treaty agreements he had worked out with the French. Saligny, said Henderson, "has persuaded Mr. Pontois, who is conducting the negotiation on the part of France, that Texas is willing to grant any and every favour which France in conscience could ask—He tells him that he knows it is so because every officer in Texas with whom he conversed on the subject either told him so expressly or intimated as much..." 44

Feeling that the French negotiations were being well handled, Hamilton alone returned to the United States, reaching New York on October 10, and arriving in Texas in late November. Burnley and Henderson remained in Paris
until the signing of the treaty on September 25, which treaty included a recognition of Texas independence by France. Both gentlemen then returned to the United States, but Henderson was angry because the treaty "is not as favourable as I think Texas had a right to expect of France and is certainly not as just as Treaty as I once had fair prospects of concluding." 45 Not only had the French demanded (as a result of Saligny's untimely arrival) low duties on French wines, silks, brandies, clothing, and various other articles, but the French minister had informed Henderson that "He had been mistaken in the quality of our cotton and that no reduction could be made on it. I could not see the sufficiency of his reason for changing his mind on that all important point and inasmuch as the whole of my propositions had been founded upon his to reduce the duty on Texian cotton I told him that we must commence at the beginning & make entirely new propositions." 46 Nevertheless, Henderson had eventually given in and signed the agreement, but he was irritated both by Saligny's arrogance and Hamilton's interference, and the strange climate had undermined his health. The general shortly returned to New York where he was unceremoniously arrested for nonpayment of a debt contracted (apparently in New Orleans before his departure) in the name of the Texas government. After some delay he was released upon a court ruling of lack of jurisdiction, and by January he was once again in Texas. 47

In August, Burnet loomed as a man of stature and a likely successor of Lamar. 48

In October, the archives of the government were removed to Austin, and on November 11, 1839, the Fourth Congress began its session. Vice President Burnet presided over the senate and delivered an inspiring address in which he mentioned his own impartiality in selecting the new capitol. Houston, as
everyone knew, was only a few miles from his Oakland home; whereas, Austin was more than a hundred. "Having no private interest to subserve, either by changing or continuing the present location I feel a freedom in remarking, that frequent removals of the seat of government are not only costly, and otherwise injurious in our domestic concerns, but are apt to excite suspicions abroad, of instability in the government itself." Striking his political opponents, who were centering themselves against him as the logical successor of Lamar, Burnet said: "Among the various acts of moral turpitude as exemplified in political conduct, the mind can scarcely conceive of one, which is more reprehensible and disgusting, than that of a legislator entering the national councils, & taking his seat among the supposed wise and virtuous of the land—not with a design to promote the prosperity of his country, and contribute to the sum of human blessedness, but for the avowed and malignant purpose of 'opposing the administration'. . . . We come not here, gentlemen, to form cabals; to organize parties; or to concoct party intrigues....But higher and more useful purposes have summoned us together; and I trust in God, these beneficial purposes will engage our undivided attention...." 49

Led by Anson Jones in the senate and Sam Houston in the house, a rather disunited political opposition was bent on destroying the administration. On November 21, Jones confided to his diary, "I was inquired of by an influential friend of the president's to know on what terms I would be his friend. My reply was: Bid him disband his legions, submit his conduct to the general censure, and stand the judgment of a Senate, and I was his friend." 50

On June 18, 1839, Alcée La Branche (Charge D'affaires of the United States) had written to Secretary of State Burnet complaining that on November 20, 1838 (after the Lamar administration had been elected), some 5,000 pounds of
choice bacon was forcibly taken by representatives of the Texas army from the
Red River storehouse of two United States citizens. The damages amounted to
$10,072.37 ½, and the United States government demanded full and immediate
payment. Burnet, of course, knew nothing of the affair, but he had immediately
instigated an investigation which was still going on at the time congress
assembled. On November 30 he received the following pertinent letter:

"I was acting in the capacity of Assistant Qr. Master for
the 4th Brgd. at the time the lot of Bacon (5000 pounds)
belong-to, or in the possession of a Mr. Bayerly a citizen
of Red River country, was taken for the use of the Troops
of a Brigade,--and it was always my understanding that the
above Bayerly informed Maj. West the Qr. Master, that he
could have the Bacon, I am quite confident had any
opposition, interfered, the bacon would not have been taken--
I draw this inference from instructions given to Q.M., when I
commenced preparing to fit out the 2nd. Battalion of the
1st. Regt.--I can further say that this was an inferior Qd.
of bacon, and much injured-by bugs, worms, etc., having been
on hand through the summer until November before taken." 51

The publicity which was being given to this bacon affair gave Sam
Houston an opportunity to flail the opposition. Thus it was that "Old Sam" was
now back in congress to mutter and rumble about the nefarious schemes of
"Hog Thief" Burnet. The judge settled the controversy with the United States
around the first of the year, but Houston continued his ruminations on the
matter until Burnet (as will be seen) eventually demanded that he give a

satisfactory explanation of his actions or select his weapons.

Despite the castigation of Houston, Burnet was at the height of his
powers. He had led the army in defeating the Cherokee forces, and as secretary
of state he had directed the actions of the government's agents who had obtained
recognition and a treaty from France, and were on the verge of getting both
recognition from Britain and Mexico and the consummation of the $5,000,000 loan.
The administration he represented had of course made some mistakes. The large
expenditures had produced ruinous inflation, but Burnet had long espoused
retrenchment and economy of operation. Too many appointments had been made, and some of these had proven intrinsically bad.53 Lamar, however, had made the appointments largely on his own initiative or the advice of friends other than the vice president, who was in favor of reducing the number of public officials as well as the army as soon as the Indian problem was under control. In the early summer Burnet had gone on record as opposing a large standing army and "the aggrandisement of the Republic beyond the Rio Grande del Norte".54 Hence he was able to take credit for the administration's accomplishments, while criticism of the high expenses devolved upon Lamar.

Sam Houston and his friends could damn Lamar for changing the seat of government, but they could not criticize Burnet who was undergoing great hardship as a result of the change. The judge was receiving a salary of $3,000 a year in Texas money, but with the inflation and the additional expense involved in maintaining both his Oakland home and his Austin residence, Burnet could scarcely make ends meet. In November, 1839, he was still conducting a private law business, and before the close of 1840 his wife was reduced to keeping boarders in order to meet the heavy expense.55 Burnet lacked the ability to make friends easily and was considered somewhat pretentious of manner; yet even Houston was forced to respect the character of this man whom he so violently disliked. In December Burnet was elected president of the Texas Bible Society at a meeting held in the senate chamber at Austin, and a few weeks later he was chosen second vice president of the Texas Patriotic and Philanthropic Society. Thus respectable citizens of the community paid the judge a tribute. In December also Burnet's half-brother Jacob had the honor of nominating William Henry Harrison for the presidency of the United States at the Whig convention held in Harrisburg, Pennsylvania.56 These claims of
respect which Burnet possessed merely angered Houston the more, and "the Tennessee lion of the Brazos bottom" continued to roar. The move to Austin was unconstitutional (because the Third Congress had specified that the capital should not be changed before the year 1841), and the friendly Cherokees had been driven off their own property. Houston and his friends (who now controlled congress as a result of the mounting discontent of the people over inflation and high expenditures) introduced the Cherokee Land Bill in the house in November. By late December it was passed by the house and sent to the senate. By the terms of the bill the land formerly occupied by the Cherokees (i.e., roughly the territory bounded on the north by the Sabine River, on the east by the Angelina, on the west by the Neches, and on the south by the old San Antonio road) was to be sectionalized (comparable to the manner set forth by the United States Land Ordinance of 1785) and sold. The original title of the bill was "An act to sectionize and sell the land formerly owned and occupied by the Cherokee Indians," but as amended by Senator Everitt it became "An act to sectionize and sell the land formerly reserved for and occupied by the Cherokee Indians". As such, it was passed by both houses and submitted to the president on January 27. As congress was slated to end its session on February 5, President Lamar could possibly have killed the bill with a pocket veto, but he disdained to do so and returned it to congress where it was repassed by the required two-thirds majority of both houses and thus became law.

The administration did not object to sectionalizing and selling this land; rather its opposition to the bill lay in the fact that it nullified all existing grants in the Cherokee territory, thus repudiating claims founded
before the revolution and heretofore considered legal. (for the Cherokees were declared to have sound claims to the territory, which if valid, made other claims to the same territory invalid).

Speculators such as Samuel May Williams, Thomas F. McKinney and Thomas Jefferson Green had under the Coahuila land act of March 26, 1834, acquired eleven-league claims in this area, and these men would undergo a considerable loss as a result of the passage of the Cherokee Bill, hence their hatred of Houston. Samuel May Williams had been elected to the house of representatives from Galveston in the fall of 1839 at the same time that Houston was elected from San Augustine. Both men hated Burnet, and each hated the other. It will be recalled that it was Houston in the permanent council of October, 1835, who proposed the resolution nullifying all land grants made under suspicious circumstances since 1833, thus undermining Williams and McKinney. In the constitutional convention of 1836, Robert Potter had proposed that the constitution nullify the eleven-league grants and other profligate measures of the Coahuila legislature, but his pleadings were not heeded, and the constitution remained silent on the issue. Burnet, however, had previously pointed out that grants in excess of eleven leagues were specifically enjoined by the twelfth article of the national colonization law passed by the Mexican congress on August 18, 1824.59 Thus the courts must decide the validity of all such controversial claims.

Houston was against the granting of title to settlers with previous claims in the Cherokee territory; thus he was opposed not merely by Burnet and Lamar who sought to protect old settlers with valid claims (while leaving it to the courts to set aside spurious titles) but also by those speculators with large grants in the area. His critics accused Houston of seeking
nullification of existing claims for his own gain, but this is difficult to substantiate. One thing is clear, however, that the Cherokees were expelled from their hunting ground for a real reason that was far different from the one given by the administration [i.e., their treacherous attacks on the white settlements]; and, furthermore, Houston's real reason for pushing the Cherokee land bill through Congress was not the one he gave in debate.

Lamar, perhaps more than Burnet, saw the political advantage to be gained in espousing a frontier policy favored by the thousands of newly arrived immigrants who were demanding land and more land. Burnet, on the other hand, had a personal enmity against the Cherokees dating back to his days as empresario. He attributed much of his failure to obtain settlers for his empresarial grant to the large number of Cherokee Indians who in the 1820's were flocking onto his land from the United States, and in the summer of 1827 he had submitted a petition to the Mexican government (countersigned by Stephen F. Austin and Benjamin F. Milam) asking that government to use its influence in getting the United States to restrain the Indians.60 Houston's friendship for the Cherokees further aggravated the situation, and the terroristic activities of a scattered few of the tribe in 1838 and 1839 brought the affair to a head. These activities, however, were not the underlying cause of hostilities, but a mere precipitating factor. As for Houston, he was indeed a friend of the Cherokees, but this friendship was not altogether altruistic. He partly desired these Indians to have full title to the land they occupied to keep speculators such as Samuel May Williams and Thomas Jefferson Green from having title. The dispossession of the savages was irrevocable, but by declaring the Indians to have had clear title the large speculative grants acquired in the area in 1834 and 1835 would be nullified while leaving the way open for new speculations to be made by those who could receive a transfer of
title from the Cherokees, and none could do this better than Houston. Perhaps no subject in the field of Texas history is more difficult to follow than the speculation in land which engaged the attention of every citizen.

There is no question but that Houston was closely affiliated with the Galveston Bay and Texas Land Company and other large speculative corporations, though the extent of this relationship is hard to follow. Beyond a doubt, however, he was connected in some way with the great Nacogdoches speculator, Colonel Philip A. Sublett. Sublett was in 1835–36 the chairman of the Nacogdoches committee of safety, and to him Houston owed his appointment as commanding officer of the troops which Nacogdoches sent to the army in 1835. As this position of leadership which Houston was given led to his subsequent command of the Texas army, he owed a good deal to the colonel. Sublett was more than a citizen soldier, however. He was a businessman of genius, according to Burnet, and had some kind of partnership arrangement with Houston after the revolution if not before.

"Gen. Houston and a partner, Philip A. Sublett, has eleven league claims, as the books of our land office show, to a large amount, and if patents issue [i.e., title to settlers with existing claims], honest settlers will get their head rights where these iniquitous claims overspread a large tract of country upon Red River and the Trinity". 61

Again, says an opponent of the general:

"...His /Houston's/ popularity rather suffered a shock a few days ago--An agent of Houston and Sublett lost some fraudulent certificates, and their necessary bonds powers of Atty &c., They were found by a citizen of Jasper Co--This agent seems to have started out to locate them and had a bond signed by Houston & Co for his pay, which was also lost and which proved the fact of his being in the trade...The truth has come out—that all the fraudulent certificates of Jasper County, have been manufactured in San Augustine by two of the Jasper Board and this said Company; yet they are the most noisy in deraising Jasper..."

Houston publicly denounced the eleven-league speculators, yet he was apparently associated with them.
Chapter VII
The End of a Political Career

Regardless of Sam Houston's connections with the speculation involved in disposing of the Cherokee territory, the fact that Burnet had been a leader of the expedition that ousted the Indians irritated the general no end, and he sought every opportunity to play the judge. Burnet had consented to serve as acting secretary of state from May 30, 1839, onwards. He did not solicit the position and accepted it only until Lamar could find a satisfactory replacement. During the summer when the judge had been absent on the Indian campaign, the position had been filled by Nathaniel Armory, but except for this short time (July 24 to August 4, inclusive), Burnet was both vice president and acting secretary of state. The tongue-wagging of critics over this dual role prompted Burnet on January 20 to request an immediate release from the duties of secretary of state. The reason the position had been kept open so long was apparently to offer it to General Henderson, who had served as secretary of state under President Houston for a short time in 1837 and who was in 1839 minister to France. Henderson's criticism of the administration before the arrival of Hamilton in Europe has been noted, and perhaps Lamar and Burnet sought to obviate the mistake they made in not wooing Anson Jones (upon his replacement as minister to the United States by Dunlap) by bringing Henderson into the cabinet. Lamar at least (on January 20) stated that he had held the position open so that he could offer it to Henderson. That gentleman, however, was delayed as a result of his imprisonment and trial in New York City and did not reach Texas until the middle of January and apparently refused the position because of his poor health.
Consequently Lamar, on the same day that he received Burnet's note—January 20—nominated Abner S. Lipscomb for the assignment to become effective on January 31. Said the President in his message to the Senate:

"In my annual Message to Congress at the commencement of the present Session I informed the Honorable Senate, that I had availed myself of the services of the Honorable David G. Burnet as acting Secretary of State until I could make a selection of some individual to fill the vacancy." 2

In point of fact, Lamar had not mentioned Burnet at all in his message to the Senate of November 18. Houston quickly noticed this apparent attempt of the President to cover up the judge's dual assignment. Consequently, on January 23 the general offered the following resolution which the House (despite its opposition to the administration) refused to adopt:

"Resolved, That the President be requested to inform this House, by what authority he appointed David G. Burnet, the Vice-President, Acting Secretary of State during the recess of Congress, and failed to report, either the vacancy or the pro tem appointment, to the Senate, within ten days after the meeting of the present Congress; and whether or not, the said Vice-President has drawn pay as Secretary of State?..." 3

The expulsion of the Cherokees and the move to Austin Houston considered improper, but Congress as a whole would not say that the administration had bungled these affairs. Thus it was that the member from San Augustine was reduced to criticising Vice President Burnet personally. In the cloakroom of the house and in the grogshops of the frontier capital he would mutter "hag thief", and on the floor of Congress he would pick up Edward's History of Texas and willfully mis-quote the memorial which Burnet had written at the convention of 1833 in order to adduce the authority of the judge's name to support the Cherokee claims to land. 4 Houston declared that he did not have any particular hatred toward the vice president, but that individual had "thrown the gauntlet and dared him to the combat". 5 Hence Houston had accepted the challenge and pushed the Cherokee bill through Congress.
over the objections of Lamar and Burnet.

Burnet denied that he had thrown any gauntlet "inasmuch as the Vice President was not a member of the house, and the Cherokee land bill had not yet come to the Senate, it is difficult to conceive how he could have 'thrown the gauntlet'." Nevertheless, said the judge, "it is clear the gauntlet has been thrown, and as others also, are desirous 'that everything shall be brought out', and as I have a very 'particular' contempt, for the gentleman from San Augustine, notwithstanding his furtive laurels which are destined to wither under the touch of the faithful historian: I will even venture to take it up." 6

Congress thus closed on February 5 with Burnet and Houston in bitter opposition. Houston almost immediately set out on an extended tour of the United States with the idea of getting married before his return in the fall. Burnet was so furiously angry that he began the preparation of a series of newspaper articles damming Houston and clearly leading to the presidential campaign of 1841 in which both men were already recognized candidates. Under the name of "Publius" Burnet published articles in the Texas Sentinel for the issues of March 4, 11, 18, 25; April 1, 8, 15, 22, 29; May 9, and 16, 1840. He defended every phase of his own conduct from the time he first entered Texas and excoriated Houston for every phase of his. When Houston returned from the States the blood would flow, and the entire republic would watch aghast as these two titans lowered their bull-like necks and plowed into the political arena, each bent on destroying the other completely.

Following the close of congress, Burnet had hoped to return to his little farm at Oakland for several months, but the necessity for Abner S. Lipscomb to be absent on private business for a few weeks brought the judge once more to the helm of the department of state. In March, therefore, Secretary of State Burnet
was again corresponding with the republic's agents abroad. The failure of congress to confirm the appointment of Dunlap caused that gentleman to be replaced in Washington by Bernard E. Bee, who spent his time in mediating private claims, discussing the depredations of the border Indians with the American secretary of state, handling correspondence concerning various disagreements in running the international boundary, promoting commercial intercourse with Texas, and assuring the United States government that the lone star republic sought only recognition and the peaceful conduct of its own affairs. All of this, however, while keeping a minister busy, did little to further favorable relations with Mexico and the obtainment of recognition from that unhappy land.

Perhaps the Texas government had no more capable diplomat than James Treat, secret agent to the Mexican republic. He was energetic, knew and understood the Mexican people from long residence in the country, and kept his own nation well informed of his every move. Yet, in that land of mañana beset by perpetual revolution and unrest, sheer energy and ability could accomplish little. Treat had arrived at Vera Cruz on November 28, 1839, at a time when the centralists were consolidating their gains against the federalists, though the latter were aided by nearly two hundred Texas soldiers of fortune. These Anglo-American troops, small in number though they were, comprised a principal driving force behind the provincial army. Consequently, though President Lamar disclaimed these soldiers, the Mexican government viewed their interference with suspicion, and Treat shared in this hostility. The continued victories of the provincial forces throughout the year 1840, when led by such men as former Texas Secretary of War William S. Fisher and other intrepid leaders
identified with the Texas army, confirmed the suspicions of the Mexicans in the view that the Texas government was in fact supporting the federalists despite the statements of Treat and his supporter, the British minister Lord Pakenham. Hence it was difficult for the agent to accomplish his mission.

However, failure to achieve recognition from and a treaty with Mexico was not entirely to be dreaded, for Pakenham had promised Treat (as Palmerston had promised Hamilton) that a second offer to negotiate (that of Bee being the first) would be followed by British recognition regardless of success or failure.

The peaceful intentions of the Texas republic, at least, would be clear before the world. If war should follow, Texas could not be blamed. Thus it was that Treat continued his hopeless mission for nearly a year and through the British minister made known to the Mexican government the full status of his powers.

In this he was fully backed by Lamar and Burnet. Said Burnet in a letter of March 12:

"I enclose you an official Letter to Mr. Pakenham, to whom we feel under many obligations for the very frank and honorable manner in which he has assisted your efforts... You will freely consult with Mr. Pakenham and so far as may be practicable without jeopardizing the ultimate objects, you will conform to any suggestions he may make relative to the final disposition of the consideration to be paid to Mexico...."

"You are informed that certain Chiefs of the Federal Party are in arms in the vicinity of the Rio Grande, and that some Anglo-Americans have united with them. The President, in strict conformity with his professed desires for peace, very promptly issued his proclamation, enjoining all Mexican citizens to abstain from hostilities against the Government of Mexico, a copy of which he transmitted to the Chief of the Anglo Americans who were understood to have joined the Federalists, by Lieutenant Col. Johnson the Assistant Adjutant General of our Army. That gallant officer with his escort, was intercepted on his return by a large party of Mexicans, and cruelly put to death....\n\nAs much as this atrocity is reported to have been perpetrated by a desultory band of ruffians without the express authority of the Government, the President will not regard it as an insuperable obstacle to the proposed negotiation. But it may be considered as an infallible assurance, that if hostilities are to continue,
they will be conducted with increased animation by an indignant people who knew how to avenge a wrong which they would never commit."

While Bee in the United States and Treat in Mexico were thus marking time, Hamilton and Burnley were on route to England. In December Hamilton had been granted Texas citizenship and had set out for New York and the continent. While in New Orleans in January he had written by General Henderson, who was just returning to Texas, a letter requesting such necessary papers as an authentic ratified copy of the tariff agreement between France and Texas, signed by Henderson the preceding September (only one original copy existed, and Henderson turned that copy over to the president and congress in January for ratification), a commission certifying Hamilton and Burnley to be official representatives of the republic, etc. The poor mail service and the resultant necessity of sending copies of important documents by different routes delayed the arrival of the required papers, and consequently it was April 27 before Burnley sailed and May 9 before the departure of Hamilton for England. "...it is thought better we should risk ourselves, as well as the papers by different conveyances..."

The continued poor state of the money market in England and the fact that Treat was accomplishing nothing in Mexico precluded the achievement of anything of consequence in London (for recognition would not be tendered until Treat either succeeded or failed). Thus Hamilton and Burnley passed to the continent where they hoped to secure recognition of the republic and treaties of amity and commerce from such powers as Holland and Belgium as well as the $5,000,000 loan from France.

The ministry of General James Pinckney Henderson had previously interested the French government in Texas. Accordingly, in the summer of 1838,
France had authorized its minister to the United States (Monsieur Edouard Fontois) to send a suitable representative to the republic to investigate conditions there. Count Alphonso de Saligny, just beginning his career in the French diplomatic service as secretary to Fontois, was given the assignment. This shrewd gentleman, brilliantly educated for the courts of Europe, hardly expected to find anything noteworthy in the wilds of Texas, but he was predisposed in favor of recognition, for a new embassy might very well mean his promotion to the position of chargé d'affairs. Upon his arrival at Houston in January, 1839, he was given much attention by the government, and after a brief stay he began the long voyage to France where he arrived in the early summer with a favorable report for recognition. With the Franco-Texienne treaty of September 25, 1839, Saligny was notified of his selection as chargé to Texas and accordingly returned to that nation, making his appearance at Houston on January 26, 1840, and presenting his credentials to the government at Austin in February. President Lamar, Vice President Burnet, and the other officials extended him every courtesy, and until an embassy could be constructed, the best accommodations available were afforded him at the Bullock Hotel, then standing on what is now the corner of Sixth and Congress. In addition to lavish furnishings, special glass windows, and a French cook, Saligny brought an ingenious scheme. The hostility of the Indians and other marauders in Texas during the previous spring when the chargé first investigated the country had apparently inspired in the young man a plan for the establishment of a French colonization corporation, the success of which would bring him to the attention of his superiors and result in his own rapid advancement. The adjournment of congress on February 5 made it impossible to introduce the plan to that august body, but prominent individuals could be contacted for the presentation of a suitable bill on the matter to an early session of the Fifth Congress. In brief, the minister hoped to secure a legislative grant for 3,000,000 acres of west Texas soil in return for an agreement by his government to establish twenty forts from
the Rio Grande to the Red River, to be maintained for twenty years and populated by some 8,000 French immigrants to be brought in no later than January, 1849. These settlers would receive exclusive trade privileges with Santa Fe, then a small village some twelve miles east of the upper Rio Grande (and hence within the statutory limits of Texas if the Rio Grande could be obtained as the boundary) and the principal depot or distributing point for the inland trade of the southwestern portion of what is now the United States and northern Mexico. On September 30, 1840, Secretary of War, Branch T. Archer (who in March replaced General Albert Sidney Johnston), estimated the annual value of this Santa Fe trade as four or five million dollars, most of the business being done via Kansas City.9

Thus exclusive trading rights was a great concession, regardless of the rude nature of the country, the lack of a suitable road, and the incessant hostilities of both Indians and Mexicans. In addition to this trade feature, the French colonists were to have the proceeds of all mines worked in their territory, except for a payment of 15% to the Texas government. With a huge land grant and exclusive trade and mining rights the French would be doing very well for themselves despite the hazards of frontier life, and Texas would have the protection it required without the necessity for a large standing army and salary payments it could not meet.

Lamar and Burnet, while exhibiting every courtesy to the French minister, quite naturally turned deaf ears to his pet project, especially so as the president himself had long before proposed to congress the desirability of a military road to Santa Fe; but with nine months to find supporters, Saligny bided his time and with lavish dinners and rich French wines built his plans on the support of the political opposition.
In this state of affairs, Burnet closed out his work as secretary of state with the return of Lipscomb to Austin, and the judge and his little family apparently returned once more to their Oakland farm, in the spring of 1840.

Little is known of Burnet's activities during the late spring and summer of 1840. The capital was some 200 miles from the judge's home, and there was no reason for him and his family to remain in this settlement of 500 inhabitants longer than necessary. The town had been incorporated by act of congress on December 27, 1839, and was guarded by a small detachment of soldiers, but the settlers within the confines of the city could hear at night the war-cry of the Indians echoing among the hills.

Perhaps most of the Indian trouble in 1840 stemmed from an act of treachery that occurred in San Antonio on March 19. On that date some sixty-five Comanche Indians came to make a treaty with a group of Texas soldiers commanded by Colonel William S. Fisher (who shortly after this was to organize a group of volunteers to aid the Mexican federalists). Fisher had told some of the Indians previously that when they came to sign the treaty they would be expected to bring along thirteen white captives known to be in their possession. On the nineteenth, however, the savages arrived for the conference bringing only one small girl, claiming that the rest of the prisoners were with other tribes. The council meeting was held with twelve Comanche chiefs meeting a few white commissioners backed up by a company of soldiers, the whole being in a building set aside for the purpose. The chiefs were informed that the other prisoners should have been brought and that until they were sent in the chiefs would have to remain at San Antonio as prisoners. This unexpected news immediately precipitated a fight, and the entire group of sixty-five Indians was massacred, only one renegade Mexican being permitted to escape. From that moment the whole
frontier was ablaze, and until the capital could be defended better the Burnets undoubtedly thought it best to return to Oakland. 10

The close of the revolution had brought thousands of immigrants to the Galveston Bay area of Texas. The burned-over town of Harrisburg was being rebuilt, and directly across Buffalo Bayou, the town of Hamilton was springing up. Houston City had come into being in the fall of 1836, and thus the entire Buffalo Bayou territory was undergoing rapid expansion. On June 23, 1839, Harrisburg and Hamilton were merged into the new town of Harrisburg and placed under the trusteeship of three responsible citizens, of whom David G. Burnet was one (the other two being John Birdsall and John H. Moore). A corporation named the Harrisburg Town Company was to manage the affairs of the new town through an agent selected by the board of directors with the approval of the three trustees. 11

Perhaps Burnet in the summer of 1840 gave some advice on the management of Harrisburg, but he probably spent most of his time tidying up his 17-acre farm (whose rich soil was worked by a few slaves).

Continued Indian hostilities made the expenses of a large army necessary, and with the currency unredemable (for Hamilton had as yet accomplished nothing with regards to the $5,000,000 loan), the paper money continued to depreciate in value until by June, 1840, it was worth no more than 17½ on the dollar. By congressional act of January 19, 1839, promissory notes without interest (called "red backs" because of the red design on their back) were authorized for issue as needed by the government. From January, 1839, to September, 1840 (after which time only reissues being made), some $2,780,361. of these notes were placed on the market. The indebtedness of the nation in November, 1839, at the beginning of Lamar's administration was around two million dollars, and two months later, by the close
of January, 1839, it had virtually doubled (on paper) as a result of
authorizations made by congress during that brief period. By September, 1840,
the actual debt exceeded five million dollars, and the red backs which were
worth only 37\% on the dollar when they were first issued were now ceasing to
be of any use to the public except in payments to the government. Barter had
become the order of the day.

"...no money in the Country--We're perfectly drained & times
awfully hard indeed in the money way--property valued two
yrs. ago by Swoon appraising at $55,000 in the town of
Houston sold lately under the hammer at Sheriffs sale for
$800!!" 12

Part of the cause of this disastrous situation was the heavy expen-
ditures of the Lamar administration, and Lamar has been much criticized for
lack of economy. Yet, one must remember that when Lamar and Burnet came into
office the country was still in the throes of the depression engendered by the
panic of 1837. President Houston had dismantled the armed services and thrown
upon the streets thousands of soldiers and sailors to augment the existing ranks
of the unemployed. The only reason the paper money of the republic was worth
37\% on the dollar in January, 1839, was because of the confidence of the people
in the new administration. Bryan and Toby, McKinney and Williams, and other
financial agents could well testify that the money had been worth much less
than 37\%, and many banks had previously refused to accept it altogether.
Should Lamar had told the public to disregard the depression and to support
the administration in further economies, for all would be well by and by? It
is difficult to imagine how the administration would have retained the confi-
dence of the masses any more by strict economies than in a program of public works
that would at least give jobs to the people though the payment was in depreciated
currency. Still, economy has its good points, and Burnet for one advocated it.
The fact is that the entire financial program of Lamar was premised on the success of Hamilton in obtaining the $5,000,000 loan. Once the loan was obtained the currency would appreciate in value, and the bank which the president had long envisaged could be put into operation to further the financial interests of the republic. Such critics as Goge and Yoakum have ridiculed Lamar for his ideas in connection with the establishment of a national bank. Yet, unless one brands Alexander Hamilton as an impractical dreamer and the First and Second Banks of the United States as fiascoes, it is hard to see the foolishness of an institution patterned after the great examples of the North.

The principal financial agent of the government, General Hamilton, was a former president of the Bank of Charleston, and it was Hamilton upon whom Lamar relied for the establishment of a national bank. Some changes might have to be made or contemplated ideas set aside—"A Land Bank would be a mere paper machine which would explode in six months"—but the plan itself was sound, said Hamilton: "I have come to the conclusion that your original idea of one National Bank for Texas is the only true policy." 13 Backed by Nicholas Biddle and John Horseley Palmer (former Governor of the Bank of England), Hamilton could establish a successful bank and perhaps get either Biddle or Samuel Jaudon (who had succeeded Biddle as president of the Second United States Bank) as the director of its activities; but the $5,000,000 loan must first be obtained. Both the bank and the loan were connected to annexation, for the bank was premised on the loan, and the loan could not be had if Texas sought annexation to the United States. Neither France nor Britain wished to strengthen that rising power.

The dismay of the people over the catastrophic financial situation could only result in the election of another congress hostile to the administration. Hamilton and Burnley could achieve recognition by Holland and Belgium in the summer, and even recognition by Great Britain in the fall, but in the face of rising inflation these accomplishments would do little to appease the discontent of the
electorate.

By the end of summer James Tread was in the process of abandoning his fruitless mission to Mexico, and this with the full support of President Lamar who had long since grown tired of the endless negotiations. Perhaps Tread would have been recalled months before had it not been for the extremely long delay in the transmission of mail. Few vessels plied the trade between Mexico and Texas, and hence letters from Tread had generally to go by way of Havana and New Orleans. A delay of two months was not unusual, and Burnett's letter of March 12 which included a presidential proclamation of December 21, 1839, forbidding invasions of Mexico, was not received by Tread until June 3. While Tread and Pakenham were thus assuring the Mexican government that President Lamar was not responsible for the fact that several hundred Texas soldiers had joined the ranks of the federalists who were still irritating the centralist administration, Lamar himself had resolved for war. Commodore E. H. Moore with some three or four vessels of war was dispatched in June to patrol the Mexican coast, though he was instructed by the president "to avoid all offensive means, and not show yourself before Vera-Cruz or any other Mexican Port, until after you have heard from Mr. Tread".\(^4\) At the same time Secretary of State Lipscomb wrote to Tread reaffirming previous instructions (which Tread had not yet received) for the agent to "bring the negotiation to a close in some way, that we could no longer submit to the state of things, then existing on our frontiers".\(^5\) While it was true that Texas was not actually invaded, the Mexicans were continually exciting the Indians to attack frontier settlements, and General Arista was "unremitting in fulminating his threats of invasion and universal extermination of our people". The Texas government had made no movements whatsoever hostile to Mexico and had forbade volunteers from joining the federalists, but the forbearance of Texas had met with no reciprocal feeling on the part of the Mexican
government. Patience was nearly exhausted, and should TREAT decide to abandon his mission, he should get word to the commodore, who would take appropriate action.

For a short time prospects of recognition and a treaty seemed brighter, and TREAT ordered Commodore Moore to keep his distance for a thirteen-day period. If Moore's agent in Vera Cruz did not hear from TREAT within this time, the commodore would know that negotiations were progressing. If the talks broke down, however, TREAT would inform the agent within the required period, and Moore would make arrangements to carry TREAT back to Texas. The negotiations did fail, but the slow mail service made it impossible to notify the Vera Cruz agent in time. Consequently the Texian squadron put out to sea, and TREAT, unable to leave, continued his solicitations of the Mexican government. By September, however, the Mexicans had turned down all propositions for recognition and had declined to accept the services of Great Britain to arrange an armistice. TREAT, therefore, asked for his papers. His mission had lasted nearly a year, and his health was ruined both by tuberculosis which he had evidently had for some time and by the frustrations of his tedious work coupled with repeated onslaughts of malaria and yellow fever which periodically racked the entire Gulf Coast. In October the republic's agent left Mexico City for Vera Cruz where he soon departed for his adopted homeland on the Texian schooner of war, San Antonio. This unfortunate man had done his best for the republic. Wracked by tuberculosis, he died before the ship reached port on November 13--the same day that the British government granted recognition to Texas in accordance with the promises of Palmerston and Pakenham. In early December President Lamar learned of the failure of TREAT's mission and his death, and
the Republic of Texas prepared for war.

On November 2, 1840, the Fifth Congress assembled at Austin, now a city of 800 souls. The administration was confronted with recommencement of a war with Mexico and continued Indian hostilities, both requiring the appropriation of large funds by a congress elected on a program of economy and controlled by the political opposition. Secretary of Treasury James H. Starr had resigned August 31 because of his poor health and the derangement of his private affairs, and Secretary of State Abner 3. Lipscomb talked of leaving. In addition President Lamar was having an intestinal disorder which had plagued him for some time, and his doctors recommended medical treatment in the United States. Both Lamar and Burnet hoped to secure the passage of a bill nullifying the Cherokee Land Act of the Fourth Congress, and Lamar wanted the military road (the construction of which had been authorized by the Third Congress) then being built between Red River and the Nueces via Austin to be continued northwestward to Santa Fé for the exploitation of the rich trade of that area. As Monsieur Saligny also coveted that trade and would make every effort to push his Franco-Texienne bill through congress, Lamar could expect quite a battle.

In December while congress was still in the process of getting organized, word was received of Treat's failure and death. The whole country was prepared for a war of retribution. Before Lamar could make any public statement on the matter, however, his intestinal condition had become so severe that on December 18 he asked for and received from congress an indefinite leave of absence for the purpose of getting medical treatment in New Orleans. Thus on the thirteenth, Vice President Burnet assumed the presidency, and Anson Jones was chosen president pro-tem of the senate. On December 16, Burnet
delivered his presidential message to congress. Other things he said are now little remembered, but his enunciation of the policy which the administration planned to follow regarding Mexico lives on, for it expressed not merely Burnet's personal will but that of President Lamar and the nation. In the mind's eye, one can hear the resounding cheers of congress as the members rise to their feet in a standing ovation in tribute to this modern Demosthenes, who says:

"Texas proper is bounded by the Rio Grande; Texas, as defined by the sword, may comprehend the Sierra del Madre. Let the sword do its proper work."

Perhaps it was his wife that caused Burnet on the eve of his elevation to inform congress that his $3,000 a year salary as vice president was now insufficient. Mrs. Burnet was taking in boarders, and still the family was going in debt. Indeed, a fortune in Texas currency was as nothing, for the paper was worth less than 15¢ on the dollar. Thus it was that the judge told congress that he could not assume the duties of president without commensurate compensation, and congress, after some debate, granted the regular presidential salary of $10,000 per year.

One of the first things President Burnet did was to push through congress a retrenchment bill drastically cutting expenses and reforming administrative agencies. The war and navy departments were combined, and the offices of quartermaster general, commissary general, surgeon general, adjutant and inspector general, ordnance, stock commissioner, and second auditor were abolished. Sam Houston did everything he could to defeat this bill, but "his opposition proved wholly unavailing, and his eloquence evaporated harmless as the fumes of a whiskey bottle." Nevertheless, Burnet made political enemies of the men released, and Houston took them to his bosom.
The resignations of Starr and Lipscomb made it necessary for Burnet to fill the positions of secretary of treasury and state. Lamar, before his resignation, had sent to the senate the name of William Memefee, whom Starr had recommended as his successor in the treasury. The senate, however, was divided as to whether to ratify the nomination; whereupon Memefee announced that he would not accept the appointment, and Lamar accordingly withdrew it. Burnet filled the position with Mr. J. G. Chalmers, and for secretary of state he nominated G. W. Terrell, then a district judge. Why Burnet failed to offer the position of secretary of state to General James Finckney Henderson is unknown, or perhaps he did offer it again to Henderson (for Lamar had offered it once in January, 1840), and Henderson refused. Henderson, at any rate, became angry at the administration about this time, though his anger was apparently not directed at Burnet. Perhaps the trouble lay in Lamar's handling of the ministerial position in France. Before Henderson left that country in October, 1839, he had promised to secure the position of minister to France or charge d'affaires for his secretary of legation, George S. McIntosh. Upon the advice of Hamilton, however, who wanted to secure his loan before a minister was appointed, Lamar left Henderson's position vacant. McIntosh, who had acquired a number of debts in anticipation of the promotion, was left in a precarious financial position, and this reflected on Henderson, who blamed the whole trouble on the president.

After the confirmation of Terrell as secretary of state, he refused to accept the appointment on the grounds that he was not worthy, but in reality, because he himself aspired to the presidency, and he did not want to be identified with an unpopular administration.
"My residence in the country being of such recent date, and being in a great measure a stranger here, to have an office of such dignity and importance conferred upon me, both by the President and the Senate of the Republic—I assure you, sir, fills my bosom with sentiments which I shall cherish amongst the proudest recollections of future life.... I avail myself of this opportunity to tender through you, sir, to the members composing your cabinet, (for each of whom I have a very high regard,) my acknowledgement for the honor they intended me, in soliciting me to become a member of their council."

Burnet was thus confronted in the administration of Lamar with the same situation he had faced during his own ad-interim presidency. Cabinet positions were changing rapidly, and the president was reduced to doing most of the work. Those connected with the administration felt they were on a sinking ship, and this angered Burnet the more, for he had no intention of succumbing to his mortal enemy.

In January news was received of Hamilton's success in obtaining recognition from England and a commercial treaty. In addition to a convention dealing with the Mexican bonds, Palmerston (under the influence of the English abolitionists) had appended a third agreement requiring Texas to abstain from the slave trade, but this document was sent by separate messenger and failed to reach the capital before the adjournment of congress. Burnet's views, however, were well known, and should a special session of congress be required, he would push the agreement through the senate. Such a session would probably be necessary, for the triple convention with Great Britain had to be ratified within six months to be effective, and the slave trade agreement was a sine qua non.

There were two requirements of the bond convention. The first of these stipulated that Texas must accept the offer of Britain for mediation of the Texas-Mexico difficulties, and the second required Texas to assume one million pounds sterling of the Mexican foreign debt. Texas could pay this debt in specie or transfer ownership of the territory between the Nueces and the Rio Grande to the
English creditors, and the creditors preferred the land.

The reception of these documents from General Hamilton somewhat dampened the war ardor of the administration. Texas, it seemed, was now forced to continue arbitration rather than resort to war. A belligerent policy had appeared to be well founded, and even Pakenham was convinced of Mexico's weakness and a probable collapse of the centralists before the rising strength of the northern federalists, and the Mexican government had "not a vessel of the smallest description, not even a boat", to oppose a Texian navy or naval landing.23 Yet, if Britain demanded continued negotiations in exchange for recognition and a possible loan (for Hamilton still hoped to get one in England), then the Texas government would make one more effort: Said Burnet:

"I have recently suggested to the Congress the probability, that Mexico, in the plenitude of her national vanity, would venture to reject this mediatorial agreement. Should such prove to be the fact, how pre-eminently advantageous would be the position of Texas? And with what hopes of eventual success, founded on the universal sympathy of nations, and the righteousness of her cause, may she turn her utmost energies, to the last resort of an injured people? But if on the contrary, Mexico shall accede to the friendly proposition of Her Britannick Majesty, and a speedy pacification shall ensue, who can estimate the manifold benefits that will result to our young Republic?" 24

To secure British recognition and to make sure of getting the $5,000,000 loan, the administration would reverse its avowed policy and once again send an agent to Mexico. Palmerston and Hamilton believed that Burnley would be a suitable mediator to represent Texas. That gentleman, however, aspired to the position of charge d'affaires to England. Burnet and Lamar (who had never reached New Orleans but was convalescing in the home of a friend at Independence, Texas) thought Judge Webb would be a good choice because of his judicial training and experience, and Webb was the one eventually selected.
While Burnet was thus handling the foreign affairs of state, he had also to deal with a troublesome domestic program. The retrenchment bill had passed Congress with not too much opposition, and Burnet felt that he had a feather for his political cap. Houston, however, determined not to be outdone, led the move to cut the funds of the armed services and thus prevent the president from making war on Mexico and letting the sword do its proper work. The debate over the amount of money required for the army and navy continued until the close of Congress, and the result was that no allotment at all was made. Consequently, the regular army was hard-pressed to stay in existence, and President Burnet was thus thwarted in his plans. There was no alternative but to send another peace negotiator to Mexico. Lamar also was hit, for construction of the military road was ordered to stop. There would be no Santa Fé expedition.

The administration's attempt to amend the Cherokee Land bill was an utter failure, thanks again to the adroit hand of Houston. Burnet in a fit of pique accused the general of vindictiveness and damned the Cherokee bill as fraudulent. Houston replied that Burnet was an "ex-hog thief" and mocked the president's every move. The following excerpt from a speech by Houston's friend, Congressman James Reily, exemplifies the relationship between General Houston and Major Burnet:

"At the request of Fiddle-de-dee, we publish the extract of Humbug, on a motion to amend moonshine!—That an air of artless modesty there is about the above caption of the Major's unstudied eulogy of Houston. The Major is not actuated by 'hope of his future favor, or slavish fear of his denunciation!' No—no he. And we wonder if he supposes there is a man in the community, gump enough to believe that he, with all his sophomoric eloquence, really undertook the conversion of the Old Sinner, from his fraudulent and vindictive Cherokee bill?

"We should have been amused to see the meeting after the speech, between the independent eulogist and 'the soldier of fortune,' (lucky hit, that, Major,) 'who scorned the perusal of any book, save the expansive volume of nature, spread out for the investigation of giant intellects.' (Whew! what a Johnsonian definition of ignorance!) We can see old Sam, in our minds' eye, with honied words upon his tongue, and a chuckle in his throat, as with his most
patronizing air, he says: "G-o-o-d m-o-r-n-i-n-g, M-a-j-o-r; m-y m-o-s-t r-e-s-p-e-c-t f-o-u-l s-a-l-u-t-a-t-i-o-n, s-i-r;' and a side-wink to some friend at his elbow." 25

Burnet with religious wrath had denounced the character of Houston by calling the general "Half-Indian," "Big Drunk," etc.; but when "Sam" called the judge an "Ex-Hog Thief," Burnet dispatched Secretary of War Branch T. Archer with a "note." When Archer presented Burnet's challenge to Houston, the general was astonished. He had not realized that his relationship to Burnet had deteriorated to this extent. "What does he predicate this demand upon?" asked General Houston. Said Archer, the general had exceeded all bounds of propriety by calling the president a hog thief. General Houston leaned back in his chair and with a far-away look in his eyes replied, "Hasn't he abused me to an equal degree? He has done so publicly and privately until I am constrained to believe that the people are thoroughly disgusted with both of us." 26 Archer accepted Houston's explanation and returned to the president, who was probably ashamed of his hasty action in sending the secretary to the general. The affair was over, but the ill will would continue.

Augmenting the difficulties between Burnet and Houston was Saligny's Franco-Texienne bill. As has been noted, the bill would have given France a huge amount of land and exclusive mining and trading rights to the area in which the claim was located. Houston had no real interest in the passage of the bill, but by appearing to be for it, he would get the political support of some of the frontier settlers, while the opposition of Burnet would lessen his own strength in the West. Of course, far-sighted citizens were fully aware of the disadvantages of the measure, but the Indians could make them forget these bad points and clamor for protection. A newspaper lampoon of the day portrays the relationship of Burnet
and Houston to the matter.

Scene— French Minister's dinner table; 9 o'clock P. M.
Present, the minister, Gen. Sam Houston, Mons. Mustache
and K. C. (member of Congress), room full of cigar and
burgundy tunes.

Min.— Fill up your glasses, gentlemen; I can recommend dese Burgundy;
no acid in de head, no de stomach ache.

Gen.H.— Count, my most respectful salutations; you the same, gentlemen.
This is a most delightful wine; it is the beverage of the gods;
it inflames the genius and inspires the soul; it lifts poor
mortal man above the groveling considerations of earth.

K.C.— Tomorrow, Count comes the tug of war. Permit me to drink to the
success of the Franco-Texienne Bill.

Min.— Ah General, speaking of that bill, I hear that President Burnet
and the whole cabinet are opposed to it; and should it pass, he
will veto it. That is one very strong opposition; and I hear
some of his friends say de 10th section is too strong, is de
monopoly, de perpetuity, de exclusive right. Me no like to
give up de monopoly of de land, de trade, and de mine.

Gen.H.— Never mind that, Count; I am the big Indian of this Congress.
Just come to the House tomorrow, and hear me thunder in favor
of that 10th section! By the by, I will give David C. a little
particular E—about Chief Justice Smith being scalped near
town today. A fortunate circumstance that, for us; I will
tell them how your eight thousand bayonets will protect the
poor, feeble, exerverted army of this nation from the merciless
Comanches.

Min.— Ah! I see.

K.C.— Let the old Chief alone, he knows how to fix the boys. But if
we should give up that 10th section, we will 'raise such a dust'
before doing so that its opponents will not see what is in the
lith, and we will crowd that through in a hurry. Besides look
at the privilege of the wines, and that glorious three million
of acres.

Gen.H.— Yes, Count, (reaching for the bottle of Röchhemer) when the old
Chief 'rises from his lairs and shakes the dew drops from his
nose,' all the little Chiefs listen unto him. 27

(Exeunt all)

The Franco-Texienne bill passed the house late in the congressional
session and went to the senate where it was read for the first time on January 29.
Congress would adjourn on February 5; thus there was little time left for debate. On December 9 Senator Stephen H. Everitt, an administration spokesman, had resigned his seat because of poor health. This left twelve men in the senate of which body Anson Jones was the president. The bill got by the first reading without trouble and a few days later came up for the usually controversial second reading. Six senators voted for the bill, and six opposed. Anson Jones, with eyes to a position in Houston's cabinet and knowing that the sorry act would never pass the "Old Puritan," cast the deciding vote in favor of the bill. There only remained the third reading, and that came on the last day of congress. Despite the favorable showing of the bill in the house and in two readings in the senate, everyone knew the bill was dead. Had it not been for the certainty of Burnet's veto, the act would never have passed the house much less the second reading of the senate. Burnet was not a popular man, however, and even in February his chances for victory in the coming presidential campaign appeared dim. Therefore, members of congress who anticipated a Houston victory but opposed the Franco-Texienne bill could afford to give their nominal support to the bill and still feel that they were not betraying their country, for the bill could never become a law. In the words of Senator Moore of Harris County: "...the virtue, integrity, and firmness of Acting President Burnet...will check the passage of the Franco-Texienne Bill." 28 In the face of Burnet's veto, the measure was allowed to die on the table.

Congress thus closed without much having been accomplished. The treaty of amity and commerce with England had been ratified, and this treaty contained a recognition of Texas independence. Also, ratified was the convention requiring Texas to take over $1,000,000 of Mexican bonds and to use the services of Great Britain as a mediator of the dispute with Mexico. The provision requiring
Texas to abstain from the slave trade was not ratified, however, as it was conveyed by a different messenger from the one carrying the first two agreements, and this third provision was not received by the Texas government until after the close of congress. Fortunately, Lord Palmerston was willing to grant an extension of the time of ratification, and thus the regular congress in the fall could handle the matter of ratification. Otherwise, a special session of congress would have been required as the slavery agreement was a sine qua non to recognition and a commercial treaty.

On February 14 Hamilton at last effected the $5,000,000 loan. France had proven a more fertile financial field than England, and a contract was signed with J. LaFitte & Co. of Paris for 37,000,000 francs. Hamilton immediately dispatched the news of his success to the United States for publication in the leading papers and forwarded a copy of the agreement to the Texas government. 29

In Texas, however, conditions had arisen that were to be of the utmost importance with respect to the LaFitte loan. Monsieur Saligny was on the verge of severing his relations with the government. His Franco-Texienne bill had on February 5, the last day of congress, failed of passage, and Saligny blamed that failure directly on the pig-headedness and utter stupidity of Acting-President Burnet and his friends.

Ever since the arrival of Saligny there had been trouble. It will be recalled that the chargé had sailed into Houston on January 26, 1840, with a huge amount of paraphernalia. As the capitol had been removed to Austin, Saligny was forced to hire a waggoner to transport his belongings to that frontier site. After he and his party had reached the capital and moved into Bullock's Hotel, the waggoner presented the little Frenchman with a bill for $300, which Saligny paid in counterfeit money. When the teamster discovered that the money was
spurious, he thought that the minister (being unfamiliar with the currency) had made an honest mistake, and he returned the money asking for reimbursement. To the teamster's astonishment, Saligny admitted that he knew the money was no good at the time he paid the bill, and he absolutely refused to make any readjustment. The publicity which this incident received brought the matter to the attention of the government. Congress had adjourned, and Lamar had left the capital. Burnet, Webb, Lipscomb, and Starr, however, conferred on the subject and decided to pay the bill out of miscellaneous treasury funds rather than begin relations with France on unpleasant terms. If President Lamar and congress decided later to disallow this expense, the four would reimburse the government out of their own pockets, and this they eventually had to do. 30

The above incident coupled with Saligny's cooperation with Houston in attempting to push the Franco-Texienne bill through congress was enough to infuriate Burnet. To make matters worse, Saligny had gotten into further difficulties in which Burnet now became involved. Some weeks after the arrival of Saligny, his landlord (Richard Bullock) presented the Frenchman with a hotel bill which Saligny refused to pay on the grounds that the hotel keeper was overcharging him. Bullock publicized the disagreement and forced the minister to move. The only other hotel in town was adjacent to Bullock's, and hence the chargé d'affairs was compelled to reestablish himself next door to his hated adversary. Bullock continued his slandering attack on Saligny. Everyone recognized that the hotel keeper had a good legal basis for his accusations, but the matter could not be settled in court as Saligny had diplomatic immunity. Thus, while the Frenchman could not be forced to pay, Bullock could not be legally restrained from publicizing his injuries, i.e., not until congress passed a special law making it a punishable offense to malign a foreign minister. 31

Bullock was restrained from continuing his public insults on the
minister, but the relations between the two men continued to deteriorate. At his new establishment Saligny kept a stable of fine horses, and in a bin was the corn he used for feed. For most of the rude nature of Texas, Saligny had contempt, but for the horses of the country he had the utmost admiration. As for Bullock, like all frontiersmen, he had a number of pigs, and the fence separating Bullock's pigs and Saligny's horses was not of any great durability. From time to time the pigs broke through the fence and ate the horses' corn. When Saligny learned of this, he ordered his servant, Eugene Pluyette, to kill all pigs found in the stable. This Pluyette commenced doing, and by February 20, 1841, he had killed some 20 of the animals. On that date, after having dispatched his morning quota, Pluyette had occasion to pass in front of Bullock's Hotel. The innkeeper had just learned of the most recent outrage, and the sight of Pluyette was more than he could bear. With sticks and stones he threw himself upon the servant who started running in a vain effort to escape the mad hotelman. After a lengthy chase, however, Bullock caught the domestic and soundly thrashed him. Whereupon, Saligny sent a note to Secretary of State James C. Mayfield (who had become secretary following G. W. Terrell's refusal of the office). The minister demanded that Bullock be punished and at the same time claimed diplomatic immunity for his servant. Bullock was imprisoned temporarily, but Secretary of the Treasury Chalmers went his bail. The government refused to make further amends unless the matter were taken to court, and Saligny had no desire to place himself under the law of Texas. 32

Acting-President Burnet supervised the government's correspondence with Saligny until the notes ceased to be dignified and the affair took on such a ridiculous aspect that by March 1 Lamar felt compelled to return to his duties and close the controversy as honorably as possible. Burnet had done nothing wrong; in fact, he had handled the situation in a scrupulously correct
manner. As the judge pointed out to Saligny, if the minister refused to appear in court or to permit his domestic to appear, no charge could be sustained against Bullock, for the law required that the accused person be confronted by his accuser and told the nature of the charges against him. Besides, Bullock had long standing grievances against the minister. Without recourse to the courts, nothing could be done. While Burnet was legally sound, he was practically incorrect. Everyone knew that Monsieur Saligny was bitterly disappointed over the failure of his Franco-Texienne bill and that he was merely venting his anger on Bullock and the government and making a trifling incident a major international issue. Burnet realized the cupidity of the Frenchman and was determined to show him that his threats could not sway the integrity of the government one jot or tittle. Burnet thus maintained the honor of the nation and its citizens, but he made Saligny so mad that the Frenchman cut off his beautiful beard and severed his relations with the country. Before he departed for New Orleans, he wrote to the French charge d'affairs in Mexico asking that gentleman to place every possible obstacle in the path of Judge Webb's mission, and he wrote to his brother-in-law, the French Minister of Finance, K. Humann, telling him to thwart Hamilton and the loan. Burnet had saved the honor of a nation, but he had undermined the country's foreign agents and prevented the consummation of the all important loan. All hopes of a successful Santa Fe expedition were gone, and Burnet's chances of a presidential victory were dead.33

Perhaps the Saligny trouble marked the beginning of a slight coolness between Lamar and Burnet. Of course, there had been some friction generated by Burnet's retrenchment bill, for the discharged officers had gone to Lamar with their grievances, but it was the Saligny affair that marked the rift. The slowness of the mail service meant that it would be July before the repercussions
of the incident were fully known and the failure of Webb and Hamilton directly attributed to the machinations of Saligny; then Lamar would really be angry.

In the meantime, the president went ahead with plans for his Santa Fe project, despite the fact that Congress had made no appropriation for the regular peace-time army which less one for war. By borrowing and promising on the credit of the nation at a time when Hamilton was thought to be successful and hence merchants and men were willing to lend their goods and services to the government, Lamar somehow got a force together for his long conceived expedition, but without proper financial backing it had no chance of success. Its failure in August meant that Burnet in addition to his own mistakes had to shoulder this failure of Lamar. There was no chance of victory.

The campaign was a bitter one, with Houston and Burnet seeking the presidency and Edward Burleson and Lomucan Hunt striving for the vice presidency. Between Houston and Burnet the question of the removal of the government was of little consequence, for both men were disadvantaged by the new location, though to some extent Burnet had to accept responsibility for the change. Houston said he would accept the will of the people. As for the Franco-Texienne bill, Burnet claimed to have saved the country. Houston, however, took credit in the West for wanting to protect the settlers from the Indians, while in the East and South the general said that it was a watered down version of Saligny's bill which he had supported, not the original proposals. Both men claimed credit for economy reforms, but one thing was plain for all to see. The nation's debt was now over $7,000,000, and the money was not worth a dime. The administration had plainly failed to place the country on a sound financial basis. As for the Indians, the frontier was still threatened by the savages as it had been under Houston. Little had been gained by expelling the Cherokees and leaving more hostile Indians free to harrass the settlers.
From issues the campaign degenerated into violent personal abuse. Houston was denounced as an habitual drunkard, incapable of administering the government. Burnet likewise was excoriated. The Austin City Gazette declared Burnet was "notoriously a tippler, consuming as much liquor in one year, if not more than Gen. Houston. He is not capable—or he would have a mind of his own".  

Again the "Old Puritan" was charged "with getting so beastly intoxicated as to fall into the fire," at a house on the San Jacinto.  

As for the vice presidential aspirants, Edward Burleson was a popular man with an ability to get along with people easily. His many soldierly exploits were well known, and his leadership in the Cherokee expedition had renewed his popularity especially in East Texas. Burleson was not well educated, but the electorate was not either, and the general's friendly manner and demonstrated leadership ability would offset more formal requirements. Hunt was a well educated gentleman with obvious ability. He had organized a large expedition to aid Texas in the Revolution and had held high political positions under both Houston and Lamar, but his absence from the country while boundary commissioner had cost him some influence, and his attempt to dodge responsibility for the failures of the incumbent administration cost him many friends. The attitude of the Houston supporters toward Hunt is expressed by the following newspaper article shortly after the general announced his candidacy:

"Those fellows in Houston are shrewd chaps, and carry on a joke as well as any men we know of, but they sometimes go to excess in the indulgence of this propensity. We were considerably entertained on reading a correspondence between some of the citizens of that place and Maj.Gen.Hunt, nominating the latter for the office of Vice President, by the authority of a public meeting. Now this is too bad. Quit that boys—you are running the thing in the ground. Suppose a man is weak and gullible, what right have you to take advantage of his 'zeal for the public interests,' to flatter his eyes with such deceptive illusions? Much as we condemn such tricks, when played off upon the self-love of a good creature, the thing is got up so well, that we
could not but laugh at it. We wonder if the meeting
paid for the lithographs of the 'Jizeral' plus et
_cetera_, that he hung up in the barber shops in Houston?" 36

The supporters of each candidate predicted victory, but when the vote
was counted, Houston had received 7,915 votes to Burnet's 3,616; while Burleson
had gotten 6,141 votes to Hunt's 4,336. Houston had carried all counties except
Harrison, Panola, Bowie, Red River, Lamar, and Fannin. "Old Sam" had done it
again. 37

The election over, a disillusioned Burnet cleared his transactions at
Austin and departed for his Oakland home, in his pocket a draft on the Galveston
collector of customs for much of his salary as vice president. In one last
measure of retribution, however, President Houston instructed his secretary of
treasury to void the draft, and Burnet was left without a cent. Then congress
passed a bill instructing the president to honor the draft, Houston vetoed it,
though recognizing similar claims of Lamar and Johnston. Burnet was completely
outside the government with little chance of ever returning. 38
Chapter VIII
An Interval of Family Life

The life of Burnet between the years 1841 and 1858 changed markedly from his earlier intense and public activity. These were years spent in private reflection and concern with the immediate family, and the Burnets had little to do or say about the affairs of the day. When Burnet left Austin in the fall of 1841 and returned to Oakland, he was a disillusioned man. Both he and his wife were thoroughly disgusted with politics, and neither had any particular desire for the judge to return to his law practice in Houston. Immigrants had flocked into the republic since the revolution, and there were more lawyers than could make a living. Besides, Burnet felt a need for private reflection and a greater amount of time to spend with his family, whom he had to some extent neglected in recent years because of the press of public affairs. He was now 53 years old, and Mrs. Burnet was 41, though despite his additional age he perhaps felt better than his wife. For some reason, perhaps a result of the acclimatization period in South America during his youth, the judge never seemed to be bothered by the asthma so common in damp climates nor by the yellow fever, malaria, and other afflictions which then plagued the mosquito-ridden Gulf coast section of Texas. It will be recalled that in 1806 when he was returning from Venezuela, eleven of his companions aboard ship died of yellow fever, while Burnet was not affected. Perhaps he then had or had had a mild case of the disease and retained a permanent immunity. Anyway, tropical diseases never seemingly bothered him in his later life, for he enjoyed good health. Mrs. Burnet, however, was more prone to these diseases. When she first came to Texas in 1831, she was ill for many weeks, apparently of malaria, and she was often sick in later years.
The Burnet family life was a happy one despite the sadness caused by the death of three children. Sarah Hills had died at birth in August, 1832; Jacob George had died from whooping cough and cholera infantis in September, 1836, at the age of ten months; and Gertrude Gouverneur had been deceased at birth in January, 1838. William Este Burnet, (born July 7, 1833) however, had passed through the perils of frontier infancy and was now eight years old. An only child, he was the pride of his parents' life, and despite their limited circumstances they wished to give him every advantage. He would attend the public schools of the area until he was old enough to be away from home, and then he would be sent to some reputable college preparatory institution—perhaps one in Cincinnati, Ohio, where the Burnets had many friends.

The Burnet home was built of rough boards which Burnet himself cut with his sawmill in the spring of 1832, and the house rested on a foundation of bricks hand-made from the clay of the San Jacinto River. Like all southern farm houses of the time, there were a number of outbuildings for the accommodation of the few slaves the family owned, and the whole was encompassed by a forest of oak and pine in which were intermingled a few fruit trees, for the soil was rich and would support such rarities as orange trees with fruit twelve inches in circumference. ¹

As an original settler of the territory when it was under the control of the Mexican government, Burnet was entitled to at least one league and one labor of land. The land office was reopened in February, 1838, for the location of claims by original settlers (others had to wait an additional six months); and Burnet, therefore, authorized Mr. Trimble to locate his claim for him. The claim was filed in Medina County, apparently by Trimble, on May 4, 1838, though as late as January 25, 1839, Burnet had no knowledge of
the filing. When he received a certificate proving that he was entitled
to a headright, he lost it, and a duplicate was issued on February 14,
1840. As of 1841, however, the territory to which Burnet had claim was
not surveyed, and field notes were not filed until February 25, 1846.
Some of this delay may be attributed to the slowness of the surveyors,
though most of it reflects the unbusinesslike ability and lack of interest
of Burnet, together with his poverty. Burnet had little money in this
period of his life, and with the currency inflated as it was, what little
he had would not buy anything. He probably preferred to postpone the
expense of surveying the property until a later date and in the meantime
rent it out for what he could. The location of this land is given by the
field notes as

"survey #441 section 6 situated on the Sico Creek a Branch
of Rio Frio and about fifty miles S 80° W of the city of
San Antonio in Bexar County."

Thus Burnet, while having an excellent claim to territory, was lax
in filing the deed, in having the land surveyed, and in developing it. He
had no desire to leave Oakland and neither money nor inclination to develope
other property. This had not always been the case, for in the fall of 1836
when the judge was closing his period as ad-interim president, he had talked
of selling his Oakland farm because of the enmity of his near neighbors
William F. Scott and Nathaniel Lynch. Lynch, however, was now dead, and
Scott was practicing law and absent from home a good deal. Therefore, Burnet
had less reason now for wanting to sell. Besides, Oakland was almost a part
of the family. It had seen the birth of the children, and it had the graves
of three. Thus it was that the Burnet family occupied themselves with
activities around their little farm, barely eking out a living, but enjoying
one another's companionship. Despite these simple pleasures of private life,
however, Burnet was then, by the close of Houston's presidency in 1844, begin-
ning to regain his former interest in politics. Vice President Burleson's
anxiety to press the conflict against Mexico had incited the ire of Houston;
and to vindicate his policy, Burleson announced for the presidency. Houston,
himself, had no chance for re-election. The public debt was still high and
the money worthless. The divided views as to the correct Mexican policy had
continued unrest, and the annexation issue was still before the country. It
was thought for a time that Thomas Jefferson Rusk would run, and Lamar also
was at first considered a likely candidate. Rusk, however, bowed out of the
race in July, 1843, saying privately that he considered Anson Jones a more
suitable candidate. General James Pinckney Henderson, the most prominent
supporter of Rusk, therefore went to Jones and told him that he had the
blessing of Rusk and would undoubtedly receive the support of Houston, for
Jones was then secretary of state in Houston's cabinet. If Jones had then
declined, Henderson fully intended to enter the race. Jones accepted,
however, and Henderson also gave him his full support, having decided to
await for a more propitious time for the announcement of his own candidacy.
As for Lamar, he declined in favor of Burleson, and Burnet also announced
that he would support Burleson whom he considered one of the greatest soldiers
the nation had produced.

With Burnet definitely in favor of Burleson, one might wonder why
he did not campaign for the general. Certainly, if he wished to make a
political come back, this was the time to do it. Burnet, however, had never
really campaigned even when he, himself, was seeking the presidency. He had,
of course, written newspaper articles and some very vitriolic ones, but as
for "taking the stump" and making speeches over the country, Burnet considered
these to be the practices of a demagogue, and he refused to engage in such
activities. He had everything to gain by a Burleson victory, for the general had promised him the position of secretary of state if he were victorious; yet Burnet did little if anything to help Burleson win. Houston had no particular love for Jones and perhaps put him in his cabinet only to keep him out of the ranks of the opposition. With Lamar and Burnet supporting Burleson, though, and Houston himself angry with the general because of what the president chose to call "insubordination," Houston had no alternative but to back Jones.

At the last minute, therefore, President Houston cast the full support of his strength behind the secretary of state. Burleson was known to be in favor of annexation, though backed by such men as Lamar; whereas, Jones was supposed to be an anti-annexationist, though the secretary never made his position on the matter quite clear. As for Burnet, he believed that unless annexation took place soon, the Houston party would utterly ruin the republic.4

Perhaps it was lack of issues rather than issues that characterized the election of 1844. With Houston supporting Jones, Burleson turned to the followers of Lamar and Burnet, and these supporters (such as Francis Moore, editor of the Telegraph and Texas Register) did what debating was done. Burleson's very inability to speak publicly was his greatest drawback. He could not read, much less understand, the classical allusions thrown into the speeches which Moore and others wrote for him, and this inability to "take the stump" caused his defeat. The race was close, but on September 2, 1844, Jones was elected president over Burleson by the margin of 7,037 votes to 5,661.
The defeat of the general further lessened the chances of Burnet for a political come back, and yet the judge had only his own prejudices to blame. He had refused to campaign for the one man who could have returned him to office and vindicated the policies he had pursued during the administration of Lamar.

The great question during the administration of Anson Jones was that of annexation. He assumed the presidency of the republic less than a month after James K. Polk won the election for the presidency of the United States on a platform of jingoistic expansion—"the reannexation of Texas and the reoccupation of Oregon." The overwhelming vote for Polk was taken as a referendum by President Tyler, who immediately urged the annexation of Texas by joint resolution of congress. Congress then passed the desired resolution in February, 1845, and it was signed by Tyler and dispatched to Texas on March 3. Thus this highly controversial political ball was thrown to Anson Jones, who by his own admission was "laboring for annexation and independence both at the same time."

Facetious and vacillating as Jones's claim may seem at this late period, it was, nevertheless, a policy followed by many prominent leaders of the republic. From 1826 to 1831 when Burnet was seeking to fulfill his empresarial contract, he was opposed to annexation, because it would have nullified the prospects of his success. After he shed the duties and advantages of his colony, however, the judge was in favor of annexation, and was one of the first to advocate it in 1836. In fact, he claimed to be the first, having commissioned James Collinsworth and Peter W. Grayson on May 26, 1836, as commissioners to the United States to say among other things "that in the opinion of this Government, the annexation of Texas to the United States as a member of that confederacy, would be for many weighty reasons
highly acceptable to the people of this country." Also, the first official proposal for annexation made by any official of the Texas government was the one included in Burnet's presidential proclamation of July 23, 1836:

"...it is conceived important to the interest of the country that the people should determine whether they are in favor of annexing Texas to the United States, therefore the managers of the election are required to put the question direct to each voter and make return of the number of votes for or against it." 7

The vote on the question of annexation in the election of September, 1836, was 3,571 for, and 91 opposed; thus the electorate overwhelmingly supported the question and Burnet later claimed to have originated annexation efforts as a result of this vote. 8 On the day that President Houston was inaugurated for the first time (October 22, 1836), the congressional committee on foreign relations was already discussing the subject of annexation. However, as indicated earlier, the commissioners' efforts were unavailing, and the annexation offer was withdrawn.

Sam Houston also may be accused of vacillation on the subject of annexation. In a public letter of April 9, 1845, Houston said, "I have on all occasions evinced the most anxious solicitude touching the matter, and have withheld no means in my power towards its completion." 9 Yet, the students of Texas history are divided as to exactly what the motives of Sam Houston were. Perhaps the truth of the matter is that many of the prominent men of Texas espoused first one side and then the other of the question as conditions changed and it appeared to be to the advantage of the republic first to be independent and then to be a part of the United States. Anson Jones, therefore, cannot be too much criticized for duplicity, as his policy was not too much at variance with the views of other leaders of the
time. Nevertheless, Jones was criticized by some of his most recent supporters. The president had called for a special session of congress to meet on June 16 to consider the subject of calling a convention, but popular demand for an annexation convention to meet at Washington-on-the-Brazos on the third Monday in May forced Jones to revise his plans. Accordingly, the president issued a call for a convention to meet at Austin on July 4, 1845. Regardless of what the convention decided, Anson Jones was dead politically. Leadership had passed into other hands.

Most of the delegates to the annexation convention were men who had arrived in Texas from the United States since the revolution. Thus it could be presumed that they would be more in favor of joining the United States than men who had come to the territory when it was under Mexican rule and appeared to be permanently so. Perhaps the ablest memember of this new-arrival group in the convention was General James Pinckney Henderson who had come to the republic in June, 1836. For president, however, one of the older citizens of the republic was chosen—General Thomas Jefferson Rusk. By July 5 the convention had moved for annexation on the terms proposed by the United States. While the group proceeded to the formation of a constitution, the United States army received instructions to move into the area to protect the prospective state against any warlike action on the part of Mexico.

This convention of 1845 has been called "the ablest political body that ever assembled in Texas."10 Certainly it was composed of many capable men. Besides Rusk and Henderson, there was A. C. Horton, James S. Mayfield, Abner S. Lipscomb, Francis Moore, R. E. B. Baylor, Isaac Van Zandt, H. G. Runnels, John Hamphill, to name a few. Houston was elected but did not attend as he was in the United States at the time. Perhaps Burnet aspired to be a member, but the area in which he lived was a pro-Houston region, and the
judge was averse to campaigning.

The great question of annexation thus caused a realignment of political parties, and Burnet took his stand with those in favor of joining the United States. Such men as Houston, Rusk, Horton, Henderson, and Mayfield had turned against Anson Jones because of their disappointment in his leadership. Many of the delegates thought a provision should be placed in the constitution to end the existing administration immediately, but this proposal was defeated. The administration would close its affairs, however, as soon as arrangements could be made for the establishment of a state government.

Before the close of the constitutional convention in August, Henderson had announced as candidate for governor and Horton for lieutenant-governor. They were opposed by Dr. J. F. Miller and Nicholas H. Darnell, both of whom entered the race rather late. In a ballot conducted by the chief justice of each county on October 13, the people almost unanimously endorsed the annexation policy. In November an election was held for state officers, and Henderson won the governorship 7,853 votes to Miller's 1,673. Horton, however, beat Darnell by only 120 votes.

Henderson chose for his cabinet the following officers:
David G. Burnet, Secretary of State; James B. Shaw, Comptroller; V. E. Howard, Attorney General; W. G. Cooke, Adjutant General; and T. W. Ward, Land Commissioner.

Neither Rusk nor Houston cared to run for state office, as they aspired to the title of United States Senator. They were correct in their estimate of the situation, and the legislature chose both men to represent the new state in the national government.
Governor James Pinckney Henderson was only thirty-six years of age at the time of his inauguration on February 16, 1846; yet he had served under Burnet as a brigadier general in the army, and under Houston as attorney general, secretary of state, and minister plenipotentiary and envoy extraordinary to France and England. Only twenty-nine years of age at the time he went to France, he negotiated the first European treaty of recognition which Texas obtained. He was offered upon his return to the republic in January, 1840, the position of secretary of state under Lamar, which position he declined because of poor health. He was strongly urged to accept a nomination for the presidency in the election of 1841, but refused on the grounds that he did not meet the constitutional requirement with respect to his age—he was not yet thirty-five. When his friends replied that age did not matter, for he had the appearance of a man of forty, Henderson replied that he would "never violate the Constitution of his country, though no one on earth should know it but himself." 13

For all his success, Henderson was never condescending, but one of the true gentlemen of the bar—a man who was above the equivocation and deceit which characterizes too many of his trade. Perhaps it was this noble character that prompted him to bring Burnet into his cabinet, for Henderson was a man who could appreciate the ability and sincerity of Burnet. The judge had made many political errors and many enemies. He was considered pompous and tactless; yet none doubted his ability as a lawyer, nor could Henderson overlook his vast experience and his qualifications for the position of secretary of state. If Burnet had not taken the stump and campaigned actively for the governor, it did not matter. Henderson, himself, was a conservative, and he knew Burnet had the background for the position and would administer the office as his superior desired.
Before Burnet was offered the position of secretary of state, he was urged by a few friends to apply for the office of district judge. To this, however, the judge replied that he was "not personally known to Mr. Polk and shall make no direct personal effort to get it. I am not well read but believe I can qualify myself for duties without discredit." 14

If, however, two judicial districts were created, Burnet would agree to apply for the Galveston bench, as he could then still remain at Oakland. Later, however, when such a court was created at Galveston, Burnet did not seek the judgeship.

With the inaugural of Henderson in February, 1846, David Burnet once more left his family at Oakland and journeyed to Austin. His son, William, was now thirteen years old, and his parents had decided that perhaps this was the right time to send him off to school. Accordingly, when the judge departed for the capital, Mrs. Burnet stayed behind to get William and his belongings ready for the long trip to Ohio. He was to leave around May 1, apparently with Joseph Clopper, and was to live and study at Beechwood, the Clopper home near Cincinnati. 15

No sooner had Governor Henderson taken office than Mexican hostilities commenced, and the governor asked for and obtained from congress permission to lead the army of Texas in the struggle. Thus it was that in May, General Henderson departed (on a stretcher—for he was sick) for the battlefields of Mexico leaving behind him as acting president, Albert C. Horton, who served as president from May 19 to December 13, 1846. Horton did not like Burnet, for he harbored resentments from their rival campaign for the vice-presidency in 1838, and consequently the judge would have much less responsibility than he had enjoyed during the Lamar administration. Also, the affairs of Texas were no longer national and international in scope but statewide. The office
had decreased in importance, and that small remaining responsibility was further nullified by the animosity of the acting executive. Nevertheless, Burnet would do as he was told and attempt to carry out the wishes of both Henderson and Horton, and he was sworn in on February 23, 1846.

The governorship of Henderson, being a transitional one, was shorter than the two-year period allotted by the constitution to the office. Both the short legislative session of 1846 and the longer one of 1847 dealt almost entirely with questions related to the Mexican War. This preoccupation with the war meant that many important lesser items were neglected. Among these was the publication of the laws. Said Burnet in an effort to explain the delay:

"No one regrets more than I do the delay which has occurred in the publication of the laws of the late legislature--

That delay has resulted from various causes which the elected printers are better able to explain than myself, no part, or at most a very small portion of it, can be attributed to any remissness on the part of this office. I was absent for some weeks during which time the clerk in this office died, and in consequence of his decease, the printers may have been delayed a few days--death is not always to be anticipated; it came very prematurely in this instance or there would not any inconvenience have resulted from it to the public.

The acting Governor (Horton) is absent and there is no one here authorized to do any Executive act. For your information I send you a copy of the law regulating elections, in newspapers.16

After the capture of Monterey by the United States army, General Henderson, who had within a brief period become well known to General Taylor as a soldier of great ability and bravery, resigned his commission because of continued poor health and returned to his executive duties. He arrived in Austin in the middle of November, 1846,
and a dinner was held for him in the ball room where Houston had been inaugurated in 1841. Burnet was among the first to greet the general. Certainly no one could have been happier at Henderson's return, for the animosity of Horton and Burnet was unabated. When the various officials were making toasts to Henderson, Burnet raised his glass and said: "General Taylor and his army—the pioneers to the political and moral enlightenment of Mexico."17

Henderson was sick off and on after his return, and Horton continued to exercise much authority, while Burnet's duties remained more or less clerical. He took no part in the war. About the time of Henderson's return the officials of the old Galveston Bay and Texas Land Company instituted a suit against the state of Texas for the purpose of getting some remuneration from Burnet's grant. This famous case, known as the "State v. Burnett, Impresario," was to drag through the courts until November, 1852, before the Galveston Bay Company finally won a decision for eleven leagues and fifteen laborers. Under the terms of the transfer of title in 1851 when Burnet sold the rights to his colony to the New York corporation, he was obligated to defend the rights of the company at any time that he was called upon to do so. Because of Burnet's official position in 1846 and 1847, he was unable to appear in court personally to argue the case of the plaintiffs, but he apparently did appear in later years as a witness, and for his troubles received a small fee from the company in January, 1853.17

Judge James Webb was the company's spokesman in court, and Webb presented to the court the original commission of George Antonio Nixon, the original government-appointed commissioner for Burnet's colony. Webb also produced from the state land office files the title abstracts for 212 families and 44 bachelors to whom Nixon had issued title in 1835. To augment this apparently sound evidence of the ful-
fillment of contract, Webb produced the original deeds which Nixon had executed for the above settlers. The court did not know it, but the chances were that most of the titles were issued after the closing of the land office in October, 1835, and hence were invalid, for when William Fairfax Gray was in northeast Texas in the fall of 1835, he saw a large stack of titles which Nixon had predated and stamped leaving the name of the colonist blank. When the opportunity presented itself, Nixon, who was also an agent of the Galveston Bay and Texas Land Company, would fill in the blank and thus show the sale as of a previous valid date. 13

The supreme court of Texas did not, of course, know the method in which Nixon had conducted his affairs nor that he had been an agent of the Galveston Bay Company, but the court did know that the plaintiffs were not citizens of Texas, nor had they ever been, nor did they claim to be. Under the provisions of the Mexican law regulating empresarios, the empresario was required to be a citizen of the territory he governed and to reside on or have an authorized representative recognized by the Mexican government reside on the colonial grant to which he had claim. None of the plaintiffs could meet this requirement; hence the court should have ruled against the company instead of for it. 15

Burnet was caught between his legal obligation to the company and his ethics. He knew that the company had no legal right to any territory, for its agents had not met the empresarial requirements. Yet, he had a certain moral as well as legal responsibility to the company, for he had sold his contract to these men who believed that they were getting a fair deal. To have claimed after the contract was signed—as Burnet did claim—that he had absolutely no idea what the plans
of the buyers were seems rather incredible, especially as the agreement which he signed on the same day that he transmitted unlimited power of attorney to the officials specifically set forth the plans of the purchasers. Burnet was thus obligated in every way to push the case to a successful conclusion.

It is difficult to believe that the court favored the company merely because it was supported by Burnet, although the three judges were all friends of Burnet. It is rather more likely that the newness of this type of case caused the justices to make an honest mistake, an error which the court acknowledged a few years later by denying the company's rights to land under the similar contract of Joseph "cshlein in the case of "Rose v. The Governor."21

In August, 1847, George T. Wood was elected governor to take office on December 21, following the retirement of Henderson whose health did not permit him to seek reelection. Burnet therefore returned to Oakland, but he had had a taste of power after some years out of office, and he decided to seek another political position rather than resign himself to the life of a farmer. During 1848 there is no record to show that Burnet applied for federal office, but in 1849, the judge did seek the position of federal collector of customs for Texas—a position which would have permitted him to live at Oakland.

In 1849 the two United States senators from Texas were Sam Houston and Thomas Jefferson Rusk. As these men were the enemies of Burnet, a federal position for the judge was virtually out of the question; yet Burnet decided to try for one and to circumvent Houston and Rusk. Accordingly, he wrote to General Lamar, General Thomas Jefferson Green, and General Cozenneau, all of whom were then in Washington asking that they attempt to get him the customs position. Burnet also wrote to John C. Calhoun, whom Houston had attacked a short time before, and as Jacob Burnet was a personal friend of Webster, the judge also wrote to the great orator. 22
These efforts, however, were unavailing and Burnet received no office. Following this failure, Burnet was forced to sell various bits of property in order to pay for the schooling of his son, William.\textsuperscript{23} It is unknown how long William stayed with the Cloppers in Cincinnati, but apparently he stayed for the equivalent of several years though of course coming home for several months at a time each year.\textsuperscript{24} As for Burnet (who lived for his son), he now devoted himself to farming and practicing law to some extent on the side. That he visited town but little, however, is shown by the notice every minor visit was given in the newspapers of the day.\textsuperscript{25}

The judge was still recognized as a prominent citizen, for in 1852 he was vice president of a group of prominent men seeking the construction of a local railroad.\textsuperscript{26}

It was perhaps in 1853 that William Este Burnet, now twenty years of age, entered the Kentucky Military Institute six miles south of Frankfort. It could have been earlier, though he was apparently staying with the Cloppers until 1853, and borrowing money from them occasionally without telling his parents. This was to embarrass Burnet when he learned of it, for the judge did not like debt. By 1855 William had graduated from Kentucky Military with the degrees of A.B. and C.E., and he returned home to visit his father and mother.\textsuperscript{27}

While his son was away from home, the judge had turned his attention to compiling materials for a history of Texas. Burnet, Lamar, Green and Sherman were all turning their pens against their mutual antagonist, Sam Houston. C. Edward Lester had written a biography of Houston praising the General to the skies, and Henderson Yoakum in 1855 had just brought out his History of Texas, defending the General with the ablest arguments yet conceived. The publication of these two works spurred Burnet into a frenzy of writing preparation. The
judge went to every important person who opposed General Houston and got notarized statements concerning such things as Houston's retreat from the Colorado, the burning of San Felipe, and Houston's intentions just before the battle of San Jacinto. The judge wanted to publish his material but could not because of the great expense. William's schooling had taken most of the family money, and about the time William arrived home from Oakland one of the judge's slaves ran away, thus leaving the family in a bad financial situation. As Burnet told it:

"Between three and four years ago I purchased a negro man for $700, who had a high character for industry and faithfulness—He was remarkably industrious and intelligent in all farming operations—I committed everything to him and after a while bought his wife at $700. Merely for his greater contentment—She soon proved to be a vile, vicious, impudent, unprincipled wretch—She gave us much trouble and annoyance—but still he did his duty. Eventually she took sick and for 18 months has literally done nothing—been nursed and had medical aid—but still as bad as ever—About three weeks ago, he ran away without the slightest provocation and is still at large—Since he left I have mind of his rascally tricks—he has been deliberately robbing me for about 2 years and has taken off with him some 5 or 400 dollars—He may yet be found but I have little hope of realizing the one half of his cost—The woman I have sent to Galveston to be sold and shall probably lose 3 or 400 dills on her—

Well I suppose the Soundrel Abolitionist wants truth in all these things—Those two negroes were as free (the abstract idea alone excepted) as anybody, and were more comfortably provided for than half the poor farmers of the north."

Thus because of poor financial straits, Burnet was never able to publish his history of Texas. The judge did, however, complete a book review of Lester's work, and he submitted what was perhaps the bulk of his history material to the Texas Almanac, where it was published over the years from 1857 through 1861.
When William arrived home in the fall of 1855, he perhaps worked on the Oakland farm for a time, but by 1856 he had a position as assistant to the superintendent of a military school at Galveston with a salary of $75 per month. He was apparently dissatisfied with this, however, for by the following year he had enlisted in the United States army. As for the Burnet family, conditions continued to be bad financially. By the fall of 1856 the family had only one Negro girl slave, and the judge was forced to rent his farm to A. L. Tompkins for $125 per year, keeping for himself and Mrs. Burnet the house and one acre. An agreement was signed with Tompkins permitting the Burnets to take roasting ears from Tompkins' cornfield for the use of the Burnet table only.31

Burnet, of course, owned several hundred acres of land in Medina County, but to meet his expenses he had to sell portions of this from time to time. While the judge was thus hard-pressed for money, Mrs. Burnet became sick, and by 1858 it was necessary to borrow $310 at 3% interest from the Clopper family in Cincinnati. In July, 1858, Burnet once again wrote to his friends in Washington seeking federal employment. Rush and Houston still thwarted his success, but the judge wrote to congressmen John Henry Reagan and Moses Austin Bryan:

"I beg you will not suffer the multiplicity of your engagements, to expel me from your consideration--however numerous may be the other similar concerns committed to you, there is none more equitable and none more vitally important to the claimant--"32
By the fall of 1853 Mrs. Burnet was seriously ill, and on October 30 she died. All that the judge had once held dear was now gone, save only his son William. Federal appointments no longer mattered, nor any of the other attainments of the world. Burnet had greatly changed since the carefree liberal days under Miranda. He had grown steadily more conservative and more distrustful of the common man. This distrust produced an aloofness and an inability to get along with such men as Sam Houston, who knew the masses and was loved by them. Thus the judge drew further and further from society, and while respected by many, he was loved by few. He was never able to understand Houston's popularity and his own lack of it though he was the most respected of citizens. With the death of Mrs. Burnet, the judge turns his attention to the past and once again takes up his pen against Sam Houston.
Chapter IX

The Popularity of an Elder Statesman

The death of Mrs. Burnet marked the beginning of the unhappiest portion of the judge’s life, and from this moment he lived only for his son. Just after his wife’s death, the judge had written to William, then in the Rocky Mountains on a military expedition. The reception of this letter is given graphically by Lieutenant Burnet as follows:

"...we had been out for nearly a month and were returning to our Camp almost worn out by cold and exposure, our only expectation that of getting news from our friends; when we were within two days march of our camp we were obliged to stop, the horses could go no further without rest; an express was sent in to camp for our mail. The ground was covered with snow and we had no shelter and but little fuel. The day the express was to get in it did not come and we had all gone to sleep around our scanty camp fires when the mail arrived. I did not hear it when it came but soon one of my brother officers came and called me and gave me the letter--it was the first I had got from home for months and by the moonlight reflected from the snow (the fire was out) I read my father’s letter telling me of my mother’s death, of her long illness, of her last thoughts of me. I felt the cold no more but such a night I had never passed, it seemed as if it would last for ever; morning came at last and I started for home; five hundred miles of almost unbroken wilderness was before me ere I could get to San Antonio but I rode it in eight days. I changed horses at the different Military Posts on the route six times and every one I left was broken down. During those eight days I did not sleep at any time more than four hours out of the twenty-four. I found in rapid motion some relief. At San Antonio I took the stage and soon reached home to find it desolate indeed."¹

Before the arrival of William, the judge was alone at Oakland with his two slaves, Puss and Allen, who had always been directed by Mrs. Burnet.

With her guiding hand no longer present, the slaves soon became "idle, careless, and wasteful," and Burnet was unable to get a decent meal.² When William arrived, he saw immediately that his father would never be able to keep house alone, and
he induced the judge to rent the old homestead and its remaining one acre to a Mr. Mason, who had a family of fourteen. The servants were accordingly hired out, and in the first week of January, 1859, Burnet moved to Galveston to live with the family of General Sidney Sherman. Sherman had been a close friend of Burnet since the revolution and especially since the spring of 1838 when the judge had defended the general against the wrath of President Houston. William had offered to stay with his father and take care of him, but the judge insisted that his son continue service with the United States Army where there was seemingly more chance for success than could be found at home. Therefore, Lieutenant Burnet returned to his base at Fort Cobb, Indian Territory.

Burnet faced a long period of readjustment. Shortly before William conducted him to Galveston, the old man had stated the trials he faced in the following letter to Mary Esten Clopper, the sister of his deceased wife:

"The year has closed and the Sun has commenced counting another revolution of our globe—what will be its developments? time only can disclose—

...Two months have elapsed since I committed to the Silent grave, all that was mortal of my beloved companion the mother of my only living child—Two months of more entire and cheerless existence have Seldom been endured by a human being...I look back upon it and wonder that I could sustain the burden of life— to drag out hour after hour and minute after minute in deep Solitude and under Such a bereavement is a trial to which few have been Subject in this life."

In Sherman's home at Galveston Burnet met many of his former political friends, and thus the judge was to some extent diverted from his overwhelming grief. Talk was often of the old days and inevitably of General Houston, who was now out of the United States Senate and an avowed candidate for the governorship of Texas. Houston had lost the gubernatorial battle to Runnels in 1857, but in 1859 his popularity was on the rise. Burnet could not understand General Houston's continued popularity. As he wrote to his old friend,
Lamar (whose own antipathy to Houston had made him long ago forget the judge's failings during the Lamar administration):

"The old adage 'truth is mighty &c' cannot be correct in these times of deluded and ignorant popular sovereignty--thank God I never was a democrat--and never can be--Everyday's experience admonishes me of its utter fallacy."  

The rising tempest of the approaching War Between the States and the resultant temper of the Texas political situation inspired Burnet to submit a number of articles to the Texas Almanac and to have republished his Review of the Life of Gen. Sam Houston, which he had first published in 1852. To Lamar in 1859 he wrote:

"I suppose you have by this time seen the Texas Almanac for 1860--perhaps you have read the historical Compact--and you will recognize the author--what do you think of it--If it be not true, I shall lament it--If it be true, why is it that it makes no impression..."  

In September of 1859, by a margin of 8,757 votes, General Houston defeated the incumbent governor, Hardin R. Runnels, and he was inaugurated in December. Houston had run as an independent candidate, for he, like Burnet, could not support the secessionist views of the Democratic Party. In January, 1860, Governor Houston delivered a state of the union address to both houses of the state congress in which he expounded the arguments against nullification and secession. The people of the state, however, and their representatives were becoming increasingly favorable to the views espoused by the followers of John C. Calhoun. The nomination of Lincoln as the Republican presidential candidate in May, 1860, spurred the Texas Democrats to frenzied action, and heavy pressure was put upon Governor Houston and congress for a firm stand on the nullification question. The victory of Lincoln in November brought forth cries for a special convention to consider the stand which the state would take on the entire secession matter. Houston eventually yielded to the rising demands of the
electorate and called a convention to meet on January 21, 1861.

Not approving of secession, Burnet, until the last minute, counseled peaceful submission and continuance within the union under Lincoln. The mass of the people, however, were ready for war, and Burnet was not elected to the convention. By this body, an election was set for February 23, 1861. Of 53,256 votes, 39,415 were for secession and 13,841 opposed. By March 5, the votes had been counted, and the reassembled convention instructed its representatives at Montgomery, Alabama (where the southern confederacy was then being organized), to seek admission of Texas into the Confederacy. The convention adopted the Confederate constitution, named representatives to the Confederate congress (in anticipation of acceptance into the southern union), and instructed Houston to prepare for war. Upon Houston's refusal to do so, he was deposed.7

When the War Between the States commenced, Burnet had just turned 73 years of age. He had little money, and his property was fast diminishing as sales were made to pay off one debt or another. The necessity to have an agent to collect the rents for his Medina County property further decreased the amount of money he derived from that source. Nevertheless, to help Texas in the bloody conflict just beginning, Burnet said that he would render his property for taxes above the market price in order to set an example for others. The judge did not want to fight, but if his state was determined to do so, he would do everything possible to aid it.8

William Estes Burnet, in the meantime, had not disappointed his father's expectations, for the 27-year-old man was now a captain in the United States army with every prospect of rapid promotion. That he had not greatly increased his financial standing, however, is shown by the fact that he had not paid off the
By the middle of 1860 the young man was still paying off this minor debt. With the coming of the war, Captain William Burnet resigned his commission to accept a commission as lieutenant in the Confederate army. It is unlikely that the elder Burnet exercised any influence on his son to abandon the northern standard, but young Burnet was surrounded by southerners who were also leaving the service of the United States. He made the choice on his own accord, but Judge Burnet believed that his son was done an injustice when he was allowed only a lieutenant's rank. In a proclamation early in 1861 the Confederate government had promised equal or higher rank to any person then serving in the armed forces of the United States and who was willing to take up the southern cause. Hence Burnet considered that an injustice had been done his son, and he immediately took measures to correct it. He wrote to officials in the Confederate government and the army enclosing letters from five high officers under whom Captain Burnet had served in the United States army. These gentlemen, who were now in the Confederate service, stated that young Burnet had high ability and that his previous record justified a position of authority similar to the one he would then be holding had he remained in the army of the United States. The Confederate lieutenant was not immediately advanced, but by 1865 the efforts of the elder Burnet, the demonstrated ability of the younger officer, and the desperate need of the South combined to secure the young man a promotion to the rank of colonel.

In the fall of 1864 Mrs. Sidney Sherman became ill, and early in 1865 she died. Burnet, who had been living with General Sherman and his wife, now had to readjust his life. The 75-year-old judge still had some
income from his Medina County lands, and thus he would be able to pay for his board, for his requirements were not great. Hence it was that in the spring of 1865, Burnet moved into the home of Preston Perry in Galveston, but hardly had this occurred when he received a dispatch from the Confederate war office informing him that his son William had been killed in the siege of "Old Spanish Fort" at Mobile, Alabama, on March 31, 1865. Burnet was beside himself with grief. The pride of all his years and the solace of his old age was dead, "a victim to an unhappy war—and I only am left poor and desolate—Oh! God! Thy will be done and give me grace to submit cheerfully to it."^{11}

With the close of the War Between the States Judge Burnet assumed an importance which had not been his for years. The loss of his son inspired him with sympathy for the lost cause of the South, and his extreme age meant that he had nothing to fear from the victorious North. He could speak his mind with little fear of personal retribution. Again, his past experience and the very fact that he had opposed the war meant that he could talk as an equal to the victorious leaders of the United States. Thus in the early summer of 1865, his friends commenced coming to him with pleas to do something for their husbands and sweethearts—men well known to Burnet—who were imprisoned in the North or who had had their citizenship rights removed. By August the requests had become a clamor, and the newspapers of the day added their beseeching editorial voices to the wishes of his friends for the judge to save Jefferson Davis and Frank R. Lubbock (war-time governor of Texas). His services could not be refused, and by September Burnet was making preparations for the long journey to Washington. On September 19, 1865, the judge presided over a meeting at Richmond, Texas, which drafted resolutions expressing the will of the citizens of Fort Bend County to accept President Johnson's reconstruction plans. That evening, he went to Houston, Texas, and took a room at the Rusk House where he
was received by Major General Mower, United States commanding officer of the
district. Judge Burnet stated his views and plans, and the general despite
his office wished him godspeed.12

On September 23, 1865, Burnet at Galveston boarded the steamer
Saint Mary and arrived in Washington the first part of October. He had with
him a long petition from the people of Texas asking clemency for Jefferson
Davis, and also petitions from various ladies’ organizations in Texas and
Louisiana asking pardon for Davis. On October 13, he wrote a letter to the
president in which he explained the purpose of his mission and requested a
personal interview. When his request was honored, the judge presented his
petitions. In asking for the pardon of Lubbock (who had been convicted of
treason by court martial), Burnet said:

“If a great Republic cannot afford to extend its pardon
to an offending citizen, in what form shall the quality
of mercy find ‘a habitation and a name?’ Is it to be
restricted to the Divine Government?...If so, the
genius of all human institutions crouches to an un-
relenting, insatiate vindictiveness, which every
higher form of civilization abhors and substitutes a
savage spirit of revenge, for the ineffable yearnings
of a generous clemency.

We still look with a confident hope for a manifestation
in due time of those nobler qualities which we believe
animates the bosom and gives vitality to the acts of
our worthy Executive.” 13

The president was having congressional difficulties of his own, however,
and Burnet did not find his mission easy of accomplishment. He persisted, however,
until his health broke down, writing to the president on a number of subsequent
occasions, visited congressmen, and otherwise attempted to achieve his purpose.14

With the reconstruction congress taking more and more control away from
President Johnson, Burnet found that he was unable to effect that which he had
set out to do, though Johnson, himself was in favor of mildness and full presi-
dential pardon to the majority of the former Confederate soldiers. Thus in
December, 1865, Burnet abandoned his efforts at the capital and journeyed
to his early boyhood home in New Jersey. He had been very sick at Washington
for several weeks, but that had not prevented his making every possible effort
for the South. Having done his best and failed, Burnet now allowed himself
some personal pleasures. Most of his friends were long since gone from Newark,
but perhaps some of the old familiar landmarks still remained. What Burnet
saw is unknown, but in 1856, Isaac G. Burnet had visited the city, and it is
likely that the buildings which Isaac saw then were still standing when David
Burnet arrived nine years later. Said Isaac:

"I have seen the old homestead, my fathers mansion. It
was then indeed a mansion of some consequence, but modern
improvements and taste have thrown it in the shade. It
has been removed from its location & now forms four
tenements—the two wings are entirely separate from the
main building & it has been reconstructed so as to
accommodate two families and sets flat on the ground—
it formerly stood up and was approached by four or five
stone steps and a large stone platform like your uncle
Jacob's—we went to church yesterday in the old stone
church which my father assisted to build and I visited
the grave behind it and the vault where my father's
bones rest—My mother was interred in the Gouverneur
family vault in New York." 15

Burnet's old acquaintances prevailed upon the judge to spend his re-
mainng years in the city of his youth. Now alone, he did consent to make a
longer visit with his friends, but first he had to return to Texas and report
on his mission. Thus with a promise of quick return, the judge left New Jersey
and travelled down the coast to Mobile where he visited the grave of his son.
After a brief stay at that tragic spot, the judge continued on his return journey
and arrived in New Orleans around January 16, 1866. There he spoke to the ladies
who had given him the petitions from their state, and made public all the cor-
respondence on the question which he had handled during his several months in
Washington. By the latter part of January he was once again in Texas where he
made similar reports to all of those whom he had represented. 16
Hardly had the venerable man returned, when he was once again besieged by citizens claiming injustices to them on the part of the Freedmen's Bureau of Texas. The citizenship rights of all those who had aided the Confederacy in any way had been cancelled by fiat of the reconstruction government, and their only appeal was through the Bureau which was already prejudiced against them. To claims of injustice, Burnet could not turn a deaf ear, and thus with his sympathy aroused he wrote the following public letter to Brigadier General E. L. Gregory, then heading the Freedmen's Bureau in Texas:

(From the Galveston News of January 28, 1866):

"Since my return to Texas I have been mortified and grieved to hear from highly respectable sources, of many intolerable, and I am persuaded, unauthorized acts of oppression proceeding from the chief of the Freedmen's Bureau. Gen. Howard did not extend his late tour of inspection to Texas, and is probably quite uninformed of the many impositions practiced by subordinates. That they would receive his prompt and effective reprobation, as they must of all honorable men, is a just inference from his known character. The imputed acts of Gen. Gregory and his coadjutors are injurious in many respects and beneficial to none. They inspire the poor negroes with false notions of themselves and a bitter hatred of their late masters, who have ever been their best friends. That misguided feeling, in all its insolent developments, must become reciprocal in such measures as the subject permits, and the inevitable evil consequences must accrue principally to the deluded negro. That it will unfavorably affect the industrial pursuits of the planters of the ensuing season is self-evident.

In view of these circumstances, I respectfully suggest that gentlemen who have been the subjects of these outrages will make minute statements of the relative facts, accompanied by competent testimony duly certified, and transmit them to me to be properly forwarded to Washington, where they will receive all suitable attention.

The many annoyances to which we are subject such as the summary imposition of fines and the assessment of monthly contribution on the poor negro, at the dictum of a petty official, are without sanction of law and will receive no countenance from our enlightened Chief Magistrate. All that is needful is a well authenticated statement of facts so disgraceful to the American name, to insure their prompt repression and the remedying of their authors to a proper obscurity."

DAVID G. BURNET

GALVESTON, Jan.26, 1866"
To this, General Gregory replied on January 30, 1866:

".....For newspaper calumny in general, I care nothing. I am silent both because I am busy and because I feel that I am right. Your case I now make an exception, on account of the gravity of your misstatements, and because your name is of such public reputation as to entitle you to more notice than an anonymous slanderer. I now pronounce your statement false in every particular, and I demand of you either a full and public retraction, or the well-authenticated proof."

E. W. Gregory,  
Brevet Brig. General.  
Ass't. Commissioner Texas.

And to this letter, Burnet replied that:

"....The Bureau has been guided by a manifest hostility to the white man and an inordinate and preposterous partiality for the negro, in all its exercises of official authority, whether legitimate or assumed. The natural results have been many and outrageous acts of injustice, committed towards the superior and fictitious exaltation, in their own stupid conceits, of the inferior race, and that a bitter hatred has been excited and fostered in the minds of the misguided negroes, towards their late masters and mistresses, whom they had been accustomed to revere and love, and a reciprocal alienation of feeling and effective kindness on the part of those who had reared them from infancy, or had been reared with them, participating in all their juvenile amusements, their little joys and sorrows, and in the attachments which usually grow out of such early attachments...."  

Following this reply to General Gregory, the judge proceeded to quote one notarized statement after another supporting his earlier remarks about the maladministration of the bureau. To this Gregory had no answer.

The dispute between Burnet and Gregory raised the judge to the highest pinnacle of popular success he had ever enjoyed. He had the complete support of every real citizen of the state. The general had heretofore acted as if he could treat the people of Texas with impunity, for he would try any case that presented itself regardless of whether it was properly covered by the congressional act of March 3, 1865 (which established the Freedmen's
Bureau and set forth the jurisdictional limits of the same), or not. Now, however, he was to some extent compelled to act with discretion, for Burnet forwarded the complaints against the bureau directly to President Johnson.

The popularity of Burnet continued to rise in the spring of 1866, and he undoubtedly hesitated to leave the land where he was now greeted everywhere with acclaim. Yet, he had promised to return to Newark for a longer stay with his friends and relatives, and he made preparations to go. He made his last will and testament and in May once again sailed for the East. He had been in Newark only a few weeks, however, when the Democratic National Convention was held in New York, and Burnet decided to attend as a visitor. Here he chanced upon Ashbel Smith (former Secretary of State under Anson Jones) whom he learned was a delegate, and Smith made the judge so homesick that he resolved to return quickly. In August, therefore, Burnet left for Texas, passing through Washington where he attempted once again to further the affairs of various southerners. How much he accomplished here is uncertain, but he did obtain on September 4 the presidential pardon of at least one person, Dr. Charles B. Stewart. When the judge arrived in Texas, he delivered the document to Stewart with the following letter dated September 8, 1866:

"I have obtained your pardon and hasten to inform you of it--
To whom Shall I commit the document--Do not like to trust it to the mail--
I have had a good deal of walking to and fro--upstairs and down and was obliged to lay over one day at Washington--I ought, being very poor to ask some remuneration for this, Say one or two hundred Dlls green backs--"  

Meanwhile, in August, 1866, while Burnet was in the East, the Texas legislature had chosen him to be the senior United States Senator with a term ending March 4, 1871. The junior senator was to be O. K. Roberts whose term would end on March 4, 1869. It was, of course, realized that the two men had little chance of being permitted to take their seats, for a hostile national
congress was rapidly taking all authority away from President Johnson. In view of this fact, together with the judge's dislike of cold weather and another long trip, Burnet at first talked of resigning the office. His friends, however, reminded him of his duty to his fellow countrymen. Said Ashbel Smith:

"...there is no man in the state...so universally acceptable, so endeared in the affections of the people as yourself."

Besides, as Smith reminded the judge, no other delegate could so well please both the former secessionist group of Texas and the conservative element of the North. Burnet, therefore, at length consented to accept the verdict of his countrymen, though he had no illusions of success, for he remarked to Roberts: "...we shall be obliged to do as the French king did—'go up the hill and down again'—However it is our duty to try." 24

On November 4, 1866, Burnet sailed from Galveston aboard the steamship Wilmington, a guest of the owners, J. S. Sellers and Company. He arrived in New York and proceeded thence to Washington where he greeted Senator-Elect Roberts, who had arrived two days before. Though Burnet was now 78 years, he still possessed (in the words of a compatriot): "all the firmness and intellectual vigor of the earlier day;" and it was prophesied that "while he will counsel moderation and peace, he will not yield one tittle and frank front due from a Texan and friend of the constitution as it stands." 25

While in Washington, Burnet and Roberts stayed at the house of Father Buckingham on 368 E. Street, where Burnet had lived on his previous trip. Once safely lodged, the two gentlemen paid a visit to President Johnson. The president was personally friendly but indicated that it was unlikely that congress would permit any of the senators-elect from the vanquished South to take their congressional seats at this time. Other calls were paid on the more liberal members of congress, just arriving for the legislative session.
that would begin on December 3. On that morning when congress first convened, Senator Reverdy Johnson of Maryland presented the credentials of the two men to the senate, in accordance with his promise to them a few days earlier. The President that first day in his message to congress stated that reconstruction was complete, but appended the statement that "congress was to admit no member who was not loyal." 26

Roberts and Burnet debated the meaning of this statement and wondered if it would not exclude any southerner, for it seemed to mean the taking of the oath of loyalty, to which few could subscribe. Days and weeks dragged by until by the approach of Christmas congress had still not reached any decision as to whether or not to seat the southerners. Burnet, therefore, left for Newark, while Roberts remained in the city to work on a lengthy paper which he planned to submit to congress concerning the conditions of Texas and her people. Shortly after Christmas, the treatise was finished, and Roberts journeyed to Newark to submit it to Burnet for his approval. On his arrival, Roberts found "the old man housed up snugly in that land of snow and ice", and "that he had not been out of the house but two or three times, since he had gotten there." 27

By January, the national congress gave no appearance of seating the representatives from the South, and Burnet, therefore, decided to depart, leaving Roberts to publish his paper in the National Intelligencer and to complete what unfinished business remained. Burnet had been forced to draw upon his own funds for the expenses necessitated by the trip as the Texas legislature had provided for no remuneration. Preston Perry wrote him, however, while he was yet in Washington that "the city of Galveston was determined that the expense shall not be yours." 28

The generation of men with whom he had spent the active past were now dead; Houston had died, and to a defeated people, Burnet was a living symbol of
the greatness of the past. On April 4, 1867, Burnet was 79 years of age, and his health formerly so good was now failing, in part at least as a result of the exertions of the previous year. He apparently was still of sound mind, and was able to participate in local affairs. By the following year, however, he was unable to attend the San Jacinto Day celebration because of his health. He often thought of making another trip to the North and perhaps remaining there during his last days, for many of his nephews and nieces both of New Jersey and Ohio asked him to come. He was the last of his family, all of his brothers and sisters now being dead. On the other hand, the citizens of Texas had taken him to their bosom, and in May, 1868, 72 men of Houston petitioned Burnet to remain in the state. Thus he stayed on growing more feeble and somewhat absent minded. On one occasion he had a negro boy help him carry an old trunk from the Perry's house to a vacant lot. With the help of the colored boy, the judge dumped the contents upon the ground and set fire to them. Perry noticed the blaze and when Burnet returned to the house, Perry asked him what he had been burning. Replied Burnet, "It is my history of Texas--I cannot think of letting anything go to the world in which the name of Burnet occurs so often." Shortly afterward, a justice of the United States Supreme Court arrived to get that history, but it was no more.

On December 5, 1870, the venerable judge breathed his last at the age of 82 years and was buried in the Episcopal Cemetery at Galveston. His remains were transferred on October 15, 1871, to Magnolia Grove Cemetery and placed in a position of honor alongside the body of Sidney Sherman. In 1936 the judge's body was transferred to the state cemetery in Austin, and thus ended the life of an old Texian.
The Significance of David Gouverneur Burnet

Few men in frontier politics had better training for a position of political leadership than David Gouverneur Burnet. Two of his brothers were successful lawyers, and Burnet had studied under them and worked in their offices for several years before coming to Texas. That he possessed innate ability and profited by his early associations, no one who has studied his state papers can doubt. His literary style was excellent, his legalistic reasoning sound, and as the first practicing judge of Texas in 1834 and 1835 he won the respect of the citizens. This was a position that did not require much congeniality, and Burnet was able to execute the duties. In other occupations in which the judge engaged, however, he must be counted a failure. He had too much education for the conviviality of the frontier and not enough for the liberality of opinion which characterizes the true scholar. He knew the law and was able to expound it, but he could not deal with people. In addition to this difficulty, he was too legalistic as an administrator. As president, vice president, and secretary of state, Burnet tried conscientiously to carry out his duties to the satisfaction of all concerned. He would bend over backwards to abide by the law and by doing so would cause a delay of action which would do more harm than dictatorial fiat. As a financier, Burnet succeeded in wrecking the all-interim government and the Lamar administration. He knew nothing of money, regardless of whether it was his or the state's.

For the above reasons, Burnet must be deemed a failure; yet in the republic of Texas he was important. He had lived in the state
before the arrival of Moses Austin, and for a decade after the death of Houston he commanded the attention of his countrymen. As a senior statesman who was willing to stand up before the authority of the United States government, Burnet enjoyed a popularity which he had never before known. Thus, at his death in 1873 he was the symbol of the glory of the past. Had he written a history of the state, he could have gained immortality, for none knew that history better than he. He was an able writer and thoroughly familiar with Texas, but his hatred of Houston made it impossible for the judge to rise above factionalism and attain the greatness at his finger tips. Thus it is that Houston's faults are forgotten, and his greatness remains, while Burnet with his propriety is unknown.
PROPOSALS
FOR A
COLONIZATION & MINING COMPANY, &c.

Whereas, the undersigned David G. Burnet, and Benjamin R. Milam, have severally procured from the government of the State of Coahuila and Texas, one of the United Mexican States, grants of certain Colonies, known by their respective names, and situate as follows, to wit: Burnet's Colony, commencing at the town of Nacogdoches, in the department of Texas, and running North 15 leagues; thence West, to the river Navasoto, a distance of about 140 to 150 miles; thence down said river to the intersection of the road from Nacogdoches to San Antonio de Bexar; thence along said road back to Nacogdoches, comprehending an area of about five millions of acres, on which he has engaged to settle 300 families by the 22d December, 1832. And Milam's Colony, lying on the western bank of the Rio Colorado of Texas, and running West 2 leagues beyond the river Guadalupe, being about 45 miles wide and 125 miles long, on which he has contracted to settle 300 families by the 9th February, 1834. And whereas the undersigned Benj. R. Milam, is the legal and exclusive proprietor, according to the form and tenor of the laws of Mexico relating to Mines, of divers Silver Mines, a schedule of which is hereunto annexed, and particularly of that one known by the name and title of the Mine of Valdora, situated in the Real Yguma, in the state of New Leon, about 18 leagues West of the Rio Grande, near the small river Sabinas, and adjacent to the town of La Punto, which mine is well known to be one of the most productive in the Republic of Mexico, as may be ascertained by reference to the Archives of the Mining in the City of Mexico.

And whereas the undersigned David G. Burnet and Benj. R. Milam, will endeavor to procure from the Government, a concession of 5 or more leagues of land on the river Trinity, or the tributary waters thereof, for the purpose of establishing a steam Saw Mill, &c.

Therefore, it is agreed by the undersigned David G. Burnet and Benj. R. Milam, that they will put, place, and dispose of all their transferable rights, interests, privileges, and benefits, and all the proper avails thereof, in each, and every of the above named properties, into a common Joint Stock, to be established and arranged as follows, to wit:

1st. The Company, or Association so to be formed, shall be called the WESTERN COLONIZATION AND MINING COMPANY.

2nd. In order to constitute a capital fund to effectuate the several objects of the association, a Joint Stock shall be created, amounting to $50,000, which shall be divided into one thousand shares of the value of five hundred dollars each.

3rd. The stockholders shall advance one hundred dollars on each share subscribed for, as soon as the Company shall be organized, and the Directors shall require it, and subsequently the Directors may require an advance, from time to time, of one hundred dollars on each share, whenever in their opinions the interests of the Company may demand it, giving to each Stockholder thirty days notice thereof, until the whole amount of stock be paid in.

And should any Stockholder refuse, or fail to make such advance, having been duly requested to do so, he shall forfeit to the Company the amount already paid by him, with all his rights and interests in the Company or its concerns.

4th. The amount of Stock so subscribed and advanced, shall be, as soon as practicable, and in the most effective manner, applied to the objects of the association, to wit: The erection of a Steam Saw Mill on the river Trinity, or one of the tributary streams thereof; the purchase of the otherwise procuring of a vessel to convey the lumber to market; the working of the Mine of Valdora, or, such other of the Mines, hereinafter mentioned, as the Directors may consider expedient to work: the procuring of settlers and their colonization, on or both of said Colonies; and whatever may pertain and be necessary to the accomplishment of the objects and purposes of the Association, under the management of the Board of Directors, and their authorized agents.

5th. The first nett returns from either or all of the aforesaid undertakings, shall be applied to the repayment to the Stockholders of the amount advanced by them, with interest at 6 per cent, per annum, so soon as the same may, in the opinion of the Directors, be done without prejudice or embarrassment to the operations of the Company; and when the whole amount shall be so refunded, then the nett profits, benefits, and avails of whatsoever nature, shall
be divided and disposed of as follows, to wit: the one equal half part to the undersigned David G. Burnet and Benjamin R. Milam, and the residue or other half to be apportioned among the stockholders, agreeably to the amount of their respective stock.

6th. The undersigned David G. Burnet and Benj. R. Milam, shall be permanent members of the Board of Directors, the other members, to consist of not less than three nor more than five, to be chosen annually by the stockholders.

7th. It is understood, that unless the amount of stock aforesaid shall be fully subscribed, and the company organized, and active operations commenced, on or before the 1st day of November next, then the undersigned may resume all the rights, interests and privileges, intended by these presents to be relinquished and conveyed to the said company, and this instrument of writing shall be null and void.

DAVID G. BURNET.

BENJ. R. MILAM.

Cincinnati, July 1, 1829.

The undersigned submit the following as a brief exhibit of the benefits and advantages, that may reasonably be expected to result from a vigorous and judicious prosecution of the preceding scheme of operations.

To erect a steam saw mill of two saws, on the navigable waters of the river Trinity, and to procure and equip a small schooner, say of 60 tons, to convey the lumber to market, would probably cost from eight to ten thousand dollars, and might be accomplished in six months. Such a mill would turn off three thousand feet of lumber per day. Lumber is worth from fifty to eighty dollars per thousand feet at Matamoros, Tampico, and Vera Cruz, either place being within five to seven days' sail from Trinity Bay. There are large tracts of land on the river Trinity that are covered with lofty and beautiful pine trees, and other timber is abundant and easy of access.

Burnet's Colony is very eligibly situated for immediate settlement. It lies within sixty miles of the river Sabine, and has the Trinity running directly through it. One million of acres of land might very conveniently be acquired to the association, by a judicious and prompt compliance with the conditions of the grant. To accomplish this object would not require an expenditure by the company of more than ten thousand dollars, the whole of which, with considerable increase, would be refunded by the settlers.

Having completed the colonization of Burnet's grant, no doubt is entertained, that a proportion of time might be obtained from the Government for the settlement of Milam's colony, which lies more in the interior, and is less accessible at present than the other, but it embraces a beautiful and very fertile region of country.

The mine of Valadora is beyond all controversy one of the richest and most prolific silver mines in the whole territory of Mexico. It has heretofore been worked to some extent, and has yielded five millions of dollars in four months. It was abandoned at the breaking out of the Revolution in Mexico, and was denounced by the present Proprietor in the year 1825. Its clear of water, and may be worked at a comparatively trifling expense. The country around it abounds in wood, and its vicinity to the Rio Grande, (on which one or more steam boats will probably be placed, within the present year, by a company of North Americans already formed for that purpose,) will give many facilities to the operations connected with that branch of the enterprize. Pure silver has been found in considerable masses at the mine of Valadora.

A tract of Silver, known as the Missouri, and belonging to, and belonging to, Benjamin R. Milam, a citizen of the Republic of Mexico.

In Valadora.
1. Venecia.
2. Aviles.
3. Santa Cruz.
4. Guadaloupe.
5. Lagos.

In San Antonio de la Vaca.
7. El Río.
8. San Miguel.
9. La Baja.
10. Santa Rita.
11. San Miguel.
12. San Cayetano.
13. Caballo de Tula.
15. Santa Cruz.

In the Mines of Cerro de.
17. Los Roncos.
18. Jornal.
19. Del Amapa.
20. Guadaloupe.

The terms of settlement are technical, and imports the process by which citizens obtain the proprietors of vacant mines.

Major ANDERSON MILLER is authorised to receive subscribers, and to issue certificates of stock.

BENJ. R. MILAM.

DAVID G. BURNET.

Cincinnati, July 1, 1829.
APPENDIX I

THE GALVESTON BAY AND TEXAS LAND COMPANY

The Galveston Bay and Texas Land Company which was organized on October 30, 1830, bought the contracts of Burnet, Vehlein, and Zavalla who as empresarios had been authorized to settle within their adjacent grants some twelve hundred families—Burnet three hundred, Vehlein four hundred, and Zavalla five hundred. For each hundred families settled the empresario would be eligible to a bounty of five labors of farming land and five leagues of grazing land. Each labor contained 177.12 acres, and each league contained twenty-five labors or 4428 acres. Hence, the bounty for one hundred families would be 23,025.60 acres and for twelve hundred families 276,307.20 acres. All of this was in addition to the league allowed each family in the colony. The Galveston Bay and Texas Land Company intended not merely to collect the premium but also most of the principal. This would be accomplished through private contracts with the emigrants whereby each family man after receiving his league would reconvey to the company all except a few hundred acres.

The above was the method by which the stockholders planned to recover the principal from the colonists who were conveyed by the company to the territory. For the emigrants who went by themselves there was a second method of getting the principal, and that was by selling scrip authorizing settlement on the
company's lands. It is true that the scrip could convey neither
preemption nor titular rights, that Americans were excluded
entirely from settlement by the law of April 6, 1830, and that
non-Americans could locate without need of scrip. But all of
this was not widely known, and indeed it is doubtful if the
company itself fully understood the actual situation though
Burnet had furnished its founders with "three different copies
of the colonization laws: two several translations, and one in
the original language."

Had the stockholders been content with the premium as their
only dividend, chosen suitable colonists, and sent a representative
to settle in the territory and thus have complied with the
empresarial stipulations, the Mexican government could hardly
have objected—as Burnet had told Porter Clay long before. But
these entrepreneurs sought greater profits and apparently did not
believe they were doing anything wrong, for in January of 1831 they
presented to the public in the form of a pamphlet the Mexican
instructions to the land commissioners on the obtaining of titles,
the state and national colonization laws, the three empresarial
contracts with the federal government, the empresarial contract
with the company, and the law of April 6, 1830. In addition, the
land scrip plainly showed that it was not a title but merely a
permit to settle. But, says Barker, as the public "for the most
part never saw the pamphlet and did not read the scrip," they
bought the scrip on the apparent assumption that they possessed a
deed.
Under the terms of the transfer, the empresarios were obligated to defend the company's title, and in addition, Zavalla was employed to represent the firm on a European quest for colonists while General John T. Mason, formerly Territorial Governor of Michigan, was hired as the agent to Mexico and Texas. ¹⁴ When in early 1831 some fifty-seven emigrants, ostensibly Europeans but who had sailed from New York as representatives of the company, reached Galveston and were refused entry into Texas, the company was forced to resort to the wiles of diplomacy, and Mason proceeded to Mexico City to meet the men of affairs. ⁵

In Mexico City the United States Minister, Joel R. Poinsett, and the Charge de Affairs, Anthony Butler, had in the late summer of 1829 been instructed by President Jackson to seek the purchase of a portion of Texas. ⁶ With the recall of the able Poinsett, advised by the suspicious Mexican government and hastened by the animosity of the nefarious Butler, the Charge was left in command of the embassy with Jackson's full support. "Col. Butler in addition to his many merits has that of honesty and frankness which are so well taught in the school of war." ⁷ But he had the bitter hostility of his own consulate who went so far as to demand his recall "for having with dishonourable views and obscene intentions . . . held up at the window of the embassy . . . a piece of gold coin, commonly called in Mexico an ounce, of the value of sixteen dollars or thereabouts, to one or more delicate and well bred ladies. . . and for having with similar dishonourable views and obscene intentions, attempted deliberately and for a series of time,
to seduce a young lady, of delicate sentiments, and equally
good family. . .by false representations, and promise of marriage,
being himself a married man. . .There is not one of our countrymen
with whom he has not quarrelled, & by whom he is not despised."

Ah! That liar and his tales! Disdaining friendship but
needing money, this scamp soon became interested in Mason of the
Galveston Bay and Texas Land Company, Beales and Egerton of the
newly organized Arkansas and Texas Land Company, and others with
a promise or a coin to the tune of at least a million acres of
Texas lands, and from the Arkansas and Texas Land Company alone
he accepted scrip valued at five hundred thousand acres. Thus
complicating his initial assignment, the Great Deceiver continued
the assuagement of his patron with periodical promises of imminent
success, and for six long years the President of the United States
was duped into expecting the momentary reception of a treaty for
the acquisition of a portion of Texas--little realizing the
complexity of his Charge's affairs. For Jackson, Butler had to
buy Texas "unencumbered by fraudulent grants," for the land companies
he had to secure Mexican legalization, and for himself he had to
procure United States' recognition of the claims--and "each was
an impossible task."10

Limited by Jackson to an expenditure of five million dollars
for the desired territory, Butler in October of 1833 informed the
President that he had drawn up a treaty with a secret clause that
would obligate the payment of eight hundred thousand dollars of
the money (of which sum two hundred thousand dollars was intended
for Santa Anna) towards purchasing the individuals whose agency
was indispensable as you had been previously informed by me."11

To this base implication, Jackson replied with

"...astonishment that you would entrust such a letter,
without being in cypher, to the mail, and that you
should state in your letter the reply you made 'that
you had money' and give for reason, 'recollecting that
I had authorised you to apply the amount designated for
this object in any way which according to (my) your
discretion as was best calculated to effect the purpose
of your mission'--from this it might be construed that
my private letters authorised you to apply to corruption,
when nothing could be farther from my intention than to
convey such an idea..."

"The case is a plain a clear one--you are authorised to give
five millions of dollars for the session of Texas as far
west as the grand Desert, if Mexico accepts the offer,
but says we have made sundry grants on certain conditions
which have not been complied with--justice says they
grantees ought to have something for their relinquishment
of their grants, therefore on your stipulation that your
government will pay to A.B. & Co. a certain sum out of
the five millions we will cede to the United States all
Texas east of the point named, for the balance of the
five millions unencumbered by any grants except Austins
whose conditions are fully complied with--surely under
the discretion given you have a right to make this
stipulation without bringing upon you or the government
any improper imputations--all the United States is the
unencumbered session..."

"...I conjure you, as speedely as possible, and if you
cannot make a boundary by treaty with the Mexican
Government, write us that we may make the necessary
communication through you that we will be compelled run
the line as we believe is right & take possession of the
country east of the west bank of the Sabine as defined
by the treaty with Spain. Before I conclude I cannot
help again drawing your attention to your instructions
and my private letters--it was have a boundary without
the imputation of corruption, & I will hail you welcome
with it here--none else."12

Receiving Jackson's dogmatic answer in early 1834, Butler
petitioned for permission to return to Washington to state his
case in person. With permission granted, the Charge in 1835
arrived in the Capital to confer with the President. In the words of Butler:

"...My return is sanctioned--and in our private interviews you assent to my doing the very thing by which you had been so much startled--but refer me to Mr. Forsyth with these remarkable words--'Settle it with Mr. Forsyth and manage the affair as you please but do not let me know it.' You will not fail to recollect moreover that I stated to you this fact, which I was instructed to do by the Mexicans. 'We will enter into the Treaty make the transfer and place the Country in the possession of your Government but as Congress may refuse to ratify the Treaty, we wish to know whether Gen. Jackson will consider the possession we give him as a performance of the Contract on our part and will pay the money.' I stated this to you, and your reply was--'Yes Sir. If they will sign the Treaty and give us possession I will undertake to keep it'..."13

Thus with verbal assurances of an ambiguous nature from the impatient President, Butler returned to his embassy only to learn that Secretary of State Forsyth had limited his mission to the date of the assembling of the American Congress in December of 1835. Unable to accomplish anything of note in the interim, he resigned his post and remained in Mexico City almost a year to terminate his private affairs.14 In his closing days of power, he was concerned with his pecuniary interests among which was the fate of the land companies. In July of 1835 James Prentiss of New York wrote to his business friend, Anthony Butler, asking him to intercede with the Mexican government on behalf of Thomas E. Davis, Joseph L. Joseph & Co., Gilbert L. Thompson, and Prentiss for the privilege of settling twelve hundred European families on twelve hundred sitios. "The same petitioners with exception of Joseph L. Joseph & Co. are largely interested in Grants of the
Galveston Bay and Texas Land Co., and other Grants referred to in the said petition, and for which they have asked the right of colonizing 5000 leagues with 5000 families. . ."15

In another letter of the same date Prentiss requested Butler to undertake the negotiation of the purchase of the whole of Texas for the sum of ten million dollars, double the price offered by the President of the United States.16

Again Prentiss wrote Butler requesting him to disregard the petitions of other land claimants as "very little effort or money has been expended by any of the Empressarios to colonize the Grants; . .most of the Grants have been Sold here by the Empressarios, some of whom have received large sums of money particularly Doctor Beales who has sold nearly all the Grants to him, and his Mexican associates and for about 100,000 dollars, hence it will be more just to obtain some indemnity or reward for those who purchased of them, than to secure any thing for their benefit. . .Milam's Grant was regranted to Beales who sold it to me and others at more than 25000 $ since which I hear it is principally colonised by strangers and others for the benefit of the original grantee Milam, hence the purchasers of Beales should be protected and not Beales and Milam. . ."17

While Prentiss was thus attempting to further his interests at court, he was also engaged in behind-the-scene-activity at Washington. Before we turn to this, however, we might note the stand of the Mexican government with regard to the Galveston Bay and Texas Land Company. As early as February of 1831 the Mexican
Charge d'affaires at Washington had reported to his superiors his dislike of the actions of Zavala and Mexia in supporting the Galveston Bay and Texas Land Company and had warned United States citizens that under the terms of the law of April 6, 1830, they were not allowed to settle in the Texas territory.\textsuperscript{18}

In March of 1831 a circular was distributed by the Mexican consulate at New Orleans quoting President Guerra's proclamation of January 12, 1831, as follows:

"The supreme government of the state of Coahuila and Texas has declared, that the individuals to whom grants of land have been made, to establish colonies in the department of Bexar, have no right to sell or alienate to foreigners the lands that have been assigned to them, according to the general laws now in force, which forbids foreigners to be proprietors of lands, until they become, by naturalization, citizens of the Mexican Republic."\textsuperscript{19}

That the government was not against all foreigners, however, may be seen from the following extract of a letter from Consul Martinez at New Orleans, dated April 3, 1831:

"I inform you that I will have no kind of objection to give passport to any person whatever, if you will send me by those persons an assurance that they are going to Mr. Austin's or Dewitts Colony to settle. It has never been my intention to refuse granting passports to persons going to Texas on their private business or with a view of seeing the country. . ."\textsuperscript{20}

There was at Washington in 1832 a man of disputed character, a friend of the President, by the name of Sam Houston. Governor of Tennessee, he had abandoned the office and gone among the Indians rather than continue to live with a beautiful woman. While among the Cherokees with a new squaw, he had applied to Secretary of War Eaton through his friend Second Auditor of the Treasury
Lewis for a contract to distribute Indian rations. When General Duff Green, foe of the administration and editor of the United States Telegraph, learned that Houston was about to be awarded the permit though not the lowest bidder, he commenced a series of acrid editorials which forced Eaton to withdraw the contract notice. Houston, who had already bought a boat load of supplies in anticipation of the appointment (including nine barrels of whiskey and other assorted spirits which he said were for his own use) was naturally disgruntled. He disposed of the goods as best he could and moved to Washington to delve in other money-making propositions. The subsequent designation of Eaton first as governor of Florida and then as minister to Spain (following the Calhoun-Jackson rupture of 1831 and the resignation of the entire cabinet) gave the Whigs an opportunity to damn the administration in an election year. In an address before the House on March 31, 1832, Congressman Stanberry of Ohio posed the following question: "Was the late Secretary of War removed in consequence of his attempt fraudulently to give to Governor Houston the contract for Indian rations?"

When Stanberry refused to apologize for his remarks as demanded, Houston took what he evidently considered was the only recourse. He met the Representative on the street on the evening of April thirteenth (in what he later said was a chance encounter) and knocked him down with a heavy cane, crippling his right arm and breaking the bones of his left hand. This occurrence aroused the entire capital. Houston was immediately indicted for striking a
Congressman over words spoken in debate, and he was ordered to stand trial before the House of Representatives for contempt of Congress. The charge was serious, and it was rumored by Houston's enemies that "he had determined, after consulting President Jackson, to change the ground of defence and place it upon that of a quarrel in a bawdy house and that he meant to summon the whore to the bar of Congress to prove the fact."  

While Houston was thus engaged in publicity of a sort, he did not neglect writing his business acquaintance James Prentiss of New York, one of the principal holders of the Galveston Bay and Texas Land Company. Houston needed money and sought to sell Prentiss a Tennessee gold mine.  
Prentiss, on the other hand, wanted a Jacksonian insider on the payroll of the land company. On April eighth, a few days before the Stanberry affair, Houston wrote Prentiss about the possibility of getting on the payroll.  
"If my presence should be required by those interested; it will be convenient for me to repair to New York at any time and with very little delay (say a few days) repair to TEXAS, and assume any duties in relation to the agency, which may be assigned to me. ."  

When Prentiss first learned of the Stanberry case, he stopped writing, but on May fourth he again opened the correspondence.  
". .Supposing that this may find you at your own disposal again and that you can safely leave for a while your late business of Dog whipper to some friend of more leisure. I hope for the pleasure of seeing you here very soon--more especially as our affairs require early and rapid movements."
Three weeks later Prentiss again wrote and expressed regret over Houston's continued detention. "I had made arrangements for your early departure for Texas had you come here as expected by the middle of this month. The season is now so far advanced and Genl Mason so soon expected that my friends are nearly inclined to wait his arrival before they send any agent on any important business to T."  

Houston as early as 1822 had been an original shareholder in the Texas Association of Tennessee, a company of seventy-four members. The agent for this group had been Robert Leftwich, who in 1825 had secured an empresarial grant in his own name (as the Mexican government did not recognize corporate empresarios). With Leftwich's return to Tennessee, the group divided each share into eight parts to pay for Leftwich's trip (thus making 592 shares outstanding) and signed a private contract with Leftwich whereby Leftwich retransferred his rights to the company. Subsequently, and after a bitter dispute the Mexican government recognized Sterling C. Robertson as the representative of the company. 

Now in 1832 Houston once more became interested in the Leftwich or Robertson grant. In a contract with Prentiss dated June 1, 1832, Houston agreed to journey to Texas as soon as feasible and to attempt to purchase from certain acquaintances along the route and especially at Nashville the outstanding shares of land in the Leftwich grant. To make possible this purchase (or barter, for it was intended merely to exchange scrip in the Galveston Bay and Texas Land Company or in other companies of which Prentiss was a holder for the shares in the Texas Association.
of Tennessee), Prentiss turned over to Houston land scrip for an estimated 53,141 acres of land valued at six cents an acre or $3,188. Houston gave Prentiss an I.O.U. for $1,594 covering half of the value of the scrip and bound himself not to admit any other speculator to the agreement. Thus Houston owned half of the scrip and was the trustee for Prentiss's half, and any profit would redound to the benefit of both men.\(^{32}\)

Though Houston was embroiled before Congress for what more sensitive persons considered a disgraceful affair, he was still thought of as having influence with the administration. Prentiss, even while Houston was on trial, was requesting the ex-governor to use his influence in securing the appointment of one Richard Pearse, the company's friend, as consul at Matamoras;\(^ {33}\) and John A. Wharton, a young New Orleans lawyer who chanced to be in town, was requesting Houston to secure for him a passport. Said Wharton of the Stanberry matter: "...your conduct has been approved by a large majority throughout the Union; so far as I am concerned, (and I profess to feel most deeply in your wellfare) I do most sincerely and heartily rejoice at your whipping the puppy and I read with pleasure and pride the account of your bearing throughout."\(^ {34}\)

Houston feared that General Mason's return from Texas might possibly cause Prentiss and the other principal shareholders in the Galveston Bay and Texas Land Company to reject his own proffered services. Thus it was that on June twentieth when his trial was drawing to a close, Houston wrote to Prentiss as follows: "...Nothing on earth, can be gained by Gen\(^ {1}\) Mason's arrival, here,
as respects the part, which I may have to act in Texas--Of this be confident.

". . I have just heard the Cholera is on its march to the city, of N.Y. and don't wish to meet it."35

On June 27, 1832, the day before Houston's trial finally closed, Houston wrote to Prentiss asking for permission to include his friend, Congressman Samuel P. Carson of North Carolina, in the Leftwich grant speculation, and concerning Anthony Butler, Houston observed: " . . Take my word for it, that fool Butler, is cutting some capers, or working some magic with his wisdom. Such men as he is, would destroy a country and take my word for it, he will never gain one! In the first place he is vain, and in the next, he is avaricious; and in a word, men cannot adhere to him and imbibe consistency, and confidence from him."36

On the twenty-eighth with the end of the celebrated trial, Houston informed Prentiss that at long last he was able to begin his journey to Texas. " . . My trial took place to day, at one oclock, and the Honble I Cronch the old sinner fined me $ 500.00 with costs of suit! This is tough enough, in my opinion. It is not necessary to pay it until next winter, so that I will not be detained, in consequence of the Judgment of the court. It was made solely on party grounds, and I will bear it, for the sake of party."37

In early July, shortly before leaving Washington for Nashville, Houston once again wrote Prentiss concerning the expected arrival of Mason. " . . I feel no disposition, to urge, my friends in New
York, to forego the arrival of Len Mason, and indeed I insist that they may not, yield any thing to all my former opinions as expressed, or to any that I may now entertain, but just so sure, as you live, you will have a full harvest of repentance!"

To this letter Frenziss replied under the date of July 31 that Mason had finally returned to New York with "extensions of time on all the grants about to expire"—"say 5 years on the Housttan my grant and six years on Wilson and late grants." However, the General did not think it too important for the company to have rapidly with respect to Texas; in short, Houston's services could be dispensed with.

Houston had requested permission to draw on Frenziss and his friends at least five hundred dollars, but the directors of the company hesitated to advance the money, and Frenziss gave as the ostensible cause of the delay the cholera epidemic in New York which had prevented a meeting of the company's board of directors. By September, however, Houston was sufficiently agitated at the delay to inform Frenziss that he was leaving all the scrip he had received from Frenziss with a reliable Nashville acquaintance who would return it upon receipt of the cancelled contracts and note which Houston had signed. "...I was on my arrival here to receive from you at this point one thousand dollars and a guarantee, this scrip to the amount of one million of acres in Texas was to be placed (in scrip) for my benefit...in trust for me! None of the considerations of the purchase have been complied with on your part..."

Thus with a chip on his shoulder Houston left Nashville for Washita and the Chichocks and Nacogloches and visions of a renewal importance.
Houston arrived in Texas temporarily angry with the Galveston Bay and Texas Land Company but willing to reconsider. He was shortly to meet David J. Burnet, former empresario and co-founder of the Galveston Bay Company, and soon, also, Houston was to receive a position as legal counsel for the corporation. With Burnet already angry at the company because of the issuance of land scrip, he would become still more disturbed as he watched Houston and others turn a profit on that scrip. The Galveston Bay and Texas Land Company thus became an important factor in producing an animosity between Houston and Burnet. This, perhaps, was the earliest cause of the development of poor relations between the two men, though the enmity did not become noticeable until the revolution.
Appendix II

Houston's Retreat from the Colorado

The following represents, as well as this writer can reconstruct it, Burnet's viewpoint on Houston's retreat from the Colorado. Burnet always believed that Houston deserved censure for his withdrawal, and it was this retreat that marked the beginning of the life-long enmity between the two men. Little of the source material is new, most of the arguments having been formulated by Burnet and other critics and reconstructed in 1901 by Eugene J. Barker in his "The San Jacinto Campaign." The writer, however, has so far as possible examined the original of all sources, and he believes that he has stated the case against Houston more clearly than any previous scholar. Bear in mind that the arguments are those of Burnet.

In 1836 Houston gave no worthwhile reason for his retreat from the Colorado. In his senate speech of 1839, however, he recited the arguments mustered for him three years earlier by his friend Yoakum. Houston said in his senate speech:

"The general fell back from the Colorado. The artillery had not yet arrived. He had every reason to believe that the shock given to General Sesma, opposite to his camp on the west bank of the Colorado, would induce him to send for reinforcements, and that Fannin having been massacred, a concentration of the enemy would necessarily take place, and that an overwhelming force would soon be upon him. He knew that one battle must be decisive of the fate of Texas. If he fought a battle and many of his men were wounded, he could not transport them, and he would be compelled to sacrifice the army to the wounded. He determined to fall back, and did so..."

Perhaps the ablest statement of the reasons for Houston's retreat from the Colorado is given by Yoakum as follows (numerals supplied by this author):

"...on the evening of the 25th, 1. Peter Kerr brought the disastrous though not altogether unexpected news of the defeat and surrender of Fannin and his command at the Goliards, and the capitulation of Ware and his forces near Limmit's landing. This intelligence was most unfortunate, and produced a chilling effect upon the army. 2. This, together with the fact that the artillery expected had not arrived; 3. That the check already given to Sesma had doubtless induced him to send for reinforcements;
4. That the defeat of Fannin would leave Urrea at liberty to come to the relief of Sesma;

5. That the defeat of the advance under the latter would serve only to concentrate the Mexican army, which, with its various corps thus united, could overrun Texas in spite of the forces then in the field to resist it--these considerations induced the Texan commander to retreat, hoping for a more favorable occasion to decide the fortunes of the infant republic in a battle. It was his policy to keep the enemy divided, and, when the blow was given, to strike at a vital part. The small army under his command was the last hope of Texas, and the prize too important to be hazarded without a certainty of success.4

6. "It is true that most of the reports made of the advancing force of the enemy overrated their numbers. The first body, under Sesma and Woll, was seven hundred and twenty-five; the second, under General Tolsa, which probably reached the Colorado about the time the Texans took position opposite Beason's, numbered some six hundred--making an aggregate of thirteen hundred and twenty-five, of which ninety were cavalry, with two six-pounders. Yet it was understood in the Texan camp that they had at least twice that number on the right bank of the river, with heavy reinforcements coming up."5

Despite the fact that Yoakum's work of 1856 was the first scholarly history of Texas worthy of the name, Yoakum wrote as a friend of Houston. He was a lawyer, knew the value of evidence, and generally presented the facts correctly, but on this particular issue on which must of Houston's military fame must ultimately stand or fall, Yoakum is treading on thin ground.

1. "This intelligence...produced a chilling effect upon the army."
It should be remembered that the news of Fannin's probable
defeat was received by Houston on the twenty-third of March,
and yet this intelligence did not cause either Houston or the
troops to evince any desire to avoid battle. The arrival of
Kerr on the twenty-fifth merely confirmed what was already
expected. The fact is that the troops were eager to battle and
could not understand why they were being asked to retreat.
This is substantiated by the following extracts from R.M. Coleman's
pamphlet of 1837, Moseley Baker's letter to Houston of 1844, and
J.H. Kuykendall's "Recollections of the Campaign." Coleman and
Baker wrote as enemies of Houston; Kuykendall was unbiased.
The first reference is to Coleman.

"A man named Peter Carr arrived in camp and brought news
of Col. Fannin's disastrous defeat. Upon this, General
Houston was again thrown into confusion... The soldiers,
however, importuned him more urgently to fight. If, said
they, you will not lead us to battle, give us the
privilege, and we will instantly defeat this division of
the enemy, and save the country from impending ruin..."

The following is from Moseley Baker's letter to Houston:

"You were now, as I have before said, encamped on the
eastern bank of the Colorado. You now have an army of
from fifteen hundred to seventeen hundred men, and
notwithstanding the terrible panic that has seized sic.
the country, you have every reason to believe that a short
time will make it two thousand. On the opposite side
Gen. Sisene, the Mexican general, is encamped with seven
hundred men. Your spies assure you that no reinforcement
is at hand, that his encampment can easily be approached;
and one universal burst from the army desired you to lead
them to the conflict; yet you hesitated... Col. Sherman,
who commanded the crossing at Dewee's earnestly entreated
that he might be permitted to cross over with three
hundred men, promising to rout the enemy or not return
alive. This you declined and yet hesitated to fight.
You hesitated so long that the most mutinous feeling began to show itself, and to allay the storm, you unequivocally assured the army that you would fight on the next morning at daybreak. You even went so far as to write letters to families on the Colorado to remain at home, assuring them that you would fight at daybreak of the next; but on the evening of that same day you called the army together and made it a speech. You represented the imperative necessity of the encampment being removed to a place where water and grass could be had, and although this seemed unaccountably strange, when you were engaged to fight the next morning, yet your order was obeyed, and you retreated seven miles that evening. No one had the most distant conception that you were retreating from the enemy until they came up with Col. Sherman's command."5

The following is from J.H. Kuykendall's "Recollections of the Campaign." The article is based on notes taken at the time, and Barker says of this, "It is apparently free from prejudice, and seems worthy of reliance."6

"The enemy could not be tempted to leave his camp. Very anxious were our men to be led against the enemy, who, it was confidently believed, was completely within our power. Daily, hourly, were orders expected for an attack. None doubted that we would be permitted to strike a blow, until the evening of the 26th, when Col. Sherman received an order from the commander-in-chief to break up his camp and retire toward San Felipe."7

Other similar sources could be cited, but from the three given it would appear that if the news of Fannin's defeat had a chilling effect on anyone, it was the general and not the troops.

2. ". . .the artillery expected had not arrived;"
This is a minor argument. Although Major Austin had been dispatched on March fifteenth to secure artillery, the mere fact that the cannon had not arrived was not the cause of the retreat. The Mexicans, indeed, had one small field piece, but this acted as no deterrent to the Texans, who, as shown above, clamored for battle. Kuykendall says:

"It was either on this or the following day (24th) that thirty or forty mounted men were sent from headquarters (crossing in a boat at Beason's) to reconnoitre the enemy's camp. They were unable, however, to approach very near it, as the enemy opened a fire on them with one or two small field pieces... The enemy could not be tempted to leave his camp. Very anxious were our men to be led against the enemy, who, it was confidently believed, was completely within our power..."

Before Kerr arrived on the twenty-fifth with the news of Fannin's defeat Houston knew that the enemy had one or two small cannon, and yet Houston planned to fight. Even if the artillery had arrived, there would have been more difficulty in getting it across the river for an engagement.

3. "the check already given to Sesma had doubtless induced him to send for reinforcements;"

Undoubtedly, Sesma had sent for reinforcements—an army in sight of the enemy generally does—but the Texans themselves were receiving recruits daily. Tolso had joined Sesma on the evening of the twenty-fourth with some six hundred men, but
in the words of Barker,

"...neither Houston nor anybody else, so far as I know, ever intimated that this had the slightest influence on the Texan retreat—in fact the army seems to have left the Colorado thinking that Sesma had no more than 800 men."

Of this retreat Coleman says:

"You shall fight, my boys, replied (Houston), tomorrow; we will attack the enemy in his camp. He, however, abandoned this praiseworthy resolution, and ordered the farm houses in the vicinity of the camp to be burned, and a retreat to San Felipe to be commenced. Thirteen hundred Americans retreating before a division of 800 Mexicans!"¹⁰

¹⁴ "...the defeat of Fannin would leave Urrea at liberty to come to the relief of Sesma:"

This argument would have been just as valid on the twenty-third when Houston received word of the probable defeat of Fannin as it was on the twenty-fifth when the defeat was confirmed. Yet on the twenty-third Houston planned to hold the Colorado. On the twenty-fourth he wrote to Rusk:

"Men are flocking to camp, and I expect, in a day or two, to receive two hundred volunteers and regulars. Forty-eight muskets and a supply of ammunition came opportunely last night. In a few days my force will be highly respectable."¹¹

Also on the twenty-fourth he wrote to Royal:

"...on the Colorado I make my stand."¹²
Thus apparently it was not the defeat of Fannin that caused the retreat.

5. "...the defeat of the advance under the latter (Sesma) would serve only to concentrate the Mexican army, which, with its various corps thus united, could overrun Texas in spite of the force then in the field to resist it. ... It was (Houston's) policy to keep the enemy divided, and, when the blow was given, to strike at a vital part."

Whether the defeat of Sesma and Tolsa would have unified the enemy is problematical. It is more logical to think that if Houston refused to fight a small force that he would ultimately have to engage a large one, and refusal to meet the enemy would not only fail to keep them divided but would eventually produce their unification.

Houston's retreat from the Colorado was not a retreat in depth as such is usually understood. The Colorado was a dividing point separating the populous eastern section from the sparsely settled west. So long as the enemy could be held west of the river, they would be in territory of little value to the Texans, and would be forced to carry their own supplies. Although it was possible for a few hundred men to live off the western lands for a short time, it was not possible for a large army to do so for an extended period. Thus by merely holding the Mexicans west of this barrier, it might have been possible to cause their withdrawal through the failure of their supplies,
and the spring rains could be counted on to help. Once, however, the enemy crossed the river they would be increasingly able to live off the land and would be approaching the very heart of the Anglo-Saxon stronghold.

Of the country west of the Colorado Houston said on March fifteenth:

"I do not apprehend the immediate approach of the enemy upon the present settlements; I mean those on the Colorado, for the country west of it is an uninhabited waste. This season the grass refuses to grow on the prairies."

The danger of meeting the combined forces of the Mexicans was not something to be dreaded. It was highly probable that Houston's army with the continuous reinforcements being received daily would shortly be more than a match for the combined forces of the enemy. Houston himself said, "Men are flocking to camp."

Estimates of the Texan forces have been variously given. Houston in what is probably his dictated autobiography gives the number as 650 men although his aid on Houston's authority wrote to Rusk on the twenty-third as follows:

"We have now upward of seven hundred men, and not one of them on the sick-list, but all in high spirits, and anxious to meet the foe."

Colonel Ben. F. Smith, Acting Quartermaster and Adjutant
General declared on oath that the number was around 1560 men. Anson Jones said, "We had, by the report of the day, over 1500 men (I think 1570)." Colonel Amasa Turner said, "I am confident I am not mistaken. The morning report, including Sherman's command, was 1464, rank and file. Rowan's and Fisher's companies joined at the first camp (after the retreat), five miles from the Colorado. These would swell the number to 1568, at the five mile camp." Captain Sharp issued a handbill on March twenty-seventh at Brazoria in which he said, "Our army now encamped at or near Reason's, on the Colorado, consists of 1000 to 1200 men, and reinforcements coming in hourly. . . . On my way down, I met several small companies pushing on for our camp; and those that came from the eastward, report from 500 to 500 men on their way from that quarter." Colonel James Parleton said, "At the Colorado, the General's 'little army' was at least 1,300 men; the enemy at most 600 on the morning Gen. Houston ordered the shameful retreat from the banks of that river." Coleman gave the number as 1500 men. Huykendall said there were from 1300 to 1750 men.15

In summary, the following facts are apparent. So long as the enemy could be held west of the Colorado, they would be forced to carry their own supplies, but once they passed the river they could more easily live off the land. The Colorado was the dividing line between the settled and unsettled portions of the western frontier. Westward the land was mostly barren. Eastward the livestock, gardens, and possessions of the settlers constituted a real prize. By merely holding the Colorado, the Texas army might cause the enemy's
withdrawal through failure of his supplies. Should Houston elect to hold the Colorado, it was highly probable that the Texan army would soon be large enough to meet successfully the combined forces of the enemy. Should Houston retreat, many of his soldiers would be forced to leave the army in order to secure the protection of their families. Seventy-five of these families were on the Colorado awaiting the outcome of the expected battle, and Houston's withdrawal produced the anticipated result of decreasing his army and increasing the panic.

6. "It is true that most of the reports made of the advancing force of the enemy overrated their numbers...it was understood that the Mexicans had at least 2650 men...with heavy reinforcements coming up."

Yoakum makes this statement totally without authority as he published the letter that Houston and his side wrote to Rusk on the twenty-third and -fourth. The portion of the letter dated the twenty-fourth says:

"I have examined the spies, and they represent the enemy much weaker than all former reports. They say Sesma has not more than seven hundred men, and one says six hundred." 16

Citing Barker once more:

"neither Houston nor anybody else, so far as I know, ever intimated that (Tolosa's arrival) had the slightest influence on the Texan retreat—in fact the army seems to have left the Colorado thinking that Sesma had no more than 800 men." 17
On the basis of the above reasoning, it appears that Houston began his retreat from the Colorado without sufficient cause. Troops were daily flocking to the standard, and there was every indication that soon the army would be able to meet successfully the combined forces of the enemy. The troops were eager to fight. They were not panic-stricken, and the panic did not cause the retreat. Thus Yoakum's entire argument defending Houston's retreat from the Colorado falls on every point. Houston's retreat meant that he had abandoned any strategical plan and had committed his forces to an opportunistic campaign. That this campaign was to culminate in victory was not due to any particular planning on the part of Houston but was due to the failure of the Mexicans to consolidate their forces.
NOTES

Foreword

1 Eugene C. Barker, "The San Jacinto Campaign," The Quarterly of the Texas State Historical Association, IV, 4 (April, 1901), 245 and passim. Professor Barker does not explicitly state that the Colorado retreat was the key to San Jacinto, but Burnet and others did, and Barker implies it.

2 Eugene C. Barker, "Communication," The Southwestern Historical Quarterly, XXVI, 1 (July, 1922), 74. In a remarkable letter to Andrew Jackson Houston, Professor Barker repudiates the article on "The San Jacinto Campaign" which he published in 1901.

Chapter I

1 Jacob Burnet, Notes on the Early Settlement of the North-Western Territory (Cincinnati, 1847), 17-19, 22.
Isabella Neff Burnet, Dr. William Burnet and His Sons Jacob, Isaac and David: A Chart of Their Forefathers and Descendants in America, 1640-1938 (Mimeographed and Copyrighted 1938 by Isabella Neff Burnet), 58-64.

2 Henry A. Ford and Mrs. Kate B. Ford, History of Cincinnati, Ohio (Cleveland, 1881), 294.

J. Burnet, Notes on the North-Western Territory, 49.
Ford, History of Cincinnati, 294.
Francis W. Miller, Cincinnati's Beginnings, Missing Chapters in the Early History of the City and the Miami Purchase: Chiefly from Hitherto Unpublished Documents (Cincinnati, 1880), Appendix, 173.

5 Isaac G. Burnet to David G. Burnet, July 15, 1853, Burnet Papers, Rosenberg Library (Galveston). Isabella Burnet, Dr. William Burnet and His Sons, 2, 60-64. Hamilton County (Ohio) Deeds, D-2: 372-75; E-2: 517-18.


7 Henry Howe, Historical Collections of Ohio in Two Volumes (Norwalk, Ohio, 1898) I, 816-17.


   *Trials of Smith and Ogden*, xxiii.

   Moses Smith, *History of the Adventures and Sufferings of Moses Smith*
   (Albany, 1814), 15-17.
   *Trials of Smith and Ogden*, 147.

16 Moses Smith, *History of the Adventures and Sufferings of Moses Smith*,
   16-17.

17 Biggs, *Miranda's Attempt to effect a Revolution in South America*, 3,
   28.
   *The European Magazine and London Review* (London: April, 1806), XLIX,
   479.

18 Biggs, *Miranda's Attempt to effect a Revolution in South America*, 9,
   289.


20 Biggs, ibid., 28.

21 Ibid., 27.

   *The Scots Magazine and Edinburgh Literary Miscellany* (Edinburgh:
   June & July, 1806), LXVIII, 474-76, 558.
   *Trials of Smith and Ogden*, 124.

   Biggs, *Miranda's Attempt to effect a Revolution in South America*,
   Sherman, ibid., 31-32, 50, says the Bee was armed with a 9-pounder;
   and ibid., 50, gives February 19 as the date the expedition arrived
   at Jacmel.

24 Biggs, ibid., 23-24, 55-65, 70-76.
   Sherman, ibid., 45.
   Smith, ibid., 29.
   E.E. Sparks, "Diary and Letters of Henry Ingersoll, 1806-1809,"
25 Biggs, Miranda's Attempt to effect a Revolution in South America, 79-82, 95-96. 
Hobby, The Life and Times of David G. Burnet, 16.

26 Biggs, Miranda's Attempt to effect a Revolution in South America, 92-93, 97, 99, 102-4. 

27 Biggs, Miranda's Attempt to effect a Revolution in South America, 103. 
The Scots Magazine and Edinburgh Literary Miscellany (Edinburgh: October, 1806), LXVIII, 785.

28 Biggs, Miranda's Attempt to effect a Revolution in South America, 106-09, 112.

29 Ibid. 

Biggs, Miranda's Attempt to effect a Revolution in South America, 115. 
Hobby, The Life and Times of David G. Burnet, 15.

31 Biggs, Miranda's Attempt to effect a Revolution in South America, 116, 24. 
The first mention of Burnet as a major is in a letter of Stephen F. Austin to Humphrey Fullerton, October 2, 1822, Austin Papers, University of Texas Archives (Austin). No record has been found to indicate that Burnet acquired the rank in the military service of the United States or in the Ohio militia; thus it was apparently received during the service with Miranda. Burnet got along well with the general, and Henry Stuart Poole (who was not an accurate writer but who knew Burnet personally) states in his work, Texas and the Texans (Philadelphia, 1841), II, 52, that Burnet was the private secretary of Miranda in 1806. Robertson, the leading student of Miranda, makes no mention of this, but Poole may have been right. About the only published material on Burnet's early life that is to be found is based on the "Memoir of Judge Burnet" in the Texas Almanac for 1857, 131-4, and this article was apparently written by Burnet, who makes no mention of himself as a major. A similar article on Burnet that seems to have been written by himself is found in J. De Cordova, Texas: Her Resources and her Public Men (Philadelphia, 1853), 144-45; and Hobby, of course, based that portion of his work of 1870 dealing with Burnet's early life on the "Memoir of Judge Burnet." Thus the fact that "Amicus" nor later writers mention Burnet as a secretary or a major does not
disprove the statement of Foote. Burnet's gallantry in the
landing on the South American coast put him in line for a pro-
motion, and he probably got it shortly afterwards; otherwise,
he would not have been sufficiently satisfied to return to
Miranda a second time. His modesty, however—and he was modest
as a rule, though pretentious in matters concerning Sam Houston—
might have prevented him from speaking too highly of his own
achievements.

32 Biggs, Miranda's Attempt to effect a Revolution in South America,
216-17.
33 Robbins, The Life and Times of David G. Burnet, 15.
34 Robertson, "Francisco de Miranda and the Revolutionizing of
Spanish America," 399-414.
35 Charles William Vane, Marquess of Londonderry, Correspondence,
Despatches, and Other Papers of Viscount Castlereagh, Second
Marquess of Londonderry. Edited by His Brother (London, 1851),
VII, 450-51.
36 J.M. Antepara, South American Emancipation, Documents, historical
and explanatory (London, 1810), passim.
37 "Lettre aux Espagnols-Americains. Par un de leurs Compatriotes,"
38 Robertson, "Francisco de Miranda and the Revolutionizing of
Spanish America," 426-27.
39 Miguel Luis Amunátegui, Vida de Don Andrea Bello (Santiago de
Chile, 1882), 98.
41 H. Miles, Ed., The Weekly Register (Baltimore, 1811 & 1812),
Saturday, September 21, 1811, Vol. I, No. 3, P. 48; Saturday,
42 Robertson, Life of Miranda, II, 148.
44 The Ohio Centinel—Isaac edited the paper from May 3, 1810, to
November 13, 1815.
45 Hamilton County (Ohio) Deeds, F-3: 90.
47 Ibid., 163, 165.
Chapter II

1 The words are those of Isaac in 1803 upon his first arrival in Cincinnati, but they could very well have been those of David a decade later. Isaac G. Burnet to David P. Burnet, June 3, 1803, Archives of the Historical and Philosophical Society of Ohio (Cincinnati).

2 Charles Theodore Greve, Centennial History of Cincinnati and Representative Citizens (Chicago, 1904), I, 503.

Hamilton County (Ohio) Deeds, L: 316-17. This deed of March 30, 1813, shows David acting in his own name. It will be recalled that before joining Miranda in 1812, David gave Isaac a power of attorney. See Hamilton County (Ohio) Deeds, F-3: 90. The record is dated December 14, 1811. Under this power of attorney Isaac sold on May 23, 1812, land to Benjamin Skillman for $540.00 (Ibid., K-1: 163) and land to Thomas Skillman for $603.25 (Ibid., K-1: 375).

In Memoriam, Cincinnati 1881 (Cincinnati, 1881), 110-11.

The Ohio Sentinel, May 19, 1813:
"The present number completes the third year of the 'Ohio Sentinel.' I have disposed of the establishment and it will immediately pass into other hands--
"It is hoped that those whose accounts are still unsettled will give me as little trouble as possible. I earnestly request them to call and pay me the price of my labor--"

3 The Ohio Republican, October 24, 1814, 3 d; November 5, 1814, 3 d.

4 Ibid., February 6, 1815, 4 c.

5 Ibid., November 13, 1815, 3 b.

The Liberty Hall & Cincinnati Gazette, February 16, 1819, 3 c.

Greve, Centennial History of Cincinnati, I, 503.

6 Hamilton County (Ohio) Deeds, F-3: 294-35.

7 Ibid., R-1: 253.

Montgomery County (Ohio) Common Pleas Record of Law Cases, C-1: 425, 591. See also ibid., 257.

The Ohio Republican, August 7, 1815, 3 d.

8 The Cincinnati Literary Gazette (vol. I, no. 19), May 8, 1824, 145 a b c, 146 a b.

9 Amicus, "Memoir of Judge Burnet," 133.

John Henry Brown, History of Texas, from 1685 to 1892 (St. Louis, 1892), I, 121.

J. Burnet, Notes on the North-Western Territory, 37.

In Memoriam, Cincinnati 1881, 110-11.

Greve, Centennial History of Cincinnati, I, 508.

John Livingston, Biographical Sketches of Aminent Americans, with Portraits, 156.
10 The Cincinnati Literary Gazette (vol. I, no. 19), May 8, 1824, 145 a b c, 146 a b.
  Ibid. (vol. I, no. 20), May 15, 1824, 154 a b c, 155 a b.
  Ibid. (vol. I, no. 21), May 22, 1824, 152 c, 153 a b c.
  Ibid. (vol. I, no. 23), June 5, 1824, 177 a b c, 178 a b.
  Ibid. (vol. I, no. 24), June 12, 1824, 156 b c, 157 a b.

On the frontpiece of the Gazette copy in the Rare Books Library of the University of Texas there is the notation:

"E.G. Burnet, Esq."
from his old Friend &
Obt Srvt
Jno. P. Foote"

The quotation is in Ibid., May 8, 1824, 145 b.

11 J. Burnet, Notes on the North-Western Territory, 37.
Samuel Wood Seiser, "Naturalists of the Frontier," The Southwest Review (Dallas: October, 1932-July, 1933), XVIII, 68.

12 The Cincinnati Literary Gazette (vol. I, no. 3), February 21, 1824, 39 b c, 59 a b.
  Ibid. (vol. I, no. 11), March 13, 1824, 34 b c, 35 a.
  Ibid. (vol. I, no. 13), March 27, 1824, 107 b c, 108 a b.
  Ibid. (vol. I, no. 15), April 10, 1824, 116 c, 117 a b.
  Ibid. (vol. I, no. 19), May 8, 1824, 146 b c, 147 a.
  Ibid. (vol. I, no. 20), May 15, 1824, 155 a b c.
  Ibid. (vol. I, no. 21), May 22, 1824, 161 a b c, 152 a b.
  Ibid. (vol. I, no. 22), May 29, 1824, 170 a b c.
  Ibid. (vol. I, no. 26), June 26, 1824, 202 a b c.

The article on "the American Solomon" is in Ibid., May 22, 1824, 170 a b c.

The "card" is in Ibid., June 5, 1824, 133 c.

13 Ibid., (vol. I, no. 26), June 26, 1824, 202 a b c.

14 Ibid., (vol. II, no. 1), July 3, 1824, 3 a b c.

The Liberty Hall & Cincinnati Gazette, February 23, 1819, 1 b.

Barker apparently overlooked this item in his research on Austin.

16 Eugene C. Barker, The Life of Stephen F. Austin, Founder of Texas, 1793-1836 (Nashville, 1925), 27, 140.


Austin to Polksett, November 3, 1827, in Barker, The Austin Papers, I, 1703-05.
13 Austin to Saucedo, c. May 31, 1826, Austin Papers, University of Texas Archives.
Gaines to Austin, August 21, 1826, Austin Papers, University of Texas Archives.

19 J.E.B. Austin to S.F. Austin, August 22, 1826, Austin Papers, University of Texas Archives.
Austin to Fullerton, October 2, 1826, Austin Papers, University of Texas Archives.
Barker, The Life of Stephen F. Austin, 144.
Actas del Congreso Constituyente, II, 15-21; III, 21-25.
Laws and Decrees of the State of Coahuila and Texas, in Spanish and English (Houston, 1339), 15-22.

20 The Texas Sentinel, August 3, 1841.
An examination of Burnet's contracts with the Mexican government fails to show that Burnet ever stated that he was a Catholic, though one might assume that the government would require an oath of nominal fealty. See Translations of Empresario Contracts, 121-23, Spanish Archives, General Land Office (Austin).

21 Burnet to Bustamante, July 2, 1827, Austin Papers, University of Texas Archives.
Tanner to J.E.B. Austin, January 24, 1827, Austin Papers, University of Texas Archives.
The Telegraph and Texas Register, April 7, 1833, 2 d.

22 Burnet to Austin, July 18, 1828, and March 19, 1829, Austin Papers, University of Texas Archives.
The Telegraph and Texas Register, June 5, 1839.

23 Burnet to Austin, December 4, 1829, Austin Papers, University of Texas Archives.

24 A copy of the Burnet-Kilam agreement is reproduced here from a photostat of the original, which photostat is in the Kilam Papers, University of Texas Archives.

25 Burnet to Austin, May 4, 1829, Austin Papers, University of Texas Archives.

26 The Telegraph and Texas Register, April 7, 1833, 2 d.

27 Burnet to Austin, December 5, 1829, Austin Papers, University of Texas Archives.

28 Houston to Prentiss, June 17, 1832, Houston Papers, University of Texas Archives.

29 Butler to Van Buren, May 24, 1830, Butler Papers, University of Texas Archives.
J.P. Austin to S.F. Austin, December 18, 1830, Austin Papers, University of Texas Archives.

Davis et al. to Santa Anna, July 25, 1835, in Eugene C. Barker, The Austin Papers, III (Austin, 1927), 94.

Dey and Curtis to Austin, December 16, 1830, Austin Papers, University of Texas Archives.

"Gov" Zavala Mr. Vehlein and Mr. Burnet each retain large interests in the Company and will use their best endeavours for the promotion of its interests."

Dey and Curtis to Burnet, June 28, 1836, Domestic Correspondence, Texas State Library (Austin).

The Telegraph and Texas Register, April 7, 1838, 2 d.

Both the trust deed and the articles of association are dated October 16, 1830, and the articles of association mention that the empresarios are retaining an interest in the company.

The Telegraph and Texas Register, April 7, 1838, 2 b.

It is the opinion of this author, as well as Andrew Forest Muir and Eugene C. Barker, that Burnet did not realize the full nature of his empresarial contract nor the purposes to which the New York Company planned to put their newly acquired rights.

Flyleaf of the Burnet Bible, University of Texas Archives.

Burnet to Williams, April 13, 1831, Williams Papers, Rosenberg Library (Galveston).

Burnet-Hilam Agreement, Hilam Papers, University of Texas Archives.

Burnet to Williams, April 13, 1831, Williams Papers, Rosenberg Library (Galveston).

Galveston in Early Days (pamphlet), University of Texas Archives.

Burnet to Williams, April 13, 1831, Williams Papers, Rosenberg Library (Galveston).

The quotation is from an extract of a letter of Franqo Pizarro Martinez in New Orleans in Barker Transcripts of University of Texas Archives, Archivo de la Secretaria de Relaciones Exteriores, Asuntos Varios Saja 2, 1830 & 1834, 23-24.

Burnet to Williams, April 15, 1831, Williams Papers, Rosenberg Library (Galveston).

Translations of Empresario Contracts, 127, Spanish Archives, General Land Office (Austin).

Burnet to Williams, April 24, 1831, Williams Papers, Rosenberg Library (Galveston).
Ibid.

The map of early Texas put out by the General Land Office (Austin) shows the boundaries of the land claims of many of these settlers. A rough sketch showing the relation of Captain Scott's home to that of Burnet is possessed by Dr. E. J. Slopper of Cincinnati, Ohio, and the author has seen the original and has a photostat of it.

Andrew Slopper to Mary Estes Slopper, February 5, 1832, Slopper Papers in the possession of Dr. E. J. Slopper, Cincinnati, Ohio.

"I have not yet seen Mrs. Burnet, nor have I met with Mr. B... I hear they are well and progressing in their improvements &c &c it is thought will have their mill in operation next month."

Harris County (Texas) Records, S: 575-76; II: 203-9.
Harris County (Texas) Probate Records, S: 214-16.

Andrew Lay Slopper to Joseph Slopper, May 27, 1831, Slopper Papers in the possession of Dr. E. J. Slopper, Cincinnati, Ohio, quoting published address.

Burnet to Weeder, August 30, 1831, Williams Papers, Rosenberg Library (Galveston).
Telegraph and Texas Register, April 7, 1832, 2 b.
Texas Sentinel, August 3, 1841.

Josiah Fiske, A Visit to Texas (New York, 1858), 56.

Ibid., 29, 32.
Texas Gazette, July 22, 1830, 2 a.

Fiske, A Visit to Texas, 32.

Barker, The Life of Stephen F. Austin, 374-403.
Nothing definite is known of Burnet's activities at this time, but his temperament and position in the community would have placed him on the conservative side.

Ibid.

Eugene J. Barker, "Land Speculation as a Cause of the Texas Revolution," The Quarterly of the Texas State Historical Association, X, 1 (July, 1906), 76-80, and passim.

Burnet was commissioned United States Consul to Galveston on July 13, 1832. On September 13, 1832, he acknowledged receipt of his appointment. I am indebted to Andrew Forest Luir and Samuel Wood Geiser for pointing out that mention of Burnet as consul is to be found in the file "Confirmations and Rejections, 1820-1832," State Department Records in the National Archives (Washington).

Harris County (Texas) Records, S: 17, 20.

Barker, The Life of Stephen F. Austin, 399-403.
Fiske, A Visit to Texas, 91.
Moxia to Austin, April 16, 1831, Austin Papers, University of Texas Archives.

File on "Confirmations and Rejections, 1820-1832," State Department Records in the National Archives (Washington). Flyleaf of the Burnet Bible, University of Texas Archives.
Chapter III

1 Barker, The Life of Stephen F. Austin, 461. The Telegraph and Texas Register, April 7, 1839, 2 b.


5 Ibid., 192-93.
6 Eugene C. Barker, "Land Speculation as a Cause of the Texas Revolution," The Quarterly of the Texas State Historical Association, X, 1 (July, 1906), 76-95.

7 Archer to Burnet, June 24, 1835, Burnet Papers, Rosenberg Library (Galveston).
   Harris County (Texas) Deeds, S: 575-76; II: 203-09.
   Harris County (Texas) Probate Records, S: 214-16.
   William Fairfax Gray, From Virginia to Texas (Houston, 1909), 146.
   Andrew Forest Muir, "First Steam Sawmill Had Gear Trouble," The Gulf Coast Lumberman (Houston: March 1, 1952), 33.
   Andrew Forest Muir, "The Steam Sawmill at Lynchburg, 1831-1845," The Gulf Coast Lumberman (Houston: September 1, 1953), 36, 41.
   Andrew Forest Muir, "POW's from Santa Anna's Army Proved Poor Sawmill Help," The Gulf Coast Lumberman (Houston: September, 15, 1952), 50, 52, 64-65.
   The Texas Sentinel, August 5, 1841.

8 I am indebted to Andrew Forest Muir for pointing out that what appears to be the original minutes of this meeting of 8 August 1835 is in the Bancroft Library Texas Collection, University of California (Berkeley), Document 13. The wording, however, is substantially the same as that in the published version of the Texas Republican, September 19, 1835, 1 a b c.

9 Earlier meetings were held supporting a general convention, but this was apparently the first to elect delegates to one. See Eugene C. Barker and Frank W. Johnson, A History of Texas and Texans (Chicago, 1916), 212-28.

10 Hubert Howe Bancroft, The Works of Hubert Howe Bancroft, XVI, History of the North Mexican States and Texas, II, 1801-1839 (San Francisco, 1889), 164.

11 Morgan to Burnet, March 27, 1833, in the Telegraph and Texas Register, April 7, 1833, 2 c. Also, Burnet to Five Men of Liberty in ibid.

12 David J. Burnet, Opinion on the Four Hundred Leagues' Grant of Texas Land, by an Old Settler (New Orleans, 1836), passim. Reprinted in the Telegraph and Texas Register, July 22, 1833, 1 a b c d. Discussed in ibid., August 11, 1833, and September 1, 1833.
   D.C. Sarrett to Citizens of Mina, August 23, 1835, Austin Papers, University of Texas Archives.

13 Bancroft, History of the North Mexican States and Texas, 164.
   The Telegraph and Texas Register, October 10, 1835, 2 a, 4 c, 5 a b c.

14 Austin to Burnet, October 5, 1835, Austin Papers, University of Texas Archives.

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15 Barker, "Land Speculation as a Cause of the Texas Revolution," op. cit., 36, 93.
The Prenzler Papers, now a part of the Houston Papers in the University of Texas Archives, give the relation of Sam Houston with Mason and the Galveston Bay Company.
The *Telegraph and Texas Register*, October 26, 1835.

16 Williams to Austin, April 22, 1835, Austin Papers, University of Texas Archives.

17 Barker, "Land Speculation as a Cause of the Texas Revolution," op. cit., 93.

18 Burnet to the People of Texas, *The Telegraph and Texas Register*, August 11, 1838.

19 Ibid.
Burnet states that Millard was filling his place. Barker, however, says that Millard was an elected delegate (Barker, *Texas and the Texans*, I, 286, 301). It may have been that after Burnet's return home he asked his neighbors to elect Millard in his stead. As Claiborne West, another Liberty delegate, was also unable to attend the convention, Joseph Bryan was apparently substituting for West.

Burnet et al. to Joseph Bryan, Domestic Correspondence, Archives Texas State Library (Austin). Published copy in the *Telegraph and Texas Register*, November 7, 1835, 40 a.

20 *Telegraph and Texas Register*, August 11, 1838.

21 Burnet et al. to Branch T. Archer, November 9, 1835, State Department Records, Book 3, 38-39, Archives Texas State Library (Austin).


23 Frank W. Johnson, who took a leading part along with Milam in the storm of San Antonio, is the author of this version of Milam's call. Johnson and Barker, *Texas and the Texans*, I, 352.

24 Cincinnati *Daily Gazette*, November 19, 1835.

25 Moseley Baker to Sam Houston, October, 1844, Historical Mss. Book, Archives Texas State Library (Austin). The original of this letter has apparently been lost.

26 Governor Smith stated his policy toward Mexicans when he said: "I consider it bad policy to fit out, or trust Mexicans in any matter connected with our government, as I am well satisfied that we will in the end find them inimical and treacherous." See the *Journal of the General Council*, 131-32, in Council and Consultation Papers, Archives of Texas State Library (Austin).
Concerning Houston's attitude toward Mexicans, Mr. Herbert Lavenport well says: "An ability to speak Spanish, plus a willingness to speak truthfully of conditions in his rear, were all that was necessary to cause Houston to put any citizen under arrest." See Amelia W. Williams and Eugene C. Barker (eds.), The Writings of Sam Houston (Austin, 1938), II, vii.


28 Smith to Houston, January 23, 1836, in Documents on Indian Affairs, Submitted to the Texas Congress by the President (Houston: November 15, 1838).

29 Burnet et al. to J.W. Robinson, February 23, 1836, Domestic Correspondence, Archives of Texas State Library (Austin). Burnet later dealt with this case as president. His original report to congress of October 21, 1836, is filed in the Thomas Jefferson Hunk Papers, University of Texas Archives, and Burnet mentions the case in this report.

30 Little is known of Burnet's activities at this time, though he was apparently active in local affairs.

31 William Barret Travis to the convention, March 3, 1836, San Jacinto Monument Archives (Houston).


33 Gray, From Virginia to Texas, 107-08.

34 Ibid., 107, 124.

35 The exact date of Burnet's arrival at the convention is not known, but Gray records in his diary under the date of March eleventh: "Among the persons here who are attracted by the Convention is David S. Burnett, one of the Empressarios of this country, who is spoken of as the President." Ibid., 107-08.

36 "The Convention of 1836," Roberts Papers, Archives of the University of Texas.


38 Beauford Chambless, The Ad-Interim Government of the Republic of Texas, Master's Thesis (The Rice Institute, 1949), 2-6, discusses Burnet's cabinet and cites the sources of information.
Ernest C. Shearer, Robert Potter, Remarkable North Carolinian and Texan (Houston, 1951), passim.

38 Raymond Estep, The Life of Lorenzo de Zavala, Doctoral Thesis (The University of Texas, 1942), passim.
Lorenzo de Zavala, Viaje a los Estados-Unidos del Norte de America (Paris, 1834), passim.

Gray, From Virginia to Texas, 106.

40 David G. Burnet, Opinion on the Four Hundred Leagues' Grant of Texas Land, by an Old Settler (New Orleans, 1836), passim.
Reprinted in the Telegraph and Texas Register, July 28, 1836, 1 a, b, c, d. Discussed in ibid., August 11, 1836, and September 1, 1835. For Samuel Ray Williams' view of the eleven-league grants, see the Texas Republican, July 20, 1835.

41 Contract for $200,000 loan, Financial Affairs Papers, Archives of Texas State Library.
Contract for $50,000 loan, Comptroller's Letters, Archives of Texas State Library.
Austin, Archer, And Wharton to Henry Smith, January 10, 1836.
Austin Papers, University of Texas Archives.
Journal of the Convention, Convention Papers, Archives of Texas State Library, passim.
Barker, "Texas Revolutionary Finances," Political Science Quarterly, XIX, passim.

42 Gray, From Virginia to Texas, 123.

43 Ibid., 131-3.
Journal of the Convention, Convention Papers, Archives of Texas State Library, passim.
"The Convention of 1836," Roberts Papers, University of Texas Archives.

44 A fragmentary record in the Convention Papers, Archives of Texas State Library, gives the vote for president as 29 for Burnet and 23 for Carson.
Burnet to the Convention, March 17, 1836, handbill, Public Printing Papers, Archives of Texas State Library.

Burnet to Ley, Sumner, and Curtis, November 4, 1830, as printed in Address to the Reader of the Documents Relating to the Galveston Bay and Texas Land Company, which are contained in the Appendix, (New York, January 1, 1851).

Austin to García, August 2, 1833, Transcripts from Department of Fomento, legajo 2, expediente 5, University of Texas Archives. Eugene C. Barker has noted that Austin was undoubtedly exaggerating for the purpose of obtaining statehood. See Barker, The Life of Stephen F. Austin, 431.

Yoakum, History of Texas, I, 327.
Chapter IV

1 C.W. Raines, ed., Six Decades in Texas, or Memoirs of Francis Richard Lubbock (Austin, 1900), 82-83. Lubbock is citing an anecdote of O.M. Roberts, a convention member.

2 Journal of the Convention, Convention Papers, Archives of Texas State Library. Gray, From Virginia to Texas, 133-34.

3 Burnet to the People of Eastern Texas, March 18, 1836, Handbill in Public Printing Papers, Archives of Texas State Library. Gray, From Virginia to Texas, 135.


6 McKinney to the Government of Texas, February 13, 1836, Consular Correspondence, Archives of Texas State Library. McKinney and J.W. Allen to Austin, Wharton, and Archer, February 18, 1836, Consular Correspondence, Archives of Texas State Library. Edward Hall to Burnet, March 31, 1836, Comptroller's Letters, Archives of Texas State Library.

7 Burnet to Thomas Toby and Brother, March 19, 1836, Executive Records, Book 34, p. 453, Archives of Texas State Library.

8 Burnet to George C. Childress, March 19, 1836, Executive Records, Book 34, p. 83, Archives of Texas State Library. Burnet to J.J. Green, March 19, 1836, Army Papers, Archives of Texas State Library. Burnet to E.B. Lenard, March 19, 1836, Indian Affairs Papers, Archives of Texas State Library. Carson to Burnet, April 4, 1836, Domestic Correspondence, Archives of Texas State Library.

9 Gray, From Virginia to Texas, 136-42.

10 Ibid., 135. Houston to Collinworth, March 15, 1836, as published in Yoakum, History of Texas, II, 475-77.

12 Gray, From Virginia to Texas, 145-46.


15 Houston to Rusk, March 23, 24, and 29, 1836, as published in Yoakum, History of Texas, II, 432-36. See Appendix II of this thesis for a discussion of Houston's retreat from the Colorado.


17 Gray, From Virginia to Texas, 150. Proclamation of Burnet, March 29, 1836, Executive Records, Book 35, pp. 57-59. In 1838 Moses Baker stated under oath that he burned San Felipe because of a penciled order from Houston. See Texas Almanac for 1830, pp. 50-57. For Houston's iteration, see Houston to Rusk, Rusk Papers, University of Texas Archives.

18 Hall to Burnet, March 31, 1836, Comptroller's Letters, Archives of Texas State Library.

19 Gray, From Virginia to Texas, 150-51. Modification of Loan Agreement, April 1, 1836, Bryan-Toby Accounts and Vouchers, Archives of Texas State Library.

20 Burnet to Triplett, April 3, 1836, Executive Records, Book 34, 93-94.

21 Burnet to Carson, April 1, 1836, Diplomatic Correspondence, Archives of Texas State Library. Carson actually departed on the morning of April 2, though he left office on the first. See Gray, From Virginia to Texas, 151.
Carson to Childress and Hamilton, April 1, 1836, Executive Records, Book 34, p.20.

Carson to Forsyth, April 1, 1836, Executive Records, Book 34, p. 22.

Burnet to Clay, March 30, 1836, as printed in Telegraph and Texas Register, August 18, 1836. It will be remembered that Burnet had known Clay for many years.

Proclamation of Burnet, April 3, 1836, Executive Records, Book 35, pp.61-62. Although the proclamation is dated April 3, it is likely that the policy here enunciated was agreed upon by the cabinet before the members went their several ways.


Gray, From Virginia to Texas, 150-51.

23 Burnet to Morgan, April 3, 1836, Morgan Papers, Rosenberg Library (Galveston). The irritation which Burnet here reveals may have stemmed from the fact that he had just learned that some rogue had absconded with two of his pistols. See Burnet to Hardin, April 3, 1836, Domestic Correspondence, Archives of Texas State Library.


25 John E. Ross to Sam Houston, April 11, 1836, Memorials and Petitions, Archives of Texas State Library.


/Robert M. Coleman/

Houston Displayed, or, Who Won the Battle of San Jacinto, by a farmer in the Army (Velasco, 1837), 13-14. The University of Texas Library has the copy of Siles Dinsmore, and Dinsmore wrote in his copy that the woman was Mrs. Mann.

26 Proclamation of Burnet, c. April 5, 1836, Executive Records, Book 35, pp. 52-54.

Burnet to the Citizens of Texas, April 6, 1836, Executive Records, Book 35, pp.93-95.

Proclamation of Burnet, c. April 9, 1836, Executive Records, Book 35, pp. 63-64.

Burnet to the Citizens of the Brazos, April 9, 1836, Executive Records, Book 35, p. 62.

27 Burnet to the Citizens of Texas, April 6, 1836, Executive Records, Book 35, pp. 93-95, contains the quotation.

28 W. B. Lamar to President and Cabinet, April 6, 1836, Executive Records, Book 34, pp. 454-55.

W. B. Lamar to J. J. Lamar, April 10, 1836, Lamar Papers, Archives of Texas State Library.

Burnet to Raguet, April 7, 1836, Financial Affairs Papers, Archives of Texas State Library.

29 Army Orders of Houston, April 7, 1836, Houston Papers, University of Texas Archives. See also Gray, From Virginia to Texas, 160.

Thomas to Houston, April 12, 1836, as published in Yoakum, History of Texas, II, 125. Santa Anna reached Ford Bend on the evening of April 10.
31. Yoakum, History of Texas, II, 123.

Sanchoft, History of the North Mexican States and Texas, 252. The
cannon left Harrisburg on April 9 (Yoakum, History of Texas, II,
123) after Burnet had accepted them for the republic. Burnet's
acceptance speech may be found in Poote, History of Texas, II,
295-96.

Gray, From Virginia to Texas, 160-63. The quotation is on page 162.

32. Triplett to Burnet, April 15, 1836, Financial Affairs Papers, Archives
of Texas State Library.

The quotation is from George W. Patrick's account of the narrow
escape of the President from New Washington as published in the
Telegraph and Texas Register, April 7, 1833, 2 c d; and the Texas
Sentinel, July 22, 1841, 7 a.

34. Ibid.

Delgado's Diary, as published in Linn, Reminiscences of Fifty Years
in Texas, 227.

35. Burnet's reply to questions asked during his campaign for the vice
presidency in 1833, Telegraph and Texas Register, April 7, 1833,
2 b 2.

36. The exact date of Thomas's death is not specifically given anywhere;
however, from the following it appears that the date was April 10:
It is known that Thomas was aboard the Cayuga when that vessel
left New Washington on April 16. See Gray, From Virginia to Texas,
161-63; and Patrick's account in the Telegraph and Texas Register,
April 7, 1838, 2 c d. Linn, who was at Galveston at the time, says
that Thomas was accidentally shot while aboard the Cayuga on the
voyage from New Washington; thus the tragedy took place on the
sixteenth. Linn goes on to say that Thomas died three days after
being shot; hence he must have died on April 19. See Linn,
Reminiscences of Fifty Years in Texas, 261

Zavala to Burnet, c. April 20, 1836, Domestic Correspondence, Archives
of Texas State Library.

Austin, Archer, and Marton to the Government of Texas, April 6, 1836,
Diplomatic Correspondence, Archives of Texas State Library.

Beauford Chambless, The Ad-Interim Government of the Republic of Texas,
Master's Thesis (The Rice Institute, 1949), xix-xxii.

Bryan to Burnet, April 6, 1836, and April 8, 1836, Consular
Correspondence, Archives of Texas State Library.

Burnet's letter of the twenty-sixth is no longer extant, but Bryan
acknowledges the reception of Burnet's letter of April 26 in Bryan
to Burnet, May 14, 1836, Consular Correspondence, Archives of Texas
State Library.
37 Toby to Burnet, April 16, 1836, Consular Correspondence, Archives of Texas State Library.
Burnet to the People of Texas, telegraph and Texas Register, September 6, 1836, 1 a.

38 Burnet to the People of Texas, No. 2, Telegraph and Texas Register, September 13, 1836, 1 a.b.c.
Bancroft, History of the North Mexican States and Texas, II, 265.
A copy of Rusk's "Report of the Battle of San Jacinto" may be found in the Lamar Papers, No. 361, Archives of Texas State Library.
Rusk denies that he was the author of the protocol in Rusk to Burnet, July 4, 1836, Rusk Papers, University of Texas Archives.

39 Burnet to the People of Texas, No. 2, Telegraph and Texas Register, September 13, 1836, 1 b, gives Burnet's story as to the orig-in of the treaty with Santa Anna. As mentioned above, Rusk attributes the protocol to Houston in Rusk to Burnet, July 4, 1836, Rusk Papers, University of Texas Archives.
Yoakum, History of Texas, II, 153-54, gives Houston's viewpoint.
Burnet to the People of Texas, No. 1, Telegraph and Texas Register, September 6, 1836, 1 b. Burnet says that some 10,000 to 12,000 was taken from the Mexicans and distributed among the Texian troops. Yoakum, however, in his History of Texas, II, 155-54, gives the amount as 15,134.57, 3,000 of which was reserved for the navy.
Yoakum cites as his authority "Secret of the President and Cabinet, May 3, 1836. Official Report of John Forbes, Commissary-General," a source which this author has been unable to find. Bancroft, an accurate writer, further complicates the matter by giving the sum as 12,500. Bancroft, History of the North Mexican States and Texas, 233. See also the Texas Almanac for 1881, 35.

40 Jesse J. Litt to Jno. L. Collinworth, September 14, 1881, Historical Data Dept. Book, Archives of Texas State Library. Litt says that Houston was riding his horse in such a way that it was probable that his own troops rather than the enemy shot him. See also statement of Ellis Benson to A.A. McIvy, June 10, 1893, Historical Data Dept. Book, Archives of Texas State Library.

41 James Collinsworth to Rusk, May 2, 1836, Rusk Papers, University of Texas Archives.
Burnet to Grayson, May 4, 1836, Domestic Correspondence, Archives of Texas State Library.
A.H. Christian, Mirabeau Buonaparte Lamar (Austin, 1924), passim.

42 Yoakum, History of Texas, II, 162-66.
43 Lamar to Rusk, May 7, 1836, Rusk Papers, University of Texas Archives. Burnet to the People of Texas, No. 2, Telegraph and Texas Register, September 13, 1836, 1 a b. Lamar to the President and Cabinet, May 12, 1836, Lamar Papers, No. 362, Archives of Texas State Library, passim.

Telegraph and Texas Register, June 30, 1836, 3 e. Burnet to the People of Texas, No. 2, Telegraph and Texas Register, September 13, 1836, 1 a b c. Rusk to Burnet, July 4, 1836, Rusk Papers, University of Texas Archives. Yoakum, History of Texas, II, 153-54, 526-29. Houston to Rusk, May 3, 1836, Rusk Papers, University of Texas Archives. Lamar to Rusk, May 7, 1836, Rusk Papers, University of Texas Archives. "As yet no arrangement has been made with regard to Gen'l Santa Anna, but probably something will be done soon after our arrival at Galveston, of which no time will be lost in apprising you, in the mean while you will keep your troops in motion moving in the rear of the enemy."


46 McKinney and Williams to President and Cabinet, May 15, 1836, Comptroller's Letters, Archives of Texas State Library.

47 Lavallie and Grayson to President and Cabinet, May 20, 1836, Financial Affairs Papers, Archives of Texas State Library. McKinney and Williams to President and Cabinet, May 20, 1836, Financial Affairs Papers, Archives of Texas State Library.

48 McKinney to Rusk, May 20, 1836, Rusk Papers, University of Texas Archives.

49 Collinsworth to the President and Cabinet, May 13, 1836, Domestic Correspondence, Archives of Texas State Library. Regarding Houston's initial appointment, see the Journal of the Convention, Convention Papers, pp 21-24; and see Collinsworth's March 4 proposal also in Sam Houston State Teacher's College Museum (Huntsville). Yoakum, History of Texas, II, 250.
50 Burnet to Carson, May 23, 1836, Domestic Correspondence, Archives of Texas State Library.
President and Cabinet to Toby, May 24, 1836, Consular Correspondence, Archives of Texas State Library.

51 Lamar to President and Cabinet, May 26, 1836, Army Papers, Archives of Texas State Library.
Jack to President and Cabinet, May 27, 1836, Domestic Correspondence, Archives of Texas State Library.
"Lewis v. McCusin vs. Harriet A. Ames," 44 Texas Reports 319, as given on 337 and 342.
Burnet to the People of Texas, No. 2, Telegraph and Texas Register, September 13, 1836, 1 b.

52 Burnet to Toby, May 25, 1836, Consular Correspondence, Archives of Texas State Library.
Triplett to Secretary of State, August 19, 1836, Financial Affairs Papers, Archives of Texas State Library.

53 Burnet to Collinworth and Grayson, May 26, 1836, Diplomatic Correspondence, Archives of Texas State Library.
Austin, Archer, and Wharton to Burnet, July 21, 1836, Diplomatic Correspondence, Archives of Texas State Library.
Barker, The Life of Stephen F. Austin, 502-05.
Lamar to President and Cabinet, May 26, 1836, Army Papers, Archives of Texas State Library.

54 Jack to Burnet, May 26, 1836, Domestic Correspondence, Archives of Texas State Library.

55 Jack to President and Cabinet, May 27, 1836, Domestic Correspondence, Archives of Texas State Library.
Burnet to Collinworth and Grayson, May 26, 1836, Diplomatic Correspondence, Archives of Texas State Library.
Jack to President and Cabinet, May 30, 1836, Domestic Correspondence, Archives of Texas State Library.
Lamar Memoranda, Lamar Papers, No. 521, Archives of Texas State Library.

56 Lamar Memoranda, Lamar Papers, No. 521, Archives of Texas State Library.

57 Ibid.
Lamar to the President and Cabinet, May 12, 1836, Lamar Papers, No. 362, Archives of Texas State Library.
Burnet to the People of Texas, No. 3, Telegraph and Texas Register, September 20, 1836, 1 a b.
Thomas Jefferson Green, Journal of the Texian Expedition Against Nier... with Reflections upon the Present and Probable Future Relations of Texas, Mexico and the United States (New York, 1845), Appendix IX, 468.
Yokum, History of Texas, II, 174-75.
58 Zavala to President and Cabinet, June 3, 1836. Domestic Correspondence, Archives of Texas State Library.

59 Burnet to the People of Texas, No. 4, Telegraph and Texas Register, September 27, 1836, 1 a.

60 Burnet to Triplett, June 3, 1836. Consular Correspondence, Archives of Texas State Library.

61 Burnet to the People of Texas, No. 5, Telegraph and Texas Register, September 20, 1836, 1 b, has the quotation.

David C. Burnet, "Compendium of the History of Texas," The Texas Almanac for 1861, 39-42. The quotation is on page 39.

McKinney to Rush, May 20, 1836, Rush Papers, Archives of the University of Texas.

62 Yoakum, History of Texas, II, 173-74, gives the quotation.

Burnet says of himself, "At that period President I., with his wife and two small children, were sleeping in the sand at the eastern point of the island, with no other bed or bedding than two borrowed blankets. He had lost all his household effects." The president was undergoing these privations while his critics were accusing him of "rioting on the abundance of the public stores." See "Burnet," Compendium of the History of Texas," The Texas Almanac for 1861, 39n. Again Burnet says, "President Burnet sold at Velasco a negro woman and a boy to defray his family expenses."

Ibid., 42n.

63 Documents Connected with the Late Controversy between Gen. T.J. Chambers, of Texas and Messrs. Wilson & Postlewaite, of Kentucky (Louisville, 1836), 4. See also the Telegraph and Texas Register, November 12, 1836, 2 a b c.

64 Triplett to Burnet, May 30, 1836, Comptroller's Letters, Archives of Texas State Library.


65 Triplett to President and Cabinet, June 9, 1836, Consular Correspondence, Archives of Texas State Library.

Foote, Texas and the Texans, II, 345-49, has the quotation.

Burnet, "Compendium of the History of Texas," The Texas Almanac for 1861, 43, and passim.

66 Bancroft, History of the North Mexican States and Texas, II, 275, 237. Felix Huston to San Houston, July 4, 1836, as printed in the Telegraph and Texas Register, August 30, 1836, 1 a.

Rusk to ?, June 11, 1836, Rush Papers, University of Texas Archives. Burnet to Toby, June 20, 1836, Consular Correspondence, Archives of Texas State Library.

Burnet to Lamar, June 25, 1836, Lamar Papers, No. 389, and Burnet to Lamar, June 22, 1836, No. 387, Lamar Papers, Archives of Texas State Library.
Rusk to Somervell, July 2, 1836, Rusk Papers, University of Texas Archives.

67 Documents, Connected with the Late Controversy between Gen. T. J. Chambers, of Texas and Lessra. Wilson, Postlethwaite, of Kentucky, S.

68 Burnet to Morgan, June 27, 1836, Morgan Papers, Rosenberg Library (Galveston).

69 Rusk to Burnet, July 31, 1836, Rusk Papers, University of Texas Archives.
Millard to Burnet, July 16, 1836; Rusk Papers, University of Texas Archives, gives the quotation.
Millard to Turner, July 16, 1836; Huston to Rusk, July 19, 1836; Burnet to Millard, July 21, 1836; Millard to Burnet, July 21, 1836; Rusk to Burnet, August 5, 1836; Rusk to Burnet, September 2, 1836; all in the Rusk Papers, University of Texas Archives.
Burnet, "A Compendium of Texas History," Texas Almanac for 1861, 44.

70 Burnet, "A Compendium of Texas History," Texas Almanac for 1861, 44, and passim.

71 Burnet to Collinsworth and Grayson, July 3, 1836, Diplomatic Correspondence, Archives of Texas State Library.
Burnet to Lamar, July 3, 1836, Lamar Papers, No. 490, Archives of Texas State Library.
Lamar to Burnet, July 17, 1836, Lamar Papers, No. 414, Archives of Texas State Library.
Burnet, "A Compendium of Texas History," Texas Almanac for 1861, 46. Burnet's proclamation of July 23 is found in the Telegraph and Texas Register, August 9, 1836, 3 c; and August 16, 1836, 1 a.
Felix Huston to Sam Houston, July 4, 1836, as printed in the Telegraph and Texas Register, August 30, 1836, 1 a.
H. Austin to H. Austin, July 26, 1836, Austin Papers, University of Texas Archives.
"Don't be frightened about the 15,000 Mexicans, they are raw recruits, convicts and pressed men, won't fight and as Houston is out of the way and Lamar a fighting chicken at the head of the army there will be no want of good riflemen to shoot the vagabonds."
Yoakum, History of Texas, II, 133-30.
Rusk to Houston, August 15, 1836, Rusk Papers, Archives of the University of Texas.

72 Barker, The Life of Stephen F. Austin, 510, and passim.

73 Ibid., and Archer to Editor, Telegraph and Texas Register, August 16, 1836.
Chapter V

1 Telegraph and Texas Register, February 3, 1837, 2 c. Also, January 12, 1837.

2 Journal of the Senate, First Congress, First Session, 52-66.

3 L.W. Kemp, muster roll of San Jacinto, MSS., Archives of Texas State Library.

4 House Journal, First Texas Congress, Second Session, 1. Telegraph and Texas Register, May 2, 1837, 2 a.

5 Lubbock, Six Decades in Texas, 51-52.

6 Linn, Reminiscences of Fifty Years in Texas, 273.

7 Cullen to Lamar, September 15, 1837, Lamar Papers, No. 563, Archives of Texas State Library.
Lubbock, *Six Decades in Texas*, 70.

One notice which Burnet filed in September, 1837, regarding these bonds was formerly found in the Rusk Papers (manila folder marked Jan.-Dec., 1837), University of Texas Archives. It has disappeared recently, however, though a photostatic copy of the same is in the Domestic Correspondence (folder marked July-Dec., 1837), Archives of the Texas State Library. This writer has seen both the original and the copy.

Gourlay J. Pewsetts to Anthony Butler, June 13, 1837, Butler Papers, University of Texas Archives.

*Journal of the House of Representatives Republic of Texas, Called Session of September 25, 1837, and Regular Session, Commencing November 5, 1837* (Houston, 1838), 10, 16, and passim.

Telegraph, Dec. 9, 1837, 2 c d.

Houston to Fisher, April 5, 1837, Papers of Mr. Franklin Williams, Houston, Texas.

Telegraph and Texas Register, September 16, 1837, 2 b.


Telegraph and Texas Register, December 9, 1837, 1 d. First Biennial Report of the Texas Library and Historical Commission for the period from March 29, 1909, to August 31, 1910, Accompanied by the Secret Journals of the Senate Republic of Texas 1836-1845 (Austin, 1911), 72, 73, 80-83, 85, 89-92. R. V. Wilson to Houston, November 9, 1837, Domestic Correspondence, Archives of Texas State Library.

Case of S. R. Fisher, November, 1837, Lamar Papers, No. 620, Archives of Texas State Library.

D. F. Arthur (ed.), *The Old Journal of Littleton Fowler*. The *Quarterly of the Texas State Historical Association* (July, 1898), II, 80.

Everitt to Lamar, May 30, 1837, Lamar Papers, No. 554, Archives of Texas State Library.

W. D. Redd to M. B. Lamar, May 23, 1837, Lamar Papers, No. 553, Archives of Texas State Library.

Everitt to Lamar, May 30, 1837, Lamar Papers, No. 554, Archives of Texas State Library.

Telegraph and Texas Register, December 9, 1837, 2 d.

Telegraph and Texas Register, January 20, 1838, 2 c.
For Thomas F. McKinney's statement that he assisted Houston in getting title to land around Macognoches, see the Texas Magazine, III & IV, 164 and passim. See also the House Journal of the Fifth Congress, 369; the Texas Sentinel, August 19, 1841, 3 b; Samuel Swartwout to J.P. Henderson, November 30, 1849, Swartwout Papers, New York City Public Library; and Appendix I of this thesis.

Journals of the House of Representatives of the Republic of Texas, 1st Congress, 2 Session, 12.

Ibid., 3 Congress, Regular Session, 87-93.

John B. Birdsall, Acting Secretary of State, to Major A. Bullman, March 19, 1833, Domestic Correspondence, Archives of Texas State Library.

R.F. Hord, Esq., to Hon. Secretary of State, June 30, 1833, Domestic Correspondence, Archives of Texas State Library.

R.A. Irion to R.F. Hord, August 10, 1833, Domestic Correspondence, Archives of Texas State Library.

Telegraph and Texas Register, Extra Edition, December 25, 1837, 1 c.

Telegraph and Texas Register, August 25, 1841.

Crasmus Serquin to Hon. Secretary of State, June 30, 1833, Domestic Correspondence, Archives of Texas State Library.

Ibid.

Telegraph and Texas Register, March 31, 1833, 2 i, 3 a.

Telegraph and Texas Register, Extra, December 25, 1837, 1 a b c.

Telegraph and Texas Register, December 30, 1837, 2 i.

Lubbock, Six Decades in Texas, 80-81.

Texas Sentinel, January 25, 1841, 3 c.

Telegraph and Texas Register, June 2, 1833, 2 i.

Telegraph and Texas Register, June 30, 1833, 2 c, quoting the Colorado Gazette and Adventurer.

Telegraph and Texas Register, June 2, 1833, 3 a.
42 John A. Rogers to Lamar, July 12, 1838, Lamar Papers, No. 765, Archives of Texas State Library.

43 Telegraph and Texas Register, June 23, 1838, 3 a; July 14, 1838.

44 Ibid., July 14, 1838; August 4, 1838.

45 Ibid.

46 See to Burnet, September 6, 1838, Lamar Papers, No. 311, Archives of Texas State Library.

47 Frank Brown, Annals of Travis County and of the City of Austin, Iss., 44.

48 Telegraph and Texas Register, March 10, 1838.

49 Ibid.

50 Yoakum, History of Texas, II, 245.

51 Telegraph and Texas Register, December 12, 1838.
Anson Jones, Republic of Texas, 53-54.
Smith to Will, December 20, 1838, Ashbel Smith Papers, University of Texas Archives.

52 Bancroft, North Mexican States and Texas, II, 317.

53 Ibid.

54 Houston to Irion, March 1, 1837, Domestic Correspondence, Archives of Texas State Library.

55 Jesse Grimes to J.H. Barnett, April 30, 1838, Domestic Correspondence, Archives of Texas State Library.

56 Austin City Gazette, August 13, 1841.

57 Erasmus Seguin to Hon. Secretary of State, June 30, 1838, Domestic Correspondence, Archives of Texas State Library.

58 Message of the President of the Republic of Texas, Submitted to Both Houses, December 21, 1838 (Houston, 1838), II.
Narcy, Thirty Years of Army Life, 63.

59 Message of the President of the Republic of Texas, Submitted to Both Houses, December 21, 1838, passim.

60 Telegraph and Texas Register, August 5, 1837, 2 b. See to Lamar, September 6, 1838, Lamar Papers, No. 310; Husk to Lamar, August 24, 1838, Lamar Papers, No. 767; See to Burnet, September 6, 1838, Lamar Papers, No. 311; Archives of Texas State Library.
Ashbel Smith to Mosely Baker, December 30, 1339, Ashbel Smith Papers,
University of Texas Archives.


62 Hunt to Henderson, May 30, 1867, Diplomatic Correspondence, Archives
of Texas State Library.

63 Jones to Lamar, May 10, 1833, Lamar Papers, No. 724;
Hunt to Lamar, September 5, 1838, Lamar Papers, No. 307; Archives
of Texas State Library.

64 Wallace Hawkins, *The Jace of John C. Matrour* (Dallas, 1930), 6, and
passim.
Telegraph and Texas Register, June 2, 1838, 2 d.
Barnet to Lamar, n.d., Lamar Papers, No. 847, Archives of Texas
State Library, contains the quotation.

65 W.J. Jones to Lamar, May 10, 1833, Lamar Papers, No. 723, Archives
of Texas State Library.
Chapter VI

1 Secret Journals of the Senate, Third Congress, First Session, 116.
Biographies of Leading Texans, 300-31, contains the quotation.
L. W. Kemp's Muster Roll of San Jacinto, Archives of Texas State
Library, p. 209.

2 Andrew Forest Muir, "First Steam Sawmill Had Gear Trouble", The
Gulf Coast Lumberman (March 1, 1952), 33.
Linn, Reminiscences of Fifty Years in Texas, 304-05, contains quotation.
Burnet to Andrew Neill, January 25, 1839, Domestic Correspondence,
Archives of Texas State Library.

3 Linn, Reminiscences of Fifty Years in Texas, 304-05.

4 Laws of the Republic of Texas, First Session, Third Congress, 125.
Senate Journal, Third Congress, 80.
The Quarterly of the Texas State Historical Association (Oct., 1897),
Lubbock, Six Decades in Texas, 114.

5 Burnet to Neill, January 25, 1839, Domestic Correspondence, Archives of
Texas State Library.
Burnet's claim was indeed already located, though unknown to him as this
time apparently because of the scattered records. Trimble had evidently
carried out his work, and on May 4, 1839, applied for a league and a
labor in Medina County under Burnet's name. See Headright Certificate
296, Bexar 1st Class, File 400, Archives of the General Land Office
(Austin). Burnet's original certificate was lost, and a duplicate
was issued and approved on February 14, 1840, a copy of which is in
the file of Bexar 1st Class, File 400.


7 Report of the Secretary of War, November, 1839, 42, as cited by Yoakum,
History of Texas, II, 261-62.
Burleson to Burnet, January 19, 1839, Domestic Correspondence, Archives
of Texas State Library.
Secret Journals of the Senate, 129.

8 Customs Officer, Port of Velasco, to the Hon. Bernard E. Bee, Secretary of
State, January 12, 1839. Domestic Correspondence, Archives of Texas
State Library.
Yoakum, History of Texas, II, 255-56.
Ephraim Douglass Adams, British Interests and Activities in Texas, 1836-1846
(Baltimore, 1910), 22n-23n.
House Journal, First Congress, First Session, 301.
Secret Journals of the Senate, 120.
Bancroft, History of the North Mexican States and Texas, II, 422.
Morgan to Lamar, December 27, 1838, James Morgan Papers, Rosenberg
Library (Galveston), gives the recommendation of Treat to Lamar.

Houston Morning Star, April 13, 1839.

Journals of the Third Congress of the Republic of Texas, 1838-1839,
passim.
Bancroft, History of the North Mexican States and Texas, II, 317-19.
William N. Gouge, The Fiscal History of Texas (Philadelphia, 1852),
passim.
Edmund Thornton Miller, A Financial History of Texas. Bulletin of
the University of Texas (Austin, 1916), No. 37, passim.

J. A. Greer to J. C. Watrous, March 2, 1839, Lamar Papers, No. 1105,
Archives of Texas State Library.

S. A. Roberts to Lamar, July 9, 1839, Lamar Papers, No. 1361,
Archives of Texas State Library.

Webb to Bee, February 20, 1839, Diplomatic Correspondence, Archives
of Texas State Library.

Gordon to Pakenham, April 29, 1839, as cited by Adams, British Interests
and Activities in Texas, 1836-1846, 26-27.

Herbert Gambrell, Hiram Bumpparte Lamar, Troubadour and Crusader, 271.

Anson Jones' Notes, as quoted by Frank Brown, Annals of Travis County and
of the City of Austin, From the Earliest Times to the Close of 1875,
page 46, Archives of Texas State Library.

Lubbock, Six Decades in Texas, 83-84.
Ralph Sayard, Lone Star Vanguard, The Catholic Re-Occupation of Texas,
(1838-45) (St. Louis, 1945), passim.

Telegraph and Texas Register, April 17, 1839.

Journal of the House of Representatives, Called Session, Second Congress, 16.
Hunt to Lamar, May 1, 1839, Domestic Correspondence, Archives of Texas State
Library.
Watrous to Lamar, May 1, 1839, Domestic Correspondence, Archives of Texas
State Library.
Lamar to Burnet, May 29, 1839, Lamar Papers, No. 1305, Archives of Texas
State Library.

Lamar to Burnet, May 29, 1839, Lamar Papers, No. 1305, Archives of Texas
State Library.
Burnet's acceptance is given in Burnet to Lamar, May 29, 1839, Lamar Papers,
No. 1306, Archives of Texas State Library.
22 Hamilton to Webb, April 1, 1839, Domestic Correspondence, Archives of Texas State Library.
Webb held the duties of acting secretary of treasury until rather late in May, when James H. Starr took over the position. See Telegram and Texas Register, May 29, 1839.

23 Hamilton to Webb, April 3, 1839, Domestic Correspondence, Archives of Texas State Library.
Hamilton to Webb, April 14, 1839, Domestic Correspondence, Archives of Texas State Library.

24 Hamilton to Webb, April 19, 1839, Domestic Correspondence, Archives of Texas State Library.

25 Webb to Hamilton, April 23, 1839, Domestic Correspondence, Archives of Texas State Library.

26 Gouge, The Fiscal History of Texas, 97.

27 Yoakum, History of Texas, II, 257-60.
Headquarters, Matamoros, 27 Feb. 1838 should be '39 [sic]', Valentin Canutillo to Captain Don Vincente Cordova, Commander of the Mexican Forces in Texas, Domestic Correspondence, Archives of Texas State Library.

28 Adams, British Interests and Activities in Texas, 1838-1846, 28.

29 Bee to Webb, July 6, Diplomatic Correspondence, Archives of Texas State Library.

30 Hamilton to Lamar, June 29, 1839, Diplomatic Correspondence, Archives of Texas State Library, contains the quotation. See also Records of Department of State, Book 41, 297-98, Archives of Texas State Library.
Bee to Webb, July 5, 1839, Diplomatic Correspondence, Archives of Texas State Library.

31 Houston Morning Star, July 1, 1839, 2 a.
Texas Sentinel, May 12, 1841, 3 a.

Secret Journals of the Senate, 75-80.


35 Appendix to Empresario Contracts, III, 300, Archives of General Land Office (Austin).


36 32 Congress, 2nd Session, Senate Document, No. 14, 29-35. Dunlap to Burnet, June 28, 1839, Diplomatic Correspondence, Archives of Texas State Library. The documents were presented to the American secretary of state on June 29.

37 John H. Reagan, "The Expulsion of the Cherokees from East Texas," passim. To finance this Indian campaign, the government drew checks for $27,000 on the $400,000 loan made by Hamilton in Philadelphia. See Burnet to Starr, June 27, 1839, and Burnet to Reilly, June 27, 1839, Letter Book 36, 105-07, Archives of Texas State Library.

38 Election Register, 1836-1842, No. 255, V. 165, p. 14, State Papers, Office of Secretary of State.

39 Dunlap to Burnet, June 28, 1839, Diplomatic Correspondence, Archives of Texas State Library.

40 Bee to Webb, July 26, 1839, Diplomatic Correspondence, Archives of Texas State Library.

Burnet to Treat, August 9, 1839, Diplomatic Correspondence, Archives of Texas State Library.

41 John Colliers to the Hon. Sec. of State, July 26, 1839, Domestic Correspondence, Archives of Texas State Library.

"...the policy of the present Administration generally has obtained the cordial approbation of a large majority of the citizens of this Co. [Houston County]."

Smith to Green, August 9, 1839, Ashbel Smith Papers, University of Texas Archives. Telegraph and Texas Register, August 21, 1839.

42 New Orleans Picayune, September 28, 1839.

43 Burnet to Wright, August 23, 1839, and Burnet to Lamar, November, 1839, Letter Book 36, 125-27, 139-45, Archives of Texas State Library (Austin). Telegraph and Texas Register, February 5, 1840, 2 e.

"The city sexton reports 229 deaths from the 24th July to the 3d Dec. inclusive—about one twelfth of our population—there being a city hospital free to all comers. Houston has been the recipient of all the paupers in the surrounding country including perhaps three fourths of the whole Republic."
44 Hamilton to Lamar, August 1, 1839, Records of Department of State, Book 41, 409, Archives of Texas State Library (Austin).

Henderson to Lamar, September 1, 1839, Lamar Papers, No. 1433, Archives of Texas State Library, contains the quotation.

Adams, British Interests and Activities in Texas, 1833-1846, 36-37.

Before Hamilton arrived and explained the full nature of his mission to him, Henderson was angry and planned to return to Texas and run for congress while Hamilton completed the negotiations with the French (See Smith to Hunt, June 10, 1839, Ashbel Smith Papers, Archives of Texas State Library, and Henderson to Lamar, Sept. 1, 1839, supra.). When Hamilton informed him, however, that he and Burnley had come to seek a loan and only incidentally to advise Henderson on recognition and a treaty, Henderson was no longer angry; though he did think Hamilton's desire for a quick loan lowered him bargaining powers with the French on the treaty. Henderson to Lamar, Sept. 1, 1839, supra).

45 Henderson to Lamar, September 26, 1839, Lamar Papers, No. 1460, Archives of Texas State Library (Austin).

46 Henderson to Lamar, September 1, 1839, Lamar Papers, No. 1433, Archives of Texas State Library (Austin).


48 Smith to "My Dear General", [Memecan Hunt]/ August 21, 1839;

Smith to "My Dear General," [n.d.];

Smith to General Mosely Baker, December 30, 1839; Ashbel Smith Papers, University of Texas Archives.

49 Address pronounced by the President on taking his seat in the Senate (Austin, n.d.).

50 Anson Jones' Notes, as quoted by Brown, Annals of Travis County and of the City of Austin, Mss., p. 44, Archives of Texas State Library (Austin).

51 La Branche to Burnet, June 18, 1839, Records of the Department of State, Book 41, 217, Archives of Texas State Library (Austin).

Wm. M. Williams to Burnet, November 30, 1839, Domestic Correspondence, Archives of Texas State Library, contains quotation.

52 Telegraph and Texas Register, May 26, 1841.
The Weekly Houstonian, May 27, 1841, 1 d.

Linn, Reminiscences of Fifty Years in Texas, 346-47.

53 In 1839 John Woodward, the Texas consul at New York, palmed off on John Ikin of London a large quantity of worthless land scrip. Ikin sent seventy-five families to Texas and was planning to send one hundred fifty more when he learned that he had been swindled. The congress, therefore, in 1840, reimbursed Ikin with a special donation of land. This was urged by Hamilton in order to maintain the credit of the government abroad. See the Texas Sentinel, January 25, 1840, 3 a b, and the Journals of the Fourth Congress of the Republic of Texas, 1839-1840, Harriet Smither, Ed., 1, 89, and passim. See also, Houston Morning Star, December 23, 1839.
54 *Telegraph and Texas Register*, June 12, 1839.

55 Louisa Barton to Burnet, November 29, 1839, Misc. Burnet Papers, Archives of Texas State Library. Louisa applied for a lease and labor of land as headright due her deceased husband, Thomas E. Barton, and designated Burnet her attorney, said Burnet to receive as his fee 1/6 of land to be put in trust for Burnet's son, William Este.

*Texas Sentinel*, May 6, 1841, 3 a.

Concerning the removal of the capitol, Burnet says: "I was not in favor of removing the seat of government from Houston, at the time the removal was made; for I believed it was premature and in plain violation of a contract, which no government should violate." See *Texas Sentinel*, July 29, 1841, 1 a.

56 *Telegraph and Texas Register*, February 5, 1840, 2 o d e. The Bible Society meeting was held on Sunday, December 22, 1839, at 7:00 P.M.

*Texas Sentinel*, January 25, 1840, 4 a. The officers of the Philanthropic Society were:

Wm. H. Jack, President
Thomas Gales Forster, Recording Secretary
Branch T. Austin, First Vice President
David G. Burnet, Second Vice President
John T. Mills, Third Vice President
E. L. Holmes, Fourth Vice President
G. N. Bonnell, Corresponding Secretary
N. Evans, Treasurer

Further indication of Burnet's interest in his community is evidenced by his donation of 9 volumes to the library of Reuterville College which opened in 1840. J. L. Sink, "Reuterville College", *quarterly of the Texas State Historical Association* (May-July, 1898) II, 129.


*Secret Journals of the Senate*, 1836-45, 178-79.

*Report of the Committee on Indian Affairs, on the Cherokee Land Bill* (Austin, n.d.), *passim*.

*Texas Sentinel*, January 25, 1840, 2 a b c.

Constitution of 1836, Article I, Section 26, gave the president ten days to sign or veto a bill.

59 /Burnet/, *Opinion on the Four Hundred Leagues' Grant of Texas Land, by an Old Settler* (New Orleans, 1836), *passim*.

*Laws and Decrees of the State of Coahuila and Texas, in Spanish and English*, (Houston, 1839), *passim*.

60 Burnet to Bustamante, July 2, 1827, Austin Papers
Tanner to J. E. B. Austin, January 24, 1827, Austin Papers, University of Texas Archives.
61 Texas Centinel, July 22, 1841, 3 a.

62 James Armstrong to Lamar, June 12, 1841, Lamar Papers, No. 2051, Archives of Texas State Library, contains quotation. See also, Elgin Williams, The Animating Pursuits of Speculation (New York, 1949), 63, 149, and passim. Appendix I of this thesis gives some indication of Houston's involvement with the Galveston Bay and Texas Land Company.
Chapter VII

1 Nathaniel Armory to Dunlap, July 24, 1839, Records of Department of State, Book 38, 120-21, Archives of Texas State Library (Austin).
   Letter Book 36, 97, Archives of Texas State Library.
   Register of State and County Officers of the Republic of Texas, Book No. 255, 3-4, Archives of Texas State Library.
   Texas Sentinel, August 26, 1841, 4 b.

   "I accepted the temporary appointment of acting Secretary of State, at his [Lamar's] urgent solicitation. He intended it, doubtless, in kindness to me, as well as convenience to himself; but in truth it has been, in its ultimate consequences to me, of very serious pecuniary damage."

   Burnet to Lamar, January 20, 1840, Lamar Papers, No. 1688;
   Kenmucan Hunt to Lamar, January 4, 1840, Lamar Papers, No. 1675;
   Archives of Texas State Library (Austin).

2 Hamilton to Lamar, New Orleans, January 7, 1840, Lamar Papers, No. 1679,
   Archives of Texas State Library (Austin):
   "This will be handed you by Genl. Henderson. I am exceedingly gratified to find the General entertain such favorable dispositions towards your administration & is determined to give it cordial support.
   "His conduct abroad has been such as to entitle him to your confidence which I trust he will receive."

   President Lamar to the Senate, January 20, 1840, in Secret Journals of the Senate, 1836-1845, 173-74.

3 Austin City Gazette, January 29, 1840, 3 a.

4 James Armstrong to Lamar, June 12, 1841, Lamar Papers, No. 2051, Archives of Texas State Library (Austin).
   "He [Houston] says Lamar is a Russell man and Burnet a hog thief."

   Texas Sentinel, March 4, 1840, 1 b; and August 26, 1841, 1 b.
   Texas Sentinel, March 4, 1840, 2 c.
   "In his [Houston's] speech on the Cherokee land bill, he read an extract from a memorial in Edward's History of Texas, which he imputed to the Hon. David C. Burnet. He had once before read the same quotation in a speech at Nacogdoches."

5 Texas Sentinel, January 22, 1840, passim; and March 4, 1840, 1 b.

6 Texas Sentinel, March 4, 1840, 1 a b.
7 Burnet to Treat, March 12, 1840, Records of Department of State, Book 54, 14-17, Archives of Texas State Library (Austin).

8 Burnet to Hamilton, December 23, 1839, Diplomatic Correspondence, Archives of Texas State Library (Austin). By this letter Burnet sends most of the papers which Hamilton requested from New Orleans on January 7. Williams to Lamar, April 9, 1840, Lamar Papers, No. 1766, Archives of Texas State Library.
Burnley to Lamar, Lamar Papers, No. 1790, Archives of Texas State Library, gives quotation.

9 Yoakum, History of Texas, II, 313, cites the report of the secretary of war.
Morgan to Lamar, January 12, 1839, Lamar Papers, No. 1004, Archives of Texas State Library, gives a good description of Saligny and his attitude on recognition prior to his visit to Texas.
Material on Saligny and his Franco-Texienne bill may be found in the newspapers of the day. Discussions are given in the Houston Morning Star, December 27, 1839; and the Texas Sentinel, July 22, 1841, 2 a 5; April 22, 1841, 2 a 5; and July 29, 1841, 3 a. The original bill is published in the Sentinel for July 1, 1841, and much original material is in the diplomatic correspondence of the Texas State Library. Garrison's Texan Diplomatic Correspondence, III, reproduces a good deal of the material, and magazine articles abound. Bernice Barnett Denton, "Count Alphonso De Saligny and the Franco-Texienne Bill", The Southwestern Historical Quarterly (October, 1941), Vol. XLV, No. 2, pp. 136-146, gives a suitable brief study.

10 Yoakum, History of Texas, II, 299-306, deals with the Indians.

11 Deed Records of Harris County (Texas), F. 1-7.

12 Yoakum, History of Texas, II, 286, and passim.
Morgan to Swartwout, July 6, 1840, Morgan Papers, Rosenberg Library (Galveston), contains the quotation.

13 Hamilton to Lamar, January 7, 1840, Lamar Papers, No. 1679, Archives of Texas State Library.
Yoakum, History of Texas, II, 317.

14 Lamar to Moore, June 20, 1840, Diplomatic Correspondence, Archives of Texas State Library.

15 Lipscomb to Treat, June 13, 1840, Records of Department of State, Book 54, 25-30, Archives of Texas State Library.

16 Ibid.
17 Starr to Lamar, August 31, 1840, Lamar Papers, No. 1878, Archives of Texas State Library.
Philip Graham, The Life and Poems of Mirabeau B. Lamar (Chapel Hill, 1938), 60, gives Lamar's complaint as acute hemorrhoids.

18 **Proceedings of the House of Representatives, Fifth Congress, December 16, 1840, 293.**

**Texas Sentinel**, May 6, 1841, 3 a.

20 **Texas Sentinel**, January 23, 1841, 3 c.

21 Henderson to Lamar, June 1, 1840, Lamar Papers, No. 1808, Archives of Texas State Library.

22 **Secret Journals of the Senate**, 200.
**Texas Sentinel**, May 6, 1841, 2 c.

23 Adams, British Interests and Activities in Texas, 1836-1846, 47, quoting Fakenham.

24 **Secret Journals of the Senate**, 197.

25 **Texas Sentinel**, April 22, 1841, 3 a b.

26 Linn, Reminiscences of Fifty Years in Texas, 346-47.

27 **Texas Sentinel**, July 7, 1841.

28 **Texas Sentinel**, July 1, 1841.

29 **Texas Sentinel**, supplement of July 15, 1841, prints the terms of the loan and gives correspondence in connection with it.

30 Starr to Lamar, May 15, 1841, Lamar Papers, No. 2022, Archives of Texas State Library.

31 **Texas Sentinel**, July 7, 1841.

32 Correspondence with Saligny, Ms., Diplomatic Correspondence, Archives of Texas State Library, passim.
See also correspondence in Letter Books 38 & 41, Archives of Texas State Library.
33 Saligny to Secretary of State, February 19, 1841, Letter Book 41, 473.
Mayfield to Jewett, February 20, 1841, Letter Book 41, 480.
Bullock to Burnet, February 20, 1841, Letter Book 41, 474-75.
Mayfield to Saligny, February 22, 1841, Letter Book 38, 166.
Hutchinson to Mayfield, February 23, 1841, Letter Book 41, 482.
Correspondence With Saligny, Etc., Diplomatic Correspondence,
Archives of Texas State Library, passim.
Morgan to Swartwout, April 22, 1841, Morgan Papers, Rosenberg Library
(Calveston)

34 Austin City Gazette, August 18, 1841.

35 The Houstonian, as quoted by the Colorado Gazette & Advertiser,
August 29, 1841.

36 Texas Sentinel, April 22, 1841, 3 b.

37 The Redlander, September 3 & 23, 1841.

38 Burnet to Editor of Telegraph and Texas Register, February 16, 1843, as
published in the Texas Times, March 11, 1843.
Chapter VIII

1 Democratic Telegraph and Texas Register, December 6, 1849, 2 f.
The author visited the scene of Burnet's home in 1940. The
remains of the foundation were then still standing, and one
of the hand-made bricks was given to Professor Guy Bryan
Harrison, Jr. of Baylor University for his Texas History
Collection.
Perhaps the only picture extant of the Burnet home is a pencil sketch
possessed by Dr. E. N. Clopper of Cincinnati, Ohio. This sketch
was made February 17, 1854, and the author has seen the original
and has a photostatic copy of it.

2 Headright Certificate 296, Bexar 1st Class, File 400, for one league
and one labor of land in Ledina County, May 4, 1838, General Land
Office (Austin).
Duplicate in above file dated February 14, 1840.
Field notes in above file dated February 25, 1846.
Burnet to Andrew Neill, January 25, 1839, Domestic Correspondence,
Archives of Texas State Library.
Patent, State of Texas to David G. Burnet, for Bexar County survey 441,
Section 6, containing one league and one labor, Ms. in County
Clerk's Office, Hondo, VI, 72. Courtesy Andrew Forest Muir.

3 Andrew K. Clopper to Nicholas Clopper, December 18, 1836, Clopper Papers
in possession of Dr. E. N. Clopper, Cincinnati, Ohio.

4 Telegraph and Texas Register, June 26, 1844.
Burnet to Pennington, November 14, 1845, Burnet Papers, University of
Texas Archives.
Bancroft, History of the North Mexican States and Texas, II, 378.

Anson Jones, Memoranda and Official Correspondence Relating to the
Republic of Texas Its History and Annexation (New York, 1839), 430.

6 Burnet to Collingsworth and Grayson, May 26, 1836, Diplomatic Correspondence;
Archives of Texas State Library.

7 Proclamation of President Burnet, July 23, 1836, Proclamation Papers,
Archives of Texas State Library.

8 Galveston Civilian, November 15, 1845.
Austin Texas National Register, November 29, 1845, 4 d, 5 a.

9 Sam Houston to Major A. J. Donelson, United States charge d'affaires to
Texas, April 9, 1845, in the Texas Banner (Huntsville), May 26, 1849, l a b c

10 Johnson and Berker, Texas and Texans, I, 486, contains the quotation by
E. W. Winkler.
Texas National Register (Washington), May 8, June 26, July 17, 1845.
Journal of the Convention of 1845, Archives of Texas State Library, passim.
11 Jones, Memoranda and Official Correspondence of the Republic of Texas, 477-33.

12 Lubbock, Memoirs of Six Decades in Texas, 176.  
Journal of the Senate, 1 Texas Legislature, 1 Session, 24.  
The National Register (Austin) November 22, 1845, 1 b, 4 c; and  
December 6, 1845, 2 b c i, 3 a.


14 Burnet to Pennington, November 14, 1845, Burnet Papers, University of Texas Archives.

15 Edward Nicholas Tupper, An American Family (Cincinnati, 1850), 4.9.  
The author visited the Tupper residence in 1882 and stayed in  
the original Beechwood home where some member of the Tupper  
family has resided since 1830. Many of the papers and books  
which William used while living there are still in existence.  
The Reclander (San Augustine), March 12, 1845,  
Houston Paper, December 6, 1870.

16 Burnet to I. Crisp, August, 1845, Domestic Correspondence, Archives of Texas State Library.

17 Lubbock, Memoirs of Six Decades in Texas, 183, and passim.  
Texas Democrat, November 18, 1846.

17 Petition of David B. Burnet to the Honorable William L. Jones,  
Judge of the Second Judicial District of Texas, September 19, 1846,  
on behalf of Stephen Whitney, John Haggerty, and George Griswold,  
copy in the Burnet Papers, University of Texas Archives.  
Thomas Jefferson Breon to David Burnet, November 24, 1852, Burnet  
Papers, University of Texas Archives.  
Stephen Whitney to David B. Burnet, /sic/, January 7, 1853,  
Burnet Papers, University of Texas Archives.

18 William Fairfax Gray, From Virginia to Texas, 64.  
Kate Mason Rowland, "General John Thomsen Mason," 155-34, and passim.

See Ramin 1943, Lead of Partition, File # 5, General Land Office.

20 Telegraph and Texas Register, April 7, 1833, 2 b.  
Address to the readers of the documents relating to the Galveston  
Bay and Texas Land Company. . . (New York, January 1, 1831), passim.

21 "Rose v. the Governor," 24 Texas, 496-505.  
It is the opinion of Andrew Forest Lewis that the supreme court was  
not influenced by Burnet but was inexperienced in handling the  
empresarial type of case.

22 Burnet to Lamar, April 28, 1849, Lamar Papers, Archives of Texas State Lib.

23 Hampton to Burnet, February 7, 1852; Burnet to Allen and Morgan,  
August 5, 1853; Railles to Burnet, May 27, 1856; all in Burnet  
Papers, Rosenberg Library (Galveston).  
Lead of Burnet, by attorney William Herndon, of Knox County, to partition  
of league and labor. Lead Records of Medina County, VIII, 151-52.
24 William Este Burnet to Joseph Clopper, October 14, 1849, Clopper Papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio.

25 Democratic Telegraph and Texas Register, June 14, 1849, 2 e; and December 6, 1849, 2 d. f.
   Ibid., September 11, 1850, 2 b.
   Ibid., June 20, 1851, 2 b.

26 Weekly Telegraph, October 8, 1852, 2 b.

27 E. N. Clopper, An American Family, 461, and passim.

28 Ibid., & passim., and Clopper Papers, passim.

29 David G. Burnet to Isaac G. Burnet, November 4, 1855, a copy in Sub-Misc. Collection, Archives of Texas State Library from original in University of Virginia.

30 Burnet's review of Lester's work is in the Burnet Papers, University of Texas Archives.
   The articles in the Almanac were published anonymously and comprise the most important part of the Almanac for the years cited.

31 Burnet-Tompkins Agreement, October 29, 1856, Burnet Papers, Rosenberg Library (Galveston).

32 San Antonio Express, April 28, 1868.
   Burnet to Reagan, July 11, 1868, Reagan Papers, Archives of Texas State Library.
Chapter IX

1 William Este Burnet to Mary Este Burnet, January 12, 1859, Clopper papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio.

2 David G. Burnet to Mary Este Clopper, January 1, 1859, Clopper Papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio.

3 William Este Burnet to Mary Este Burnet, January 12, 1859, Clopper Papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio.

4 David G. Burnet to Mary Este Clopper, January 1, 1859, Clopper Papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio. See also David G. Burnet to Mrs. Kitty Burnet, Cherry Hill Campbell Cy, Ky., January 1, 1859, Sub-Misc. Collection, Archives of Texas State Library, copy reproduced from original in University of Virginia.

5 Burnet to Lamar, November 29, 1859, Lamar Papers, No. 2795, Archives of Texas State Library.

6 Ibid.

7 Journal of the Secession Convention of Texas, 1861, 121, and passim. Bancroft, History of the North Mexican States and Texas, 434-41.

8 Burnet to Hardcastle, May 28, 1861, Burnet Papers, Rosenberg Library (Galveston).

9 David G. Burnet to Joseph Clopper, June 9, 1860, Clopper Papers in possession of Dr. E. N. Clopper of Cincinnati, Ohio.

10 Burnet to Gray, April 23, 1863, Burnet Papers, Rosenberg Library (Galveston).

11 Burnet Family Bible. Sometime later the judge gave this Bible to Miss Lizzie Perry, the young daughter of Mr. and Mrs. Preston Perry. See A. H. Hobby to Edward N. Clopper, February 9, 1871, Clopper Papers, in possession of Dr. E. N. Clopper of Cincinnati, Ohio. See also the will of Burnet dated August 1, 1866, and filed March 4, 1871, in Wills of Galveston County, II, 423-24. See also Probate Minutes of Galveston County, VIII, 54-55. This Bible is now in the University of Texas Archives.

Some years ago this author visited the Perry family in Galveston and saw what few remnants of Burnet the family still possessed. These comprised a few pieces of silverware and other household effects, but the historical papers and books remaining had been given to the University of Texas.
12 Flake’s Daily Bulletin, August 20, 1865, 2 b, gives Burnet’s own appeal in behalf of clemency for Davis.
   Houston Tri-weekly Telegraph, August 27, 1865, 4 b.
   Ibid., September 13, 1865, 4 c.
   Ibid., September 20, 1865, 8 b.
   Ibid., September 25, 1865, 1 c.
   The original copy of the resolutions drafted at the Richmond, Texas, meeting of September 19, 1865, are in the file of correspondence relating to Governor A. J. Hamilton, Sept.-Oct., 1865, Archives of Texas State Library.

13 Burnet to Johnson, October 16, 1865, Burnet Papers, Rosenberg Library (Galveston).

14 Burnet to Johnson, October 25, 1865; October 26, 1865; November 27, 1865; Lubbock to Burnet, November 14, 1865, all in Burnet Papers, Rosenberg Library (Galveston).

15 Isaac G. Burnet to his son, Staats G. Burnet, February 14, 1856, copy in Burnet Papers, Archives of Texas State Library.

16 See the following:
   New Orleans Picayune, December 4, 1865, 3 b; December 20, 1865, 4 c; December 25, 1865, 3 c; January 10, 1866, 5 c; January 19, 1866, 6 c-9; January 24, 1866, 1 d, 6 c.
   Flake’s Daily Bulletin, January 18, 1865, 5 c.

17 The Daily Herald (San Antonio) February 2, 1866, 1 a
   Flake’s Daily Bulletin, February 1, 1866, 7 a.
   Galveston News of January 28, 1866.

18 The Daily Herald, February 28, 1866, 2 a.
   Flake’s Daily Galveston Bulletin, February 1, 1866, 5 b.

19 The Daily Herald (San Antonio), March 16, 1866, 1 e, f. 2 a b
   New Orleans Picayune, February 2, 1866, 7 a, and April 6, 1866, 1 e, f.

20 John Corbett vs. E. L. Gregory, January 29, 1866;
   Smith to Burnet, March 21, 1866;
   McDonough to Burnet, March 24, 1866; Burnet Papers, Rosenberg Library (Galveston).

21 Houston Telegraph, December 8, 1870.

22 Burnet to Stewart, September 8, 1866, Stewart Papers in possession of Mrs. Howard W. Fling, Houston, Texas.
23 Throckmorton to Burnet, October 3, 1866, Burnet Papers, Rosenberg Library (Galveston).
Smith to Burnet, September 30, 1866, Burnet Papers, Rosenberg Library (Galveston).
The Southern Intelligencer, August 30, 1866.

24 Burnet to Roberts, October 29, 1866, Letters to Roberts, Letter Book 4, University of Texas Archives.

25 Sellars & Co. to Burnet, November 3, 1866, Burnet Papers, Rosenberg Library.
Forshey to Roberts, November 3, 1866, Letters to Roberts, Letter Book 4, University of Texas Archives, contains the quotation.
Smith County in the State of Texas, Roberts Papers, University of Texas Archives.

26 O. M. Roberts, A Journal of Travel, Ms. University of Texas Archives.

27 Ibid.

28 Ferry to Burnet, December 27, 1866, Burnet Papers, Rosenberg Library.

29 E. N. Cloper, An American Family, 469.
Appendix I

1 Address to the readers of the documents relating to the Livingston
  Bay & Texas Land Company, which are contained in the Appendix
  (New York: Printed by J.P. Hopkins & Son, January 1, 1881), 51-
  50, and passim.

2 See note 52 on page XXXII of this thesis.

3 Barker, Life of Austin, 140.

4 Kate Mason Sewall, "General John Thomas Mason," The Quarterly of
  the Texas State Historical Association, XII, 5 (January, 1898),
  131-7.

5 Risk, A Visit to Texas, 91, 35-37.

6 Department of State to Joel A. Poinsett, August 25, 1838, Butler
  Papers, University of Texas Archives.

7 Jackson to Butler, October 12, 1838, Butler Papers, University of
  Texas Archives.

8 James Smith Wilcocks to Edward Livingston, February 17, 1838,
  photostat in Butler Papers, University of Texas Archives.

9 James Prentiss to Butler, July 27, 1838, Butler Papers, University
  of Texas Archives.

10 Eugene J. Barker, "The Papers of Anthony Butler," The Nation
    (June 15, 1911), Vol. 82, No. 2095, P. 830-1.

11 Butler to Jackson, October 11, 1838, Butler Papers, University of
  Texas Archives.

12 Jackson to Butler, November 27, 1838, Butler Papers, University of
  Texas Archives.

13 Butler to Jackson, July 28, 1838, photostat in Butler Papers,
    University of Texas Archives.

14 Butler to Robert Potter, May 22, 1839, photostat from original in
    possession of J.P. J.R. Former of Henderson, Texas/, no date shown,
    Butler Papers, University of Texas Archives.
15 Prentiss to Butler, July 27, 1835, Butler Papers, University of Texas Archives.

16 Prentiss to Butler, July 27, 1835, Butler Papers, University of Texas Archives.

17 Prentiss to Butler, July 27, 1835, Butler Papers, University of Texas Archives. Prentiss wrote three different letters to Butler on July 27, and this one is labeled “confidential.”

16 José María Zornel y Menávil to Hier y Berán, February 8, 1831, in J. L. Rocha, Memorias para la Historia de Mexico, I, 550-52.


20 Extract of a letter of Fray Pizarro Martínez dated April 3, 1831, in Archivo de la Secretaría de Relaciones Exteriores, Asuntos Varios, Baja 9, 1850-1854, Harry T. Karter Transcripts in University of Texas Archives, pp. 35-36.

21 Daily National Intelligencer (Washington), April 16, 1832, 3 a.m.

22 Ibid.

23 Arkansas Gazette (Little Rock), August 4, 1830; September 3, 1830; October 26, 1830; December 3, 1830, (Supplement). United States House Executive Documents, 5th Congress, 1 Session, Document 582, pp. 40-54.

24 Daily National Intelligencer (Washington), April 17, 1832, 3 a.m.; April 2, 1832, 2 p.m.


26 Ibid.

27 Houston to Prentiss, March 27, 1832, Houston Papers, University of Texas Archives.

28 Houston to Prentiss, April 3, 1832, Houston Papers, University of Texas Archives.

29 Prentiss to Houston, May 4, 1832, Houston Papers, University of Texas Archives.

30 Prentiss to Houston, May 24, 1832, Houston Papers, University of Texas Archives.
30 Barker, The Life of Stephen F. Austin, 360-73.
   Loretta Friend, The Best Lessoner, Sam Houston in the American
   Political Scene (Doctoral Thesis, The University of Texas, 1951),
   68-69.
31 Barker, The Life of Stephen F. Austin, 355-57, and passim.
32 Houston-Prentiss Contract, June 1, 1832, Houston Papers, University
   of Texas Archives.
33 Prentiss to Houston, May 13, 1832, Houston Papers, University of
   Texas Archives. Prentiss addressed his letter to Sam James
   Houston. Amelia Williams, The Writings of Sam Houston, I, 183n,
   explains this as an oversight, saying, "Prentiss's own name was
   James. That fact probably accounts for his error." An examination
   of Houston's signature, however, on several letters he had
   previously written to prentiss shows that Houston wrote his first
   name with such a flourish that "Sam" appears to be "James." In
   the opinion of this writer, Prentiss possibly thought that
   "James" was Houston's middle name and that he preferred it over
   his first name.
34 John A. Houston to Houston, June 1, 1832, Houston papers, University
   of Texas Archives.
35 Houston to Prentiss, June 20, 1832, Houston Papers, University of
   Texas Archives.
36 Houston to Prentiss, June 27, 1832, Houston Papers, University of
   Texas Archives.
37 Houston to Prentiss, June 28, 1832, Houston Papers, University of
   Texas Archives.
38 Houston to Prentiss, July 10, 1832, Houston Papers, University of
   Texas Archives.
39 Prentiss to Houston, July 11, 1832, Houston Papers, University of
   Texas Archives.
40 Ibid.
41 Houston to Prentiss, September 11, 1832, Houston Papers, University
   of Texas Archives.
Appendix II

1 Sam Houston, Speech of General Sam Houston, of Texas, Refuting Columns Printed and Circulated Against His Character as Commander-in-Chief of the Army of Texas. Delivered in the Senate of the United States, February 23, 1833 (Washington, 1833), p. 6.

2 Yoakum, History of Texas, II, 118.

3 Ibid., 109-110.

4 [A. J. Coleman], Houston Displays; or The Rôle of the Battle of San Jacinto, p. 12.


7 J. H. Hinkle, Recollections of the Campaign, MSS., University of Texas Archives. The author used the original manuscript and made a microfilm copy of it.

8 Ibid.


10 Coleman, Houston Displays; or The Rôle of the Battle of San Jacinto, 12.

11 Sam Houston to J. C. Husk, March 23 and 24, 1833, as published in Yoakum, History of Texas, II, 248.

12 Sam Houston to J. C. Husk, March 14, 1836, as published in Yoakum, History of Texas, II, 455.


14 Sam Houston to James Collinsworth, March 13, 1836, as published in Yoakum, History of Texas, II, 476.


Houston's figure is given in J. Edward Lester, The Life of Sam Houston, The Only Authentic Memoir of Him Ever Published, 1910. "... His entire force, including all his detachments, did not exceed 600 men..."

Sam Houston and J. W. Cockley to J. C. Husk, March 23, 1836, as published in Yoakum, History of Texas, II, 481.
15 Barker, "The San Jacinto Campaign," passim.
Coleman, Houston Displayed, 12.
Jones, Memoranda and Official Correspondence, 35-36.

16 Houston to Rusk, March 23 and 24, 1865, as published in Hofmum, History of Texas, II, 453.

Loans Under The Republic.

The $200,000 loan and the $50,000 loan

Both negotiated on January 12, 1836, by Stephen F. Austin, Branch F. Archer, and William E. Wharton.

Authorized by Consultation act of November 12, 1835.

Terms—

Various individuals agreed to put up a total of $200,000, and a total of $50,000, with a minimum of 10% down. They were to receive in return scrip to be exchanged after the revolution for land at $0.60 per acre, and they were to have the right of prior location over all other land claimants.

The actions of the government are obscure. It appears that the provisional government gave its consent to the loan on April 1, 1836, when a modified contract was signed granting a 32-league premium to the lenders in return for the abandonment of the right to prior location. Yet, on April 15, 1836, President Burnet signed an agreement with Robert Triplett and William Fairfax Gray giving them the right of prior location for one section of land on Galveston Island. This raised the question again as to whether the lenders possessed the right of priority. Such correspondence followed. Then on May 25, 1836, Burnet authorized Thomas Toby to sell 300,000 acres of the public domain at $0.60 per acre—the same price which Triplett and Gray had agreed to pay for it—the incentive for consummating the loan was nullified, and the lenders cancelled their agreement. By that time the $50,000 loan had been put up in full together with $25,000 of the $200,000 loan. By the Legislative acts of June 3, 1837, and May 14, 1838, they were given payment in land at $0.60 per acre for the $75,000 credit they had extended. Thus they lost the right of prior location and had to locate much later than other claimants.

Sale of 500,000 acres of land

Authorized by the provisional government on March 18, 1836.
To be negotiated by Thomas Toby if citizens then holding valid title to land were willing to make donations in return for reimbursement later.
The plan collapsed less than two weeks after its inception when Burnet decided that he did not have authority to promise reimbursement to the citizens.

Sale of 500,000 acres of land

Authorized by the provisional government on May 25, 1836.
To be negotiated by Thomas Toby by selling the public domain at $0.60 per acre.
The authorization of this sale was a cause for the cancellation of the $200,000 loan. Toby was still selling land under this agreement under the administration of President Houston.
The $5,000,000 loan

Authorized by Houston administration on May 13, 1833.
To be negotiated by Samuel M. Williams and Albert T. Burnley.
The loan could not be effected by the above commissioners, and President
Lamar replaced Williams with James Hamilton while continuing Burnley
as his assistant.
Hamilton on February 14, 1841, signed an agreement with the banking firm
of J. Laffitte and Jo. of Paris, France, but the loan was never
consummated because of obstacles placed in its path by Alphonse de
Saligny.
Genealogy of David Gouverneur Burnet

(Reproduced by permission from Isabella Neff Burnet's Dr. William Burnet and His Sons Jacob, Isaac and David: A Chart of Their Forefathers and Descendants in America, 1640-1958, pp. 1, 2, 38.)

John Burnet
(Died before 1634, left no children.)

Lot Burnet
(-1702)
Married Oct. 20, 1675 Phoebe Mills

Thomas Burnet, came from Scotland or England as early as 1640. He married his second wife, Mary Pierson, in Lynn, Mass. October 3, 1663. He died around 1684. His will dated March 16, 1679-80 filed at Riverhead, L.I. He is listed as a tax payer in 1683.

Joel Burnet (Lived in Southampton, had no children.)
(a) Daniel Burnet (Who had a son Daniel)

Dan Burnet
(-July 8, 1729) (1684-1774)
Married
Abigail (-1693)
Hannah (1702-1758)
(c) David Burnet (-1767)

Priscilla Burnet

Mordecai Burnet
(1670-1716)
Married Hannah
(See one of the Associates of Elizabeth, M.D., 1699-1700)

Matthias Burnet (1703-1734)
(1674-Oct. 4, 1765) An only son
Married Elizabeth Married
Eleanor Miller

Miriam Burnet
Married June 24, 1675
Enoch Pithian (Of Easthampton, L.I.)
(See Savage Felt's New England Historical Register, No. 94)
Ichabod Burnet
(1684-1774)
Married Hannah
(1702-1758)
Ichabod was educated
in Edinburgh, Scotland.

Dr. William Burnet
(1730-1791)
Married first, in 1753
Mary Camp (1731-1781)
Daughter of Nathaniel
and Elizabeth Camp

Married second, in 1782
Gertrude Gouverneur
(1738-1810)
Daughter of Nicholas
Gouverneur, and widow
of Anthony Rutgers.

Dr. Ichabod Burnet
(1732-1756)
(Died in Charleston,
South Carolina.)

(a) William, Jr. (5/17/1756-1799)
(b) Ichabod (May 17, 1756-1783)
(c) Nathaniel (1757-1768)
(d) John (1759-1811)
(e) Hannah (1761-1852)

(f) Elizabeth (1766-1811)
(g) Sarah (Died young)
(h) Mary (Died age nineteen)
(i) James (Died in infancy)
(j) Jacob (1770-1853)
(k) George Whitfield (1773-1801)
(l) Isaac Gouverneur (1784-1856)
(m) Staats Morris (1786-1806)
(n) David Gouverneur (1788-1870)
Sarah Mills Burnet
(Born on a Sunday in Aug., 1832, at Oakland, Texas, and deceased at birth.)

David Gouverneur Burnet
(4/4/1788-12/5/1870)
Married 12/8/1830
Hannah Este
(2/17/1800-10/30/1858)
At the home of her brother-in-law, Louis Mills, Morristown, N.J.)

William Este Burnet
(7/7/1833-3/31/1865)
Killed at battle of Mobile Bay.

Jacob George Burnet
(11/17/1835-9/23/1836)
Died at age ten months and six days of whooping cough and cholera infanta.

Gertrude Gouverneur Burnet
(1/16/1838-1/16/1839)
Died at birth.
Bibliography

I. Primary Material
A. Manuscript Collections
1. Archives of the Texas State Library
   (a) Unbound material

   The author has examined the material at the Texas State Library off
   and on since 1939, when he first began to collect material for a life of
   David Gouverneur Burnet. For more than a year during the period of World
   War II he had a full-time secretary employed at the Archives and the
   University of Texas collecting material, and he himself has spent many
   months working in these great depositories at Austin. Much of the
   material concerning Burnet's period as ad-interim president is covered
   by William S. Binkley in his Official Correspondence of the Texas
   Revolution, 1835-1836 (New York, 1936), two volumes. Binkley, of course,
   drew heavily upon the Archives of the Texas State Library, and his work
   has been invaluable. This writer, however, has chosen to cite the
   original material rather than Binkley's fine work. The writer has used
   the source material in the capitol building and also in the present
   location in the Highway Building. The following are the major sources:

   a. Accounts and Vouchers. The file embraces the records, bills, receipts,
      etc. of various governmental financial agents in their dealings with
      such mercantile agencies as William Bryan, Thomas Toby, and McKinney
      and Williams. Thus the material is invaluable for a financial study
      of the republic.

   b. Comptroller's Letters. The collection is composed of several
      thousand letters and documents on financial affairs, and most letters
      dealing with financial matters are in this file.

   c. Consular Correspondence. Most of the correspondence in this file
      is between the government and its New Orleans agents.

   d. Consultation Papers. Much of the original sources which Carmel used
      in compiling his Laws of Texas is to be found in this collection.

   e. Convention Papers. The journal of the convention of March, 1838,
      is in this file. The journal appears to be written on a school boy's
      5¢ tablet, and its pages are so disarranged that it is difficult to
      know the correct number of the page and hence to cite it. Various
      committee reports of the convention are also to be found here.

   f. Council and Consultation Papers. This collection is made up of the
      journal and reports of the consultation.
g. Diplomatic Correspondence. Most of this material is available in George P. Garrison, (ed.), Diplomatic Correspondence of the Republic of Texas, in the Annual Report of the American Historical Association (Washington, 1907, 1908, 1911), three volumes.

h. Domestic Correspondence. This file was one of the most widely used by the author. It is made up of nearly a thousand letters both public and private for the whole period of the republic.

i. Financial Affairs Papers. While this collection had some value to the writer, it was much less so than the Comptroller's Letters. The financial records of the governmental departments other than the treasury are found here.

j. Papers of the First Congress. Burnet's address to congress of October 22, 1836, is in this file.

k. Proclamation Papers. Various presidential proclamations of Burnet are to be found here.

l. Sub-Miscellaneous-Burnet. The library has a small amount of Burnet family letters, and the material is in this collection.

(b) Bound material--letter books

a. State Department Records, Book 3.
c. Treasury Department Records, Book 1.

2. The University of Texas Archives

a. Stephen F. Austin Papers. Most of this material has been published by Eugene C. Barker, (ed.), The Austin papers, in the Annual Report of the American Historical Association (Washington, 1924, 1928), two volumes; and Barker, The Austin Papers (Austin, 1926), one volume. The unpublished material is now catalogued and in a separate file. This writer has examined the published papers of Austin and on material of interest has gone to the original. He has also examined a good many of the original letters without reference to the published copies.

b. Earnard E. Bee Papers. Bee was secretary of state for a brief period under Lamar and later secret agent to Mexico and minister to the United States. Some material was of use to the author in interpreting the relations with Mexico.

c. David G. Burnet Papers. This material is chiefly valuable for its personal letters and a small amount of correspondence between the agents of the Galveston Bay and Texas Land Company and Burnet.
d. Sam Houston Papers. This material is almost all published in Eugene C. Barker and Amelia W. Williams, (eds.), The Writings of Sam Houston (Austin, 1933-1941), eight volumes. The collection now contains the papers of James Prentiss, of value because of the correspondence relating to the Galveston Bay and Texas Land Company. The author has examined much of the material without reference to the above-mentioned published version, and he has also compared the published letters with the original.

e. Anson Jones Papers. Only a small amount of material of interest to the writer was found in the Jones collection.

f. Henry Raguet Papers. This material was chiefly of interest because of correspondence with Sam Houston, most of which is in The Writings of Sam Houston. There is some material dealing with the Cherokee Land Bill and was of interest to the author because of Houston's attitude on the subject.

g. James Reiley Papers. This collection was chiefly of interest because of Reiley's interesting personal letters describing various men in Texas politics. Reiley was for a time during Houston's second administration the Texas minister to the United States.

h. Thomas Jefferson Rusk Papers. The author found this collection valuable because of correspondence between Rusk and Sam Houston and Rusk and Thomas F. McKinney immediately after the battle of San Jacinto when there was much dissatisfaction with Burnet. Also, the author found in the Rusk Papers a few items of interest (such as the document showing Burnet as attorney for the Mexican bond holders) which one would never expect to find there, items obviously missfiled.

i. Ashbel Smith Papers. Some material in this collection was found of interest. The author received most of his help on Smith, however, from Miss Harriet Smither, archivist of the Texas State Library, who has been working on a biography of Ashbel Smith for many years. Miss Smither very kindly gave this writer all her references in the Smith Papers bearing on David J. Burnet.

j. James Harper Starr Papers. Starr was secretary of treasury under Lamar for a time, and his papers help explain some of the financial problems of the day. Starr was a close political supporter of Lamar, and his letters are of interest for their comments on Sam Houston and other opposition leaders.

3. The Rosenberg Library (Galveston)

a. James Morgan Papers. Morgan was an old settler of Texas and became the land agent of Samuel Swartwout, a trustee of the Galveston Bay and Texas Land Company. In his capacity of company agent, Morgan managed the company-owned town of New Washington, located on what was formerly
Clopper's Point. The correspondence between Morgan and Swartwout and Morgan and Sam Houston reflect the interest in land speculation. The letters between Morgan and Burnet are invaluable. During the revolution Morgan was the colonel in command of Galveston Island and in this capacity wrote to Burnet regularly. Later Morgan wrote as a friend.

b. David J. Burnet Papers. This file is smaller than the Morgan collection and is valuable chiefly because of Burnet's correspondence in his old age when he was living at Galveston.

c. Samuel Williams Papers. This collection comprises an important source of information of Burnet's life before the revolution. Williams was the secretary of Stephen F. Austin and as such handled empresarial correspondence with Burnet.

This repository has the empresarial records relative to Burnet and also has the records of the land grants received by the Galveston Bay and Texas Land Company in the name of Burnet.

5. San Jacinto Museum of History

a. William B. Luncan Papers. A few letters concerning Burnet during the period of the revolution are in the Luncan Papers.

b. John J. Todd Papers. During the revolution Burnet appointed Todd a naval agent, and in this connection Todd wrote to Burnet. There is not much correspondence bearing on Burnet, but there is some.

6. Masonic Library (Waco).

The best and perhaps the only existing copy of the declaration of independence made at Washington on March 2, 1836, is in this library. The newspaper files are good, especially those of the Telegraph and Texas Register.

7. Houston, Texas, Public Library.

The Texas Collection of the Houston Public Library contains a considerable amount of material relative to the early settlers of the county. Not much of this, however, bears directly on Burnet.

8. The Rice Institute

The microfilm collection of the Library of Congress, State Records Series is available at the Fondren Library. This author, however, has not used it to any great extent as he has worked from the original documents.
9. Baylor University

The Texas History Collection of Professor Guy Bryan Harrison, Jr., has the papers of R.E.B. Baylor and Edward Burleson. In 1940 the author examined this material but found little concerning Burnet.

10. The Congressional Library (Washington)

The author worked at the Congressional Library for about a week during the war but found little material bearing directly on Burnet.

11. The New York City Public Library

During the war the author was stationed for a time in New York and was able to examine some of the material in the New York City Public Library. Some material is available on Miranda, and the Swartwout Papers throw some light on land speculation in Texas. Nothing bearing directly on Burnet, however, was found.

12. The New Jersey Historical and Philosophical Society (Newark)

In 1940 the author corresponded with the secretary of the New Jersey Historical and Philosophical Society and got a few bits of information on the Burnet family. In 1952 Dr. Stanley Siegel, a native of New Jersey again visited Newark and was unable to find anything of importance on Burnet. The records of Princeton University (formerly Nassau Hall) reveal the same lack of material.

13. The Historical and Philosophical Society of Ohio (Cincinnati)

In 1952 the author visited Cincinnati and Dayton, Ohio, to procure information on Burnet. While the Historical Society has a few letters relative to the Burnet family, nothing on David J. Burnet himself was found. The newspaper files did, however, prove rewarding to a small extent, as did the courthouse records of both Cincinnati and Dayton. The most voluminous archival material found in Cincinnati was in the possession of Dr. E.W. Clopper. The author visited Dr. Clopper several times and examined rather fully the Clopper Papers, from which Dr. Clopper compiled his 1950 work, An American Family.

14. The Bancroft Library (University of California, Berkeley)

The author has not gone to the Bancroft Library, but Andrew Forest Muir has examined the source material of that library and assures the writer that with the exception of one or two sources (which he has furnished the author) nothing exists there on Burnet.

15. Governmental Archives in Mexico City.

The author has not been to Mexico, but Andrew Forest Muir has done research work there and tells the writer that nothing is there on Burnet.
3. Printed Sources
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C. Newspapers
a. Austin City Gazette
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