

REPLY TO THE PAMPHLET BY COMMANDERS BUCHANAN,

DUPONT, & MAGRUDER OF THE U. S. NAVY MOORE

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REPLY TO THE PAMPHLET

BY COMMANDERS

BUCHANAN, DUPONT, & MAGRUDER.

OF

THE UNITED STATES NAVY,

ADDRESSED

TO THE HOUSE OF REPRESENTATIVES,

IN

RELATION TO THE OFFICERS OF THE LATE TEXAN NAVY.

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Moore, Edwin Ward, 1811-1865.

Reply to the pamphlet, by commanders Buchanan, Dupont & Magruder, of the United States navy, addressed to the House of representatives, in relation to the officers of the late Texan navy. (Washington? 1850)

23 p. 22cm.

Signed: E. W. Moore.

CHERRY CREEK

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REPLY TO THE PAMPHLET

BY COMMANDERS

BUCHANAN, DUPONT, & MAGRUDER,

OF

THE UNITED STATES NAVY,

ADDRESSED

TO THE HOUSE OF REPRESENTATIVES,

IN

RELATION TO THE OFFICERS OF THE LATE TEXAN NAVY.

*To the honorable the Senate and House of
Representatives of the United States:*

The undersigned, with the other surviving officers of the Texan Navy, memorialized your honorable body in January last, praying that the existing laws, limiting the number of officers in the Navy of the United States, might be so modified as to authorize the President to incorporate your memorialists into the Naval service of the United States. The grounds of this application were fully set forth in the memorial which was referred to the Naval Committee, who reported on it on the 2d of May last, after having fully investigated the whole subject.

The undersigned would have been content to abide the judgment of your honorable body without uttering another word upon the subject. But within the last few days, a pamphlet signed by three Commanders in the Navy, (Franklin Buchanan, S. F. Dupont, and George A. Magruder,) remonstrating against the action of the committee, and a (quasi) protest against any further action in the premises by your honorable body, has been placed in my hands, and as it contains statements controverting the facts upon which the committee acted, it becomes my duty, not only to myself and co-memorialists, but to your honorable body, who will be called upon, in the course of your duties to act upon the application, that I should examine the grounds of opposition assumed by these officers.

Your memorialists are perfectly willing to accept the issue presented by these remonstrants. If I succeed in showing that every *material* statement which they have made, both as to "law and facts," are wholly erroneous, and frequently most grossly perverted, it will not be unreasonable to expect them, as honorable and candid men, to admit their error and withdraw their injurious imputations.

On the other hand, if I fail to accomplish this, I shall be content to admit, that any claim to a favorable consideration of our memorial is absolutely groundless.

Passing by any remarks which the unnecessary and unjust personal imputations are calculated to call forth, I proceed at once, and as briefly as possible, to consider the grounds of objection to the action of Congress, as presented in their pamphlet.

With regard to their argument upon the construction of the Joint Resolution of annexation, I will not occupy your time by offering a single observation, since the report of the committee is, in itself, a full and complete answer upon that point. And I suppose it will not be doubted that the opinion of the members of that committee upon construction of law, is at least as worthy of consideration as the opinion of *three* Commanders in the Navy.

I will, however, in this connexion, simply remark that if these officers had been so liberal and candid as to have quoted the *whole of the opinion* of the Supreme Court, it would have been seen, that the real ground upon which the mandamus was refused, was want of jurisdiction; and as proof of this fact, I beg to refer to the opinion of the Court in the case of *Brashear vs. Mason*, 6th Howard's Reports, pp. 92, *et passim*.

But whatever may be the *true* interpretation of the Joint Resolutions of annexation, it is perfectly clear, that Texas, one of the parties to this contract of annexation, believed that the terms of the resolution *did* provide for the officers of her navy, as is shown by the Joint Resolution of her Legislature, instructing and requesting her Senators and Representatives to use their influence to have it accomplished. But suppose the opinion of the Supreme Court does go to the extent claimed for it by these officers, what does it prove?—simply that the terms of the Joint Resolutions were not sufficiently comprehensive to embrace the object which the parties to the contract designed should be accomplished. Is it an argument why Congress should not remedy that defect? On the contrary, does it not present the strongest appeal to your magnanimity and justice, and is there not a moral obligation on the part of Congress to fulfil the expectations of Texas?

After having labored to show that, by the terms of annexation, the officers of the Texan Navy "had no claim to admission in the naval service of the United States," these officers seem to have entirely distrusted the force of their reasoning, or at least they seem to think that they have failed to present sufficient ground to deter the action of Congress, for they forthwith proceed to show that, at the time of annexation, "there were no such persons as officers of the Texan Navy."

To establish this proposition they rely upon what they call "statements of law and facts," but which I will endeavor to show before I conclude, are in many instances misstatements, frequently perversions, and the deductions always erroneous. And here let me say, that for these officers individually, I entertain a high respect; but I must be permitted to speak of the sweeping

and unwarrantable allegations which, I am sorry to say, have been so recklessly made by them, in terms which unfounded and injurious imputations always deserve. If I had been called on to select from the whole navy, men least accessible to prejudice, I should have named the two officers whose names are first signed to the pamphlet; with the other, I have no acquaintance; and I cannot, therefore, escape the conviction, that they have neglected to examine for themselves, as they should have done, the only sources from which the true "statements of facts and law" could be obtained, but have derived their information from ignorant or prejudiced persons. So wide of the truth are they in every essential particular, and since they have chosen to promulge their views thus obtained in so formal a manner, I think that I do them no injustice when I characterize it as "reckless."

They say that "the Texan Navy, considered as an organized body of *officers, men, ships*, had been dissolved and disbanded long prior to the Joint Resolutions, the ships laid up in ordinary, the officers, for whose welfare the Governor represents the Republic to have been so solicitous, directed to seek in the civil walks of life the rewards to which their services entitled them."

"The history of the Texan Navy is short, it seems to have been created by the act of January 26, 1837; so soon as February 5, 1840, a great part of it was directed to be laid up in ordinary; the residue of the Texas Navy *dragged out a precarious existence* till the secret act of January 16, 1843, *placed the navy in the hands of commissioners to be sold.*"

"The execution of that purpose was frustrated by the commanding officer, who, contrary to orders, sailed with the navy on the Yucatan expedition, and refused to surrender the vessels to the commissioners under the act. The expedition was disowned by the Republic, and the President, by his proclamation of March 23, 1843, called on all friendly nations to aid the Republic to seize the commander and vessels, and bring them to Galveston, that the 'culprit or culprits' might be 'arraigned and punished by the sentence of a legal tribunal.'"

"The Republic had manifestly for some time contemplated abandoning the policy, more burdensome than profitable, of maintaining a navy, since the resolution of July 23, 1842, made appropriation for the payment only of what was due to the officers on the 1st of July, 1842, and for *six* months—not a full year—thereafter."

"That would bring the establishment down to *January, 1843*, and it was on the 16th of that month that the act for the *sale of the navy* was passed."

"Subsequently the commanding officer would seem to have surrendered the ships to the proper authorities of Texas, and the Congress, properly considering the Yucatan expedition as the act of the commander for which the subordinate officers and men should not suffer, by an act of February 5, 1844, made a small

and inadequate appropriation to be distributed among the officers of the navy, *as part pay*, for past services, up to *December 31, 1813.*"

"Since that date, the most diligent search has failed to find *any appropriation for pay of any officers or men connected with a Navy of Texas.*"

"The contemplated sale of the ships having been defeated, an act of February 5, 1814, pursues the policy of that of January 16, 1813, and provides for contracting to keep the navy in ordinary. The navy was laid up in ordinary—its officers were treated and considered as disbanded, no further notice of them is taken, nor is any appropriation made for their pay, after the inadequate provision for the *pro rata* distribution, in part payment for *past services* up to *December 31, 1813.*"

"It entirely comports with this view, that President Jones is *understood* to have attempted, after the Joint Resolutions, to fill up the lists of naval officers, and to give new commissions, with a view to the application of the gentlemen so commissioned, for admission into the Navy of the United States." "A list of these officers, properly certified, was returned to the Secretary of the Navy of the United States, and was the foundation of the proceeding by mandamus before the Circuit Court of the District of Columbia, upon which the opinion of the Supreme Court above referred to, was pronounced."

"The plaintiff in that suit, William C. Brashear, was upon that list *as a commander* in the Texan Navy; and *it is understood* that the list certified by President Jones differed *materially*, if not entirely, from the names now appended to the memorial."

"The list referred to, we are informed, *was* in the Navy Department. It should be there still. Perhaps inquiries at the instance of the Naval Committee might be successful in procuring it."

"It would prove, if we are correctly informed, that *none* of the memorialists were *then* considered officers of the Texan Navy."

Now I aver, that every one of these allegations, in spirit, and for the purpose for which they are made, are entirely unfounded in fact, and their deductions from the acts of the Texan Congress to which they refer without quoting, are erroneous, and are not warranted by the terms of the acts themselves, as I shall now proceed to show.

A short synopsis of the operations of the navy subsequently to the 5th February, 1810, will show beyond all question that the first assertion is unfounded—so far from the ships being laid up in ordinary at that period, and the officers disbanded, the navy was in complete organization, and performing arduous and important services.

In consequence of a proclamation of blockade of the ports of Texas, having been issued by the President of Mexico, in April,

1840, the undersigned sailed from Galveston in June, 1840, for the coast of Mexico, with the ship Austin, steamer Zavala, and schooners San Bernard, San Antonio, and San Jacinto; leaving the two brigs in Galveston, one of them manned and ready for sea in an hour's notice, to keep in check any Mexican vessel that might slip by him and get off the coast of Texas, to enforce the blockade. The Texas Navy continued off the coast of Mexico until April, 1841, a portion of the time off Vera Cruz, keeping the Mexican Navy in that port—showing themselves off Tampico, Tuzpan, Alvarado, and the mouth of the Rio Grande—and they went up the River Tobasco, captured that place, levied a contribution of \$25,000, with which supplies were obtained from New Orleans to enable the squadron to keep at sea upwards of *ten months*, and thereby kept the Mexican Navy from appearing off the coast of Texas to enforce the blockade. We remained in quiet possession of the town of Tobasco for *twenty-one days* and had no shot fired at us as we were leaving. During this cruise one Mexican schooner was captured within *five miles* of Vera Cruz, sent to Galveston, condemned, and sold for over *seven thousand dollars*.

From May to November, 1841, the vessels were overhauled and the coast of Texas surveyed by Captain Moore, with the aid of the officers of *two* of the schooners of the Texas Navy; a chart of the entire coast was made by him and published in New York by E. & G. W. Blunt, and in England by the Admiralty. It is the only correct chart now in use by navigators; one of the officers, whose name is attached to the published remonstrance to the honorable House of Representatives, has been in service on the Gulf since it was published in 1842; he has doubtless had occasion to use it, and I can with confidence call on him to attest its accuracy.

In December, 1841, the undersigned again sailed for the Mexican coast with the ship and two schooners, and he was joined in April, off the coast of Mexico by *one* of the 18 gun brigs. During this cruise, three Mexican schooners were captured and sent into Galveston, condemned, and sold; the undersigned returned to Galveston in May, 1842, and was ordered to New Orleans and Mobile to fit out the ship, *one* brig, and two schooners, to enforce the proclamation of blockade of the ports of Mexico, issued by President Houston in April, 1842; the *two* schooners were cruising in the Gulf early in June—they sailed from Mobile—the ship and brig were fitting out in New Orleans: the former sprung a leak and had to be docked and repaired, several new spars had to be put in her and the brig. These indispensable expenditures exhausted the appropriation of Congress of the preceding winter.

Thus it is most clear that for more than two years subsequently to the period when these officers assert that the ships were laid up in ordinary, and the officers disbanded, we find them actively engaged at sea. These facts, with ordinary diligence, were all within the reach of every one of these officers, who, in neglecting to inform themselves, have incurred the responsibility of making unfounded and reckless charges.

Where did they obtain the information that the secret act of 16th January, 1843, placed the Texan Navy into the hands of commissioners to be sold? Have they ever seen that act? It is not to be found in the published laws of Texas. The provisions of that act can only be inferred from the act of 5th February, 1844, of which I will speak presently.

I am warranted in saying that it is not true that the execution of the purpose of the commissioners to sell, "was frustrated by the commanding officer, who, contrary to orders, sailed with the expedition to Yucatan, and refused to surrender the vessels to the commissioners." The testimony of one of the commissioners before the court-martial, will demonstrate that, so far from this being the fact, I acted under his orders, (which I was ordered to do,) and with his concurrence and advice.

But, is it not most extraordinary, that these officers assert that the policy of the secret act of 16th January, 1843, was pursued by the act of 5th February, 1844. I said just now, that all that was known of the provisions of the secret act of 16th January, 1843, was to be gathered from the act of 5th February, 1844, the fifth section of which is in these words :

SEC. 5th. *Be it enacted, &c.*, "That the act approved 16th January, 1843, authorizing the sale of the navy, be and the same is hereby repealed."

The "policy" of the act of 16th January, 1843, then was to sell the navy; these officers say that the act of 5th February, 1844, pursued this policy; this assertion is made in the very face of the act, which in the most effectual manner pursues directly the *opposite policy*. Can it be possible that these gentlemen examined this law for themselves? They talk of the reliability of the memorial because we happened to place our construction of the Joint Resolution of annexation, within marks of quotation. I am happy they could not find more important instances of inaccuracy. I will show before I have done with their "statement of law and facts," that as flagrant as is this misstatement, it is comparatively insignificant. Equally reckless is their assertion that the Republic had manifestly contemplated abandoning the policy of maintaining a navy, since the "resolution of July 23d, 1842," and they arrive at this conclusion from the fact, that the resolution appropriates money to pay the officers, what was due on the 1st July, and for six months thereafter. I ask, if that is not a most impotent, if sincere, conclusion from such premises. Why would not the deduction, that the United States contemplated abandoning the policy of maintaining a navy, from the fact that Congress only appropriates money for its maintenance for one year. But we are not left to any such inferences, the deduction of these gentlemen is Jesuitical and insincere, if they examined the law for themselves, for they have suppressed a portion of it that flatly negatives any such conclusion. The 4th section provides *for the increase of the pay of the officers*, in the following words :

“That the officers in the navy shall hereafter receive the following compensation—to a Post Captain, \$200 per month, &c.:" the law goes on increasing the pay in every grade. Besides doing this, *the Bill establishes the office of Naval Storekeeper*. Now I do not say that the Republic might not the next week have “abandoned the policy of maintaining a navy,” but I do say, that the law does not furnish *the remotest ground* to justify any such conclusion in the mind of any candid, unprejudiced, and intelligent man. On the contrary, so far as it furnishes any evidence at all, of the policy of the Republic, it is *to maintain* the navy, and this conclusion is plain and certain, when taken in connexion with the fact, that the appropriation for repairs made by the former Congress had been exhausted, and the necessity for a new appropriation was emergent. An invasion had taken place, and a special session of Congress was called for the purpose of providing means of defence, and one of the measures adopted to this end was this very act, appropriating \$10,000 for repairs and outfits, independently of the amount appropriated for pay, which these officers declare, was an evidence of an intention to destroy the navy. Is not their conclusion just simply a palpable absurdity?

The law referred to will be found on pages 5 and 6, of sixth Congress, special session, in the library of Congress, as accessible to these officers as to me, and if they have chosen to take their information from other sources, they are less justifiable in making this “reckless” assertion. If they desired a fair and impartial investigation, why did they not cite the whole law, and leave Congress to draw their own conclusion?

When a man undertakes to enlighten Congress upon a subject involving not only a claim of another, to certain “privileges,” but in a high degree his reputation—justice and fair dealing require that he should give the matter a thorough personal investigation, and point out clearly the sources whence he has derived his information, in order that reference might be made to them—this is necessary even where the most candid spirit is evinced in the investigation, for men will honestly differ in opinion as to matters of inference. These officers, however, pursue no such course. In most cases it is, “we have heard”—“we understand,” or “we have been informed,” and on this vague, unreliable foundation they have based a series of allegations and inferences, as a matter of course abounding with errors. I am glad, however, that they have in one single instance afforded me an opportunity to test their inaccuracy—for in the proposition I am now going to consider, they lead *me to infer* that *they* have “failed *after diligent search to find any* appropriation for the pay of officers and men connected with the Navy of Texas after Dec. 31, 1843.”

This assertion is connected with another, “that the Congress properly considering the expedition to Yucatan as an act of the Commander, for which the subordinate officers and men should not suffer, by an act of 5th of Feb., 1844, made a small and inadequate appropriation to be distributed among the officers of the navy as part pay for past services up to Dec. 31, 1843.”

I will dispose of both at once—there is a disingenuousness in this whole paragraph that is unworthy these gentlemen, and when explained I am sure will not subserve their cause, nor do them any credit. They might have known if they had chosen to investigate properly, that Congress not only approved of that expedition, but paid me money accruing from it, and finally passed a vote of thanks for my services. (See Journals of the House of Reps. of 8th Congress, pages 318 to 361—Journal of the House, special session, last Congress, page 86, and Journal of the Senate, same session, page 75.)

I come now to the assertion that the act of 5th Feb., 1814, made an inadequate appropriation for pay to 31st Dec., 1813. The act referred to made an appropriation for pay due up to 31st Dec., 1813, *because that was the close of the year*—on the same day, and it is on the *very next page* of the book—another law was passed appropriating money for the support of the navy for the year 1814. Now is it possible that these officers could have *made diligent search*? Is it not plain that they have blindly credited the tales of some ignoramus, who was as prejudiced as he was ignorant—look in pages 115 and 116 of the laws of Texas for that year and the laws will be found. This is not all—on 1st Feb., 1815, a law was passed appropriating money for the expenses of the navy, thus providing for it up to the last hour of the existence of the Republic—see laws of Texas for that year, page 74.

Now, I ask, if I deal with these gentlemen in any “spirit of unkindness,” if I characterize the manner in which they have chosen to discuss the subject, as disingenuous, and absolutely indefensible upon any ground that should govern and control honorable and upright men? I do not mean to impeach their honor and integrity, for I am sure when they come to find that they have unwittingly lent themselves to the discussion of statements furnished them by some booby, who had not the brains to do it himself, they will be the last persons to justify the pamphlet on which I am commenting.

I come now to the assertion that “President Jones *is understood*” (*by whom? by whom?*) “to have attempted after the Joint Resolutions, &c., &c.”—(please turn back and read this whole assertion, which is fully quoted on page 5.) When persons are about to make grave charges, it is but just to the party charged, and becoming to themselves, to base them on a more solid foundation than “*is understood*.” It is not true that “President Jones filled up lists of officers, and issued new commissions, with a view to their application for admission in the Navy of the United States.” Now, as they have asserted an affirmative charge, I call upon them to prove it—and until they do, they must be content to endure the odium of making false charges. It is true that President Jones *did issue one new commission to John G. Tod, and it was notorious beyond all question, that this was done from motives of personal animosity to me.*

The assertion that "a list of officers properly certified was returned to the Secretary of the Navy of the United States," is also *untrue*. The list of which they speak was one deposited by Commander Brashear, in the Navy Department, and *was not certified at all*. Were the terms "returned to the Navy Department," used purposely to deceive? This is official language, and might be easily construed as meaning a list "returned by the *Texan authorities* to the Navy Department." However, it is hardly worth while to criticise inaccuracy of *expression*, in a pamphlet so abounding with inaccurate *statements*—that I doubt whether a greater number could be got in so short a space, by a force equal to hydraulic pressure.

They say they "*were informed* that the list referred to *was* in the Navy Department—it should be there still," &c. Now how easily might they have spoken with certainty upon this point? They were almost daily in the Navy Department, for nearly a week, within this month, and incredible as it may appear, it seems they did not take the trouble to obtain such information, as would enable them to speak without *guessing*. If they had inquired at the proper source for information, they would have been spared the mortification of asserting that President Jones had made out, certified, and returned, a list of officers to the Navy Department; when in point of fact he had done no such thing.

There *is* a list in the Navy Department, the history of which is simply this. Commander Brashear was attached to one of the vessels of the Texan Navy at the time of annexation; he continued on board to take care of the property until it was transferred. He afterwards made application to the Navy Department for pay, for this period, and this (*uncertified*) list was procured by him for the purpose of receiving the money due him. The list contained simply the names of those who, like Brashear, had continued on board the vessels, and in charge of public property *after* annexation. This list was deposited for the purpose above stated, and with no earthly reference to the proceedings in the Circuit Court, upon application for a mandamus, as will be seen by an inspection of the record in that case; for, at that time, Commander Brashear had not the *most distant idea*, that any difficulty of his incorporation in the United States Navy, *could* occur. So confident was he of the correctness of Mr. Donelson's (then Chargè in Texas) conviction, that he *was* provided for in the Joint Resolution of annexation.

The list upon which the Committee acted was furnished by me, and was duly certified by the Adjutant General of the State, under his seal of office—this list is dated nearly *two years after* the one above referred to. It contains all the names of *all* the commissioned officers that were on the first, *except Tod*, who was commissioned *subsequently* to annexation, and of course was never confirmed by the Senate of Texas. And the name of every *surviving* officer on that list *is* on the memorial, so that no discrepancy whatever exists; all of which these officers might have

known, if they had investigated for themselves, instead of relying on "we have heard—we have understood—it is understood"—or "we have been informed." (See appendix for these lists.)

I will now make a few remarks on the letter of G. W. Hill, Secretary of War and Marine, to Lieut. Geo. C. Bunner, (and not "Bunner" as they write it,) paraded with such ostentation in their pamphlet, as illustrative of the "notions of Texas of her own obligations," and that "the officers, for whose welfare the Governor represents the public to have been so solicitous," were directed "to seek in the civil walks of life the rewards to which their services entitle them."

This letter was originally published by me to show, that the writer of it, either believed I had been, or would be captured, by the overwhelming force that I was in sight of when it was penned, it is dated *two days before* we fought the Mexican squadron more than four hours—it was written in reply to a letter from Lieut. Bunner reporting himself to the Department, but not received by him, until the return of the vessels on July 14, 1843, from off Campeche, he having gone down and joined the brig to which he was attached, in a small schooner that I had sent up from Campeche with dispatches to Government. The letter was *rescinded* by the Department, and Lieut. Bunner was continued in the service—his name is on the list furnished to the naval committee by me, as having been confirmed by the Senate of Texas to take rank from June 1, 1840, it is also on the list furnished the Department by Commander Brashear, and it is not on the memorial for a far better reason than any these officers have offered in their wonderful production; which is simply because he died two years ago. With regard to their remark "that the letter of the same Secretary, of July 16, (19?) 1843, by order of the President, announced the dismissal from the service of the commanding officer for very different reasons."

I will simply remark that the circumstances to which that letter refers, had been made the subject of investigation by a tribunal expressly created for that purpose by the Congress of Texas, and after a full, elaborate, and patient investigation I was acquitted of every charge. It is true that they found that *four* of the six specifications under the charge of disobedience of orders "were proved in manner and form." It appears by the records of the court, that the orders were of such a character that they could not be obeyed. All of this, I am sorry to say, these officers might have been able to state if they had chosen to inform themselves; and it would have been something to have done so *in a parenthesis*, as they had the *magnanimity* to do in relation to another charge: although the chivalry, which they so arrogantly claim at the close of their pamphlet, should have prompted them to do it prominently, fully, and clearly. They are prompted by "no unkind feeling;" they say—this may be so; but it is a distinction without a difference.

They have sped the envenomed shafts furnished them by those whose malignity outstripped their intelligence, and if they do not

take effect, it is from no want of design on their part—a stab may be no less fatal because accompanied by a smile and a protestation of kindness.

I shall dismiss this letter with simply quoting the law of Texas, which rendered any such act of the President a flagrant violation of duty.

“Be it resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled: That it shall not hereafter be lawful to deprive any officer in the Military or Naval service of this Republic, for any misconduct in office of his commission, unless by the sentence of a court-martial.”

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

Approved, February 4th, 1841.

(Signed) DAVID G. BURNET.*

The next Congress passed a resolution declaring the conduct of the President as unwarranted—and ever after, to the close of the existence of the Republic, recognized me as a captain in the navy.

I have now done with all the points dwelt upon by these officers but one, and that I approach with feelings of profound regret. I know not whether Commanders Buchanan, Dupont, and Magruder, would deserve greater condemnation for reviving these matters, with a full knowledge that they had all been disposed of to my honor, than for failing fully to inform themselves upon all the facts of the case.

I will demonstrate before I have done, that these three gentlemen are perhaps the persons, of all others in the United States, who were bound by every principle of consistency, justice, and every consideration that governs high-minded men, not to condemn me in the matters to which I refer, but to accord to me their highest praise for the performance of what I will bring home to them, they consider to have been an act of stern and imperative duty.

The matter to which I refer is the execution of four men under my command, under circumstances which I will now briefly relate.

On the 11th February, 1842, a mutiny took place on board the schooner-of-war San Antonio, lying off the city of New Orleans; the four men named by President Jones, in the extract quoted from his veto, were a part of the crew of that vessel at that time. In the affray Lieut. Charles Fuller was shot dead, the two Midshipmen who were on board, Mr. Alden and Mr. Odell, were both shot down, and the sailing master, Mr. Dearbon, was knocked down the cabin hatch and the companion drawn over; after

* See page 145, Laws of Texas, 6th Congress.

which the crew all escaped to the city, (there being no other officer on board.) where the four men named, with several others, were arrested by the authorities at the request of Lieut. Wm. Seeger, who commanded the vessel, and who was on shore at the time.

The vessel sailed in a few days, and joined the undersigned off the port of Laguna, Yucatan, *bringing two of the mutineers*, who were as many as Lieut. Seeger thought it safe to take to sea under the circumstances—he requesting the city authorities to keep the others, eleven in number, in custody until a larger vessel of the Texas Navy arrived to take them on board—the undersigned immediately ordered a court-martial to try the *two*, which he was fully authorized by the laws to do. The court sentenced one of them to be hung, but recommended him to mercy; the other petitioned the court for further time, to obtain evidence from New Orleans, which was granted. On the 4th of April, 1842, the undersigned reported by letter to the Department of War and Marine, the fact of his having ordered the court, and received in reply on the 24th of April, a letter dated the 14th of the same month, in which is the following:

“Your proceedings personally, and of courts-martial especially, are approved, and the latter confirmed.”

The undersigned arrived at the city of New Orleans with the ship *Austin*, about the middle of May, 1842, and in a few days commenced a correspondence for the recovery of the mutineers and murderers, with the authorities, first of the city, and afterwards with the Governor of the State of Louisiana, which resulted in the undersigned being informed by a letter from the Governor, dated the 27th of August, 1842, “That upon a special demand being made by the President of Texas upon him, the *mutineers* and *murderers* would be given up.

The Government of Texas was duly informed by me of the determination of the Governor of Louisiana, and in reply, I received the following letter:

“Your communication of the 7th instant, with the accompanying correspondence had between yourself and his excellency, A. B. Roman, Governor of the State of Louisiana, upon the subject of the detention by the authorities of that State, of sundry ‘prisoners,’ (Texan seamen,) charged with mutiny on board the schooner-of-war, *San Antonio*, while lying in the Mississippi river, in the month of February last, and the murder of some of the officers of said vessel, at the same time and place, have been laid before his excellency, the President, and he has issued the desired demand, or requisition, upon his excellency, A. B. Roman, which is herewith enclosed.”

“Upon the delivery of the prisoners to you, or as soon thereafter as the testimony of the witnesses can be procured, you will order a court-martial for their trial, in the prosecution of which

the regulations of the service and the laws of the land will be strictly enforced."

I wish to call attention here to the fact, that besides the general authority I possessed under the law to convene a court-martial, I had an imperative order to do so from the Department.

Although I am desirous to make this as brief as possible, I do not think I am at liberty to omit the letter of the court accompanying their proceedings.

"TEXAS SLOOP-OF-WAR, AUSTIN, April 18, 1848.

"COMMODORE E. W. MOORE.

"SIR: We, the President and members of the court-martial, convened for the trial of Frederick Shepherd and others, have the honor to transmit to you the accompanying documents, being a true record of the evidence and minutes of the court.

"In discharge of the painful duty and the awful responsibilities imposed upon us, we have endeavored to confine ourselves strictly to the law governing courts-martial, and to the evidence that has been brought before us, and we have duly deliberated upon the verdicts returned.

"In the trial of Frederick Shepherd, we are of opinion that there is no evidence before the court to prove that he was aware that a mutiny was to take place, or that he was in a situation to aid or assist in quelling one, on the night of its occurrence. We have, therefore, found the prisoner *not guilty*, and recommend his discharge.

"Of the prisoners Antonio Landois, James Hudgins, Isaac Allen, and William Simpson, we have only to say that we deem the evidence elicited at the trial of each and every one of them, sufficiently clear and distinct to convict them each of the various charges and specifications preferred against them, and we have therefore sentenced them to death.

"We beg to call your attention to the evidence in the case of William Barrington, from which you will find that he was deeply engaged in the mutiny on board the *San Antonio*; but it also appears in the evidence that he informed one of the officers that it was to take place. In consequence of this information, the court have sentenced him to receive one hundred lashes with the cats.

"Of the evidence in the case of John Williams and Edward Keenan, we think it unnecessary to make any comments. Williams, you will find, is strongly recommended to mercy.

"Very respectfully, &c.,"

(Signed by the five officers comprising the court.)

Now, I ask, what course, under these circumstances, would any one of these officers have pursued? I did what I *knew* to be my duty. Unpleasant as it was I did not hesitate a moment; I carried out the law by the execution of the offenders.

Do these officers really believe that in doing this, I am guilty of anything for which I deserve to be dragged to the bar of pub-

lie opinion for censure? They *dare* not think so—for the sake of their own honor, integrity, and consistency, they dare not. The fearful circumstances that gave rise to the execution of three men on board the United States brig Somers, is fresh in the recollection of every one. God forbid that I should mention it here, for the purpose of passing an opinion as to its propriety or impropriety, or even to imply a censure. I do it for no such purpose. These officers, I doubt not, see my purpose at a glance—they approved the conduct of that commander. One of them, I know, was his most ardent and able defender, and stood by him with an unquailing front, amidst the terrific tempest of public opinion which the circumstances elicited. Now, in that case, the execution was preceded by no forms of law, no regularly authorized tribunal was organized to hear and weigh with calm and impartial deliberation the testimony for and against the prisoners; they were not defended by counsellors learned in the law. The execution, if justified at all, must be under the operation of that stern, uncompromising necessity that overrides all law. A proper tribunal acquitted him, so it did me; and the Congress of Texas moreover passed me a vote of thanks. Now, then, I call upon these gentlemen, in view of their opinions and acts in relation to the case to which I have referred, to reconcile it with a manly generosity—their taking up this furtive charge.

I may as well, in this place, introduce the action of the Congress of Texas on the veto message of President Jones, which they have spread before Congress with so much parade. Immediately upon the reading of the message, the following resolution was adopted under a suspension of the rules:

Resolved by the Senate, That it is the opinion of this body, that the trial of Post Captain, E. W. Moore, under a joint resolution of the Congress of this Republic, approved February 5, 1844, by the Court-Martial convened under said resolution, was final and conclusive.

And again—House Journal, page 86, same date:

Resolved by the House of Representatives of the Republic of Texas, That it is the opinion of this body, that the trial of Post Captain, E. W. Moore, under the joint resolution, approved February 5, 1844, by the special Court-Martial convened under that resolution, and the finding of said Court, fully entitles Post Captain, E. W. Moore, to continue in his position as commander of the Navy of this Republic.

Resolved, That the thanks of the House of Representatives, of the Republic of Texas, are justly due Commodore E. W. Moore, and those under his command in the service of the Navy of said Republic.

I will now add in my final disposition of this veto, *That the money appropriated by the act, I have long since drawn from the Treasury of Texas.*

I have as briefly as possible examined the "statement of law and facts" contained in the extraordinary pamphlet issued by these officers, and upon which they rely to defeat the favorable action of Congress upon our memorial, and I think I have shown that every material statement, both of "law and facts," is erroneous.

They say that they have "made some of the statements with pain and reluctance, not with any unkind feeling;" they would have given more substantial evidence of this, if, in their pamphlet, instead of fathering the random assertions of prejudiced ignorance and the ebullitions of personal animosity, they had evinced a desire to obtain authentic and undoubted information on points which they have most unjustifiably endeavored to use to my injury.

They talk of "invading their privileges," as if they were "Lords of the Manor," and had detected us in poaching upon their warren. One would imagine, that so far from the navy being a great institution, created for the public good, that it was established for their especial benefit, and was a part of their private estate. Privileges! why, strictly speaking, as officers, they have not one—except that of resignation; they are creatures, (officially,) into whose nostrils Congress has breathed the breath of life. Promotion is no privilege, it is a prerogative of the power that governs them—and it is this very notion, that they possess some such inherent right, that now weighs like an incubus on the navy, and makes the "melancholy privilege they talk of, a criterion to promotion, instead of merit and usefulness to the public." It is not the individual who is employed, but it is his brains, his capacity for performance of services for the public good, and in proportion as he possesses these qualifications, and exercises them in furtherance of the public service, he is rewarded by promotion to higher trusts—and certainly it should not be otherwise.

But they undertake to read a lecture to Congress as to their duty; they inform your honorable body "that you should not except upon the plainest and most obligatory stipulations of treaties of the United States, for a moment," &c., and that, too, upon *their* construction of the treaty, for they do not leave Congress that "melancholy privilege." I know not what may be the consequences of the contumacy of the Committee on Naval affairs, (to say nothing of the Governor and Legislature of Texas,) for they have been imprudent enough, (the opinion of these officers to the contrary notwithstanding,) to assert that they think a treaty stipulation *does require* that our prayer should be granted.

All that is said in their pamphlet about rewarding "a roaming and unsettled spirit of adventure" is just inane, senseless talk, and only calls forth the reply, that if there be any truth in what has been, for a few past years, the frequent subject of newspaper notice and censure, it would vastly conduce to the public interests, and to the efficiency of our navy, if a *less* disposition to *remain settled and keep from roaming* were evinced by many of its

officers, though I take pleasure in saying that this remark cannot, and is not meant, to apply to these three officers, whose professional services and worth are beyond question. All such remarks, however, when applied to the officers of the late Texan Navy, are, therefore, simply, silly, and irrelative to the matter at issue; which merely and entirely is, whether, under all the circumstances connected with the annexation of Texas, and as a matter of justice to that State, the officers of her navy should, or should not be incorporated into the Navy of the United States, without the slightest reference to individuals.

Now as to the "long and fierce war" that was waged with Mexico in defence of Texas, and the "achievements" so ostentatiously referred to—Vera Cruz, Tuzpan, Tampico, Tobasco, and Alvarado—I beg their pardon; Alvarado was somehow most unaccountably omitted from the list. I am not disposed to detract from the efficiency and activity of the navy in that war. It did, no doubt, all that could be done under the circumstances, by any navy. All this, and the "Empire which outshines the wealth of Ormus or of Ind," and the conquest of which is such a gem in the naval crown, has really about as much to do with the question as it has to do with the orbit of Uranus.

I would be glad to know if the acquisition of California is to weigh in one scale, why may not the acquisition of Texas be placed in the other. The act of annexation estops any citizen of the United States from disparaging the *value* of the acquisition. The *nation* knew all the risks involved in that act, and was willing to encounter them. Besides, it is to Texas, these officers owe all the credit of gaining that gem of which they boast; but for the annexation of Texas, California would not have been acquired, and they would have been deprived of the "melancholy privilege" of making a rhetorical display. So that, after all, according to their own reasoning, we, the memorialists, are entitled to their thanks and to the favorable action of Congress; for, as far as our humble ability went, we assisted in acquiring Texas, and thus, indirectly California, and by consequence, the large capital of glory of which they are so lavish.

One word on their closing paragraph of misstatement, and I have done. That paragraph is an epitome of the style and manner of the whole pamphlet. The grossest errors are enunciated with a degree of cool confidence and precision, well calculated to mislead, and give to their *airy nothings*, a local habitation and a name. I will quote the whole paragraph.

"Is it then unreasonable for us to complain that these gentlemen, having left that country and its flag to seek fame elsewhere, should now mount over the shoulders of their seniors and former superiors in command, step up the crowded avenues of promotion, and reap the rewards of services they did not perform, and of dangers they did not encounter."

Now would not any reader suppose that all "these gentlemen" (the memorialists,) had been in the service of the United States,

and had left it? But so far from this being the fact, I am the *only one* of the whole number who has ever been in the Navy of the United States. The rest, like Steuart, Hull, and other *heroes* of the American Navy, who walked the "avenue of promotion" by the right of merit and not of "melancholy privilege," came into the Texan Navy from the commercial marine.

So far then as the other memorialists are concerned, the objection falls; but what, I would ask, has our past history and occupation, which has been reputable and honest, to do with the question at issue? With equal force and propriety, as valid an objection could be urged against our sizes, the color of our hair, or any other physical peculiarity. Again, the prayer of the memorialists, if granted, does *not* "stop up the crowded avenues of promotion," as these officers would have clearly perceived, had their blinding prejudices permitted them to look at the proposed bill, which provides for the *increase* of the personnel of the navy, to the small *extent only* of the number of the memorialists, and provides, also, that their places shall remain vacant, when they become so by death, resignation, &c.

All of which is respectfully submitted in behalf of the other memorialists and himself, by your obedient servant,

E. W. MOORE,

Captain Commanding late Texas Navy.

WASHINGTON, July 31, 1850.

APPENDIX.

WASHINGTON CITY, D. C., *July 17, 1850.*

SIR: You will oblige me by causing to be furnished me a "list of the officers of the late 'Texas Navy,'" which I am informed has been sent to your Department, and which differs from the one furnished me by the Adjutant General of the State of Texas, in whose office the records of the Department of War and Marine of the Republic of Texas were placed by act of the Legislature of that State.

The Naval Committee of the honorable House of Representatives acted on the authentic list furnished by me in making their report, accompanied by a bill, having for its object the incorporation of the officers of the late Texas Navy into the Navy of the United States; and it will, doubtless, be necessary that I should explain the difference in the two lists.

I have the honor to be, very respectfully, your obedient servant,

E. W. MOORE,

Captain Commanding late Texas Navy.

Hon. WM. B. PRESTON,

Secretary of the Navy.

NAVY DEPARTMENT, *July 17, 1850.*

SIR: In compliance with your request of this date, I enclose herewith a "list of the officers of the late Texas Navy," as prepared by Wm. G. Cooke, dated Department of War and Marine, Austin, January 26, 1846.

I am, very respectfully, your obedient servant,

WM. BALLARD PRESTON.

Capt. E. W. MOORE, *Washington, D. C.*

(COPY.)

DEPARTMENT OF WAR AND MARINE,

AUSTIN, January 26, 1846.

SIR: In compliance with the request contained in your letter of 16th instant, you are herewith furnished a list of the officers of the navy, at present in service, with their rank and date of their appointment.

I have the honor to be, &c.,

W. G. COOKE.

WM. C. BRASHEAR,

Commander Texas Navy.

- * John G. Tod, Captain, commission bearing date June 23, 1840.
 Wm. C. Brashear, Commander, appointed September 23, 1844.
 A. J. Lewis, Lieutenant, January 1, 1840.
 George C. Bunner, Lieutenant, June 1, 1840.
 Wm. A. Tennison, Lieutenant, July 19, 1840.
 Norman Hurd, Purser, January 16, 1839.
 J. F. Stephens, Purser, September 21, 1841.
 C. J. Faysoux, Midshipman, June 29, 1842.
 H. S. Garlick, Midshipman.

Compare the above list with the following, made out by the same officer, showing *all* the officers confirmed by the honorable Senate of Texas, and not those "in service" *that is on duty at a given date*, and it will be seen that the name of John G. Tod is *not on it*, although other officers are on it, who were appointed the same year, *and one of them the same month*.

List of Naval Officers whose appointments were confirmed by the honorable Senate, 20th July, 1842.

Names.	Rank.	No.	Date.	Remarks by E. W. Moore
Edwin W. Moore	Post capt. com'g	-	April 21, 1839	
J. T. K. Lothrop	Commander -	-	July 10, 1839	Dead.
D. H. Crisp - -	Lieutenant -	-	Nov. 10, 1839	Dead.
Wm. C. Brashear	Do -	1	Jan. 10, 1840	Dead.
Wm. Seeger - -	Do -	2	Jan. 10, 1840	Dead.
Alfred G. Gray -	Do -	3	Jan. 10, 1840	
A. J. Lewis - -	Do -	4	Jan. 10, 1840	
J. P. Lansing -	Do -	5	Jan. 10, 1840	Dead.
Geo. C. Bunner -	Do -	-	June 10, 1840	Dead.
A. A. Waite - -	Do -	1	Sept. 10, 1840	Dead.
Wm. A. Tennison	Do -	2	Sept. 10, 1840	
Wm. Oliver - -	Do -	3	Sept. 10, 1840	
Cyrus Cummings	Do -	4	Sept. 10, 1840	
C. B. Snow - -	Do -	-	Mar. 10, 1842	
D. C. Wilbur -	Do -	-	June 1, 1842	Dead.
M. H. Dearborn	Do -	-	July 1, 1842	Dead.
R. M. Clarke -	Surgeon -	-	Nov. 22, 1840	Dead.
Thos. P. Anderson	Do - -	-	Sept. 10, 1841	Dead.
J. B. Gardner -	Do - -	-	July 20, 1842	
Norman Hurd -	Purser - -	-	Jan. 16, 1839	
F. T. Wells - -	Do - - -	-	June 10, 1839	Dead.
J. F. Stephens -	Do - - -	-	Sept. 21, 1841	
W. T. Brannum	Do - - -	-	July 21, 1842	Dead.
Jas. W. Moore†	Do - - -	-		

N. B.—The lowest number of the same date takes rank.

* See appended letter of Adjutant General C. L. Mann.

† Appointed in place of W. T. Brannum.

DEPARTMENT OF WAR AND MARINE,
July 21, 1842.

Officers enumerated in the above list will take rank in the order in which their names are placed.

(Signed) GEO. W. HOCKLEY,
Secretary of War and Marine.

STATE OF TEXAS.

Adjutant General's Office :

I, William Gordon Cooke, Adjutant General of the State of Texas, do hereby certify that the foregoing is a correct copy, taken from the records of the Department of War and Marine of the late Republic of Texas, which records have been attached to this office by act of the Legislature of the State of Texas.

Given under my hand and official seal, this 30th day
[L. s.] of November, A. D. one thousand eight hundred and forty-seven.

(Signed) WM. G. COOKE,
Adjutant General.

No other naval appointments than those in the preceding list were ever confirmed by the honorable Senate of Texas.

The following letter from the Adjutant General of the State of Texas, will, I trust, satisfy even these officers of the validity of the claims of the *person* whom they say "claims the dignity for which E. W. Moore is now contending."

"ADJUTANT GENERAL'S OFFICE.

"AUSTIN, *February 8th*, 1848.

"SIR: Yours of the 7th instant has been received. You request me at my earliest convenience to inform you of the date of the commission as Captain, Texas Navy, given to John G. Tod, by the last President of Texas, and the time said commission was given to him. Also, whether it appears by the records of the Department of War and Marine in my office, that said John G. Tod was nominated to the honorable Senate of Texas, and confirmed as a "Captain in the Texas Navy."

"In reply to your first inquiry as to 'the date of the commission as Captain, Texas Navy, given to John G. Tod, by the last President of Texas,' I have the honor to inform you, that I find from the records of the Department of War and Marine, now in my office, that John G. Tod was commissioned on the *27th day of August*, 1845, (two months after the last Congress of Texas had adjourned, and fifty-one days after the convention to form a State Constitution, had agreed to the terms of annexation, and were deliberating with the United States flag flying over the capitol,) to rank as captain from the *23d of June*, 1840. As to your second

inquiry, I have compared the certified list of naval officers whose appointments were confirmed by the honorable Senate, 20th July, 1842, (given by William G. Cooke, late Adjutant General of the State of Texas,) and find that it corresponds with the record of the Department of War and Marine of the late Republic of Texas, which has been attached to my office. I have carefully examined the records of the Department of War and Marine, and assure you that there is no evidence of the nomination of John G. Tod to the honorable Senate in the Department; and as such nomination was required by law to be made to the honorable Senate, for the confirmation by the President, in all cases then, where the President failed to make such nominations, and made appointments independent of that *body, who alone* had the right to *confirm* such appointments, made contrary to the provisions of the law, would be a nullity, and his commission a blank.

Agreeably to your wish, I herewith return the certified list of "naval officers whose appointments have been confirmed by the honorable Senate, also a copy of your letter."

I have the honor to be, &c.,

(Signed) C. L. MANN,
Adjutant General, State of Texas.

To Commodore E. W. MOORE, *Austin, Texas.*

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