SENATE CHAMBER,
AUSTIN, TEXAS, Wednesday, April 12, 1871.

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; quorum present.

Absent—Senators Broughton, Parsons and Shannon.

Absent—excused—Senator Flanagan.

Prayer by the Chaplain.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

REPORTS OF STANDING COMMITTEES.

Report of Committee on Judiciary:

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No 326, entitled "An act making it a penal offense for persons leaving hotels without settling their bills," after careful consideration, instruct me to report the same back and recommend that it be indefinitely postponed.

Respectfully,
A. J. FOUNTAIN,
Chairman.

Report read.

On motion of Senator Fountain, the rules were suspended to consider the report and bills.

Senator Fountain moved that the report of the committee be adopted, and the bill be indefinately postponed.

Senator Gaines moved to lay the report of the committee on the table.

Yeas and nays called for and motion to lay on the table carried by the following vote:

Yeas—Baker, Bell, Broughton, Douglass, Ford, Fountain, Gaines, Hertzberg, Hillebrand, Mills, Pettit, Rawson, Ruby, Tendick—14.

Nays—Mr. President, Bowers, Dohoney, Evans, Hall, Latimer, Pickett, Pyle, Saylor—9.

Report of Committee on engrossed bills:

COMMITTEE ROOM,
AUSTIN, April 12, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Engrossed Bills, having examined and compared Senate bill No. 102, "An act to further amend the eleventh section of 'an act to provide for the registration of deeds and other instruments of writing,' approved May 12, 1846;" substitute for Senate bill No. 24, "An act amendatory of an act entitled 'an act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties,' approved August 13, 1870;" and Senate joint resolution No. 14, "Instructing our Senators and requesting our Representatives in Congress to obtain an extension of time of 'act of Congress approved July 2, 1862,' with amendment, approved July 23, 1866, as referred to within," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received.

The Secretary carried to the House for concurrence Senate bill No. 24, Senate bill No. 102, and Senate joint resolution No. 14.

Report of Committee on Judiciary:

COMMITTEE ROOM,
AUSTIN, April 11, 1871

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 223, entitled "An act authorizing the compromise of certain suits brought by the State in the District Court of Colorado county," after careful consideration, instruct me to report the same back and recommend its passage.

Respectfully,
A. J. FOUNTAIN,
Chairman.

Report read and laid over under the rules.

Report of Committee on Judiciary:

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 325, entitled "An act defining the rights of hotel keepers

and boarding houses," after careful consideration, instruct me to report the same back, and recommend that it be indefinitely postponed.

Respectfully,

A. J. FOUNTAIN,
Chairman.

Report read and laid over under the rules.

Report of Committee on Counties and County Boundaries:

COMMITTEE ROOM,
AUSTIN, April 12, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 438, "An act to repeal 'an act to change the names of the counties of Cass and Buchanan,' approved December 17, 1861, and to designate the name of the so-called county of Davis," have had the same under careful consideration, and I am instructed by the committee to report the same back to the Senate, and recommend its passage.

P. W. HALL,
Chairman.

Report read and laid over under the rules.

Reports of Committee on Roads, Bridges and Ferries:

COMMITTEE ROOM,
AUSTIN, April 12, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred House bill No. 192, entitled "An act to incorporate the Cedar Bayou Bar Company," after careful consideration, instruct me to report the same back and recommend its reference to the Committee on Internal Improvements.

Respectfully,

JOHN G. BELL,
Chairman.

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred Senate bill No. 338, entitled "An act to incorporate the Little Brazos and Robertson County Bridge Company," after

careful consideration, instruct me to report the same back and recommend its passage, with the following amendments.

Respectfully,

JOHN G. BELL,
Chairman.

Amend by striking out the word "police" wherever it occurs and insert in lieu thereof the word "county;" amend section two by adding to said section as the last words, the words "otherwise this act to be null and void;" amend section three by inserting the word "every" before the word "person," in the fourth line of said section; amend section four by striking out the word "or," in the third line, and striking out the word "and" in the fifth line, and insert in lieu thereof the word "or;" amend section five by inserting the word "be" before the word "opened," in the tenth line of said section;" amend section six by adding to said section as the last words, the words "and this charter to be null and void if said bridge is not completed within three years from the passage of this act."

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred Senate bill No. 337, entitled "An act to incorporate the Hearne and Little Brazos Bridge Company," after careful consideration, instruct me to report the same back, and recommend its passage with the following amendments.

Respectfully,

JOHN. G. BELL,
Chairman.

Amend section two so as to read "said bridge shall be completed before the expiration of three years, and work thereon commenced within twelve months after the passage of this act, otherwise this act shall be null and void."

Amend section five, by inserting, as the first word in said section, the word "that."

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL.
President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred House bill No. 492, entitled "An act to authorize W. H. McVey to erect a toll bridge over Red Oak creek, in Ellis county, on the road leading from Lancaster, in Dallas county, to Chatfield

Point and Corsicana, in Navarro county," after careful consideration, instruct me to report the same back. and recommend its passage.

Respectfully,

JOHN G. BELL,
Chairman.

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred House bill No. 460, entitled "An act to authorize Howard Keyes to erect a toll bridge at Crockett's Bluff, on Sabine river," after careful consideration, instruct me to report the same back and recommend its passage with the following amendment.

Respectfully,

JOHN G. BELL,
Chairman.

Amend section five by striking out the word "five" in the second and third lines of said section, and insert in lieu thereof, in each instance, the word "three."

Reports read and laid over under the rules.

Report of Committee on State Affairs:

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 378, entitled "An act to incorporate the city of Waco," after careful consideration, instruct me to report the same back and recommend its passage with accompanying amendment.

Respectfully,

S. W. FORD,
Chairman.

Amendments to House bill No. 378, by Committee on State Affairs: Amend section seven by adding to sub-division No. 30 the words "created by an ordinance of the city council."

On motion of Senator Ford, the rules were suspended to consider the report and bill.

House bill No. 378 read second time and the amendments reported by the Committee on State Affairs were adopted.

On motion of Senator Ford, the rules were further suspended and House bill No. 378 read third time, passed and returned to the House.

Report of Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate Bill No 318. "An Act to organize and incorporate the Marshall, Texas, and Mansfield, Louisiana, Rail Road Company," find the same to be correctly engrossed.

G. T. RUBY.
E. L. DOHONEY.
P. W. HALL.

Report read and received.

The Secretary carried to the House for concurrence Senate bill No. 318.

Report of Select Committee to examine account of Tracy, Siemering & Co.:

COMMITTEE ROOM,
AUSTIN, April 11, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Select Committee, to whom was referred the accounts of Tracy, Siemering & Co., for printing, ask leave to report that they have examined the same and find that in said accounts three hundred copies of bills are charged to the Senate; your committee recommend that the bills be referred back to Tracy, Siemering & Co., with the suggestion that they charged the Senate with but one hundred copies of bills printed for the use of the Senate, and that provision be made for the printing of all matter done under the provisions of the act to regulate public printing by a general appropriation.

MATTHEW GAINES,
Chairman.

On motion of Senator Gaines, the rules were suspended, and the report of select committee adopted.

Under direction of the President the Secretary of the Senate carried to the House, for concurrence, Senate bill No. 341, "An act authorizing and requiring the sheriffs of the several counties in this State to pay certain claims."

Also informing the House that the Senate had passed, with amendment, House bill No 267, "An act in relation to the Atlantic and Pacific Railroad Company."

Also transmitting for signature the following enrolled Senate bills:

Senate bill No. 45, "An act to incorporate the Kaufman County Bridge Company."

Senate bill No. 55, "An act to incorporate the East Texas Cotton, Woolen and Cotton Seed Oil Manufacturing Company."

Senate bill No. 106, "An act for the relief of W. H. Dangerfield."

Senate bill No. 152, "An act to incorporate the Falls County Turnpike Road and Bridge Company."

Substitute Senate bill No. 166, "An act to organize and maintain a system of public free schools in the State of Texas."

Senate bill No. 246, "An act granting a charter to James A. Mitcham to erect, keep and run a ferry boat at the Bayett landing, or crossing, on the Trinity river, in Henderson county and Navarro county."

Enrolled bills signed by the Speaker, returned and signed by the President.

BILLS AND RESOLUTIONS.

By Senator Fountain, a resolution, (Senate joint resolution No. 29,) "Joint resolution for the relief of General Juan N. Cortenas." Read first time.

Senator Fountain moved to suspend the rules, and that Senate joint resolution No. 29 be read second time.

Senator Douglass moved to refer the resolution to the Judiciary Committee. Lost.

Question recurring on motion to suspend the rules, the motion was lost.

Senate joint resolution No. 29 laid over under the rules.

By Senator Bell: a bill (Senate bill No. 345) to be entitled "An act supplemental to 'an act to provide for the release of children or other persons, citizens of the State of Texas, who are, have been or may hereafter be held as captives by the Indians,' approved April 5, 1871." Read first time.

11 O'CLOCK, A. M.

The hour for special order (Senate bill No. 308, a bill to be entitled "An act to organize the Bureau of Immigration,") having arrived, on motion of Senator Parsons, the special order was postponed until the matter under consideration be disposed of.

On motion of Senator Bowers, the rules were suspended, Senate bill No. 345 read second time, ordered to be engrossed and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended and Senate bill No. 345 read third time and passed.

The President announced a communication from the Comptroller, which was read, as follows:

NEW YORK CITY, April 4, 1871.

DEAR SIR: Having in charge the settlement of the affairs of the late firm of Clark & Scudder, I wish to notify you that, should any draft or check be drawn for the payment of the bill against the State of Texas, in favor of Clark & Scudder, for $1112 62, for stationery, etc., the same must be made to the order of Mulford M. Scudder and sent to him in my care.

As the goods were sent some five or six months ago, and as Mr. S. desires to close the affairs of the concern as speedily as possible, will you be kind enough to inform me how soon we may expect payment.

Very respectfully, your obedient servant,

E. C. RIPLEY.

To the Hon. the Treasurer or Comptroller of the State of Texas.

P. S. I have written Mr. A. Faulkner, Sergeant-at-Arms of the Senate (who ordered the bill) by this mail.

On motion of Senator Ruby, the communication was referred to to the Committee on Contingent expenses.

POSTPONED SPECIAL ORDER.

Senate bill No. 308, "An act to organize the Bureau of Immigration." Read second time.

Senator Parsons moved that the following amendment reported by the Committee on Immigration be adopted: Amend, at the end of last line, section two, add "three thousand five hundred dollars."

Yeas and nays called for and amendment adopted, by the following vote:

Yeas—Mr. President, Bowers, Dohoney, Ford, Fountain, Hertzberg, Parsons, Pettit, Pickett, Pridgen, Rawson, Ruby, Tendick—13.

Nays—Baker, Bell, Douglass, Evans, Gaines, Hall, Hillebrand, Latimer, Mills, Pyle, Shannon—11.

Senator Parsons moved that the following amendment reported by the committee be adopted:

In section eight, line three, amend, after the word "Europe" add "not more than one agent for the United States and two for Europe; of the latter, one for Great Britain and one for the Continent."

Senator Gaines offered the following amendment to the amendment: Amend by inserting "and one for Africa."

Senator Bell moved its adoption.

Message from the House by the Chief Clerk, informing the Senate that the House had passed Senate bill No. 68, "An act to authorize

the transmission of criminal process by telegraph, and for other purposes."

Also, transmitting, for concurrence, House joint resolution No. 22, "Joint resolution authorizing the Governor to dispose of the Houston Tap and Brazoria Railroad."

House bill No. 99, "An act to incorporate the Cleburne and Cross Timber Railway Company."

House bill No. 518, "An act to incorporate the town of Ledbetter, county of Fayette."

Also, for signature of the President enrolled House joint resolution No. 10, "Joint resolution authorizing the Secretary of State to present one Winchester carbine to each of the persons who overtook and killed four of a band of hostile Indians."

Also, enrolled House bills as follows:

House bill No. 149, "An act to incorporate the Bryan Bridge Company, and allow them certain privileges therein named."

House bill No. 237, "An act to incorporate the Collin County, Texas, Agricultural, Horticultural and Mechanical Association."

House bill No. 47, "An act supplemental to and amendatory of 'an act to provide for districting the State of Texas into judicial districts,' approved July 2, A. D. 1870."

House bill No. 23, "An act to amend 'an act granting to James L. Tarver the privilege of constructing a ferry across Big Cypress,' approved October 1, 1866."

House bill No. 116, "An act to incorporate the Indianola Hock and Ladder Company No. 1, of the city of Indianola."

House bill No. 3, "An act to incorporate the Alamo Literary Society, of the city of San Antonio."

House bill No. 266, "An act to incorporate the Widows,' Orphans' and Superannuated Preachers' Aid Society, of the West Texas Conference, of the Methodist Episcopal Church, South."

House bill No. 231, "An act to incorporate the Washington County Fair Association."

House bill No. 30, "An act to amend an act entitled 'an act to provide for the enrollment of the Militia, the organization and discipline of the State Guard, and for the public defense,' approved June 24, 1870."

House bill No. 115, "An act to regulate the keeping and bearing of deadly weapons."

Enrolled bills signed by the President and returned to the House.

12 o'Clock M.

The hour having arrived, the Senate resolved itself into a high court of impeachment for the trial of William H. Russell, Judge of the Fifteenth Judicial District.

HIGH COURT OF IMPEACHMENT.

AUSTIN, TEXAS,
Wednesday, April 12, 1871.

THE STATE OF TEXAS *vs.* WILLIAM H. RUSSELL.

The court having been opened by proclamation,

Ordered, That the Secretary inform the House of Representatives that the Senate is now sitting as a high court of impeachment for the trial of William H. Russell, and that seats are provided for the accommodation of the members of the House in the Senate chamber.

The managers, accompanied by the House of Representatives, attended.

The return of the Sergeant-at-Arms on the summons issued to William H. Russell was read as follows:

I, W. B. Johnston, Sergeant-at-Arms of the Senate of the State of Texas, in obedience to the within and foregoing writ of summons and precept, to me directed, did serve, on the 11th day of April, the within summons by reading the same to the within named William H. Russell, and also by delivering to him, in person, a certified copy of the original articles of impeachment preferred against him by the House of Representatives of the State of Texas.

W. B. JOHNSTON,
Sergeant-at-Arms of Senate.

The Secretary then administered to the Sergeant-at-Arms the following oath:

"You, W. B. Johnston, Sergeant-at-Arms of the Senate of the State of Texas, do swear that the return made and subscribed by you, upon the process issued on the eleventh day of April, by the Senate of the State of Texas, against Wm. H. Russell, Judge of the Fifteenth Judicial District of the State of Texas, is truly made, and that you have performed said services as therein described. So help you God."

The Sergeant-at-Arms then made proclamation as follows:

"Oyez! Oyez! Oyez! William H. Russell, Judge of the Fifteenth Judicial District of the State of Texas, come forward and answer the articles of impeachment exhibited against you by the House of Representatives of the State of Texas."

The counsel for respondent then submitted the following demurrer:

DEMURRER,

In the matter of the articles of impeachment preferred against

William H. Russell, Judge of the Fifteenth Judicial District, in the State of Texas, now pending before the House, the Senate sitting as a high court of impeachment:

And now comes the said William H. Russell, Judge of the Fifteenth Judicial District, in the State of Texas, in his own proper person, and presents to the Senate, as a high court of impeachment, this, his demurrer, to the fourth article of impeachment, and says, that he doth now and here demur thereto, because the matters and things set forth in said article fourth are not under the Counstitution and laws of the State of Texas, matter or ground, or cause of impeachment; wherefore, he prays the judgment of the Senate, as a high court of impeachment, if the said matters and things embraced in said article fourth, ought to be heard in this proceeding.

WILLIAM H. RUSSELL.

The Senators having retired for consultation, upon their return Senator Fountain, on the part of the Senators, stated that it was the sense of the Senators that the demurrer should be sustained; whereupon the President made the following order:

Ordered, That the demurrer to the fourth article of impeachment submitted by the defense be sustained.

The counsel for the respondent then submitted the following answer to the articles of impeachment exhibited by the House of Representatives.

The answer of William H. Russell, Judge of the Fifteenth Judicial District of the State of Texas, to the articles of impeachment presented against him by the honorable House of Representatives of said State, and replying to said articles seriatim, doth say to the honorable Senators, embodied as a high court of impeachment, treating said articles as if they were preferred by indictment in a court of law, under the laws and Constitution of the State of Texas, and answering thereto, he doth say as follows:

Article first charges that respondent did, on the ninth day of November, 1870, wrest by force a private letter from the possession of one Henry Haupt.

On or about the fifth day of November, 1870, Henry Haupt had placed on the Judge's desk, in the court house of Cameron county, a printed notice, stating the *Ranchero* had been appointed the official journal of the Fifteenth Judicial District, and, as editor, claimed the public printing. There was then no doubt in the mind of the court but that this was correct. On the eighth, the following letter was received by respondent:

"EXECUTIVE OFFICE,
AUSTIN, October 29, 1870.

"DEAR SIR: Your communication of the sixteenth instant has been received. In relation to the public printing for your district, an appointment, in blank, for 'public journal,' was forwarded to Major F. Cummings. This can be filled up with the name of the *Republican*. Your former letter, of which you speak, in relation to this matter, was received, and answered in the same tenor as this one.

"Respectfully,
[Signed.] "EDMUND J. DAVIS.

"Hon. W. H. RUSSELL, District Judge Fifteenth Judicial District, Brownsville, Texas."

The former letter, alluded to in the above communication, was afterwards received, dated October 13, 1870, reads as follows:

"EXECUTIVE OFFICE,
AUSTIN, October 13, 1870.

"DEAR JUDGE: Your communication of the third instant has been received, in relation to the public printing of your district, etc. A blank appointment as 'official journal' was sent to Judge F. Cummings, some time since. This can be filled with the name of the new paper.

"The district attorney appointed for your district, Mr. F. J. Manlove, left here for Brownsville some weeks since.

"Respectfully,
[Signed.] "EDMUND J. DAVIS,
Governor.

"JUDGE W. H. RUSSELL, Brownsville, Texas."

On receipt of the above letter of date October 29, 1870, the clerk of the court was instructed to cite H. Haupt to appear in court and produce his authority for his claim to be the official printer. He appeared and produced the commission, the name of the *Ranchero* having been filled in the blank. His authority being demanded for such insertion, he replied there was no letter of transmittal, but being reminded that F. Cummings had said to respondent he gave the blank commission and letter of transmittal to the editor of the *Ranchero*, he then replied there was such a letter, but that it was private. He was then informed if it gave directions as to the disposition of the commission it was not a private letter and he must produce it, which he did, prosesting it was private. This letter reads as follows, and a certified copy of which is among the original papers in this case:

"EXECUTIVE OFFICE,
AUSTIN, September 29, 1870.

"MY DEAR SIR: Your letter of September 16 is received. In regard to the appointment of an official journal for your district, I leave it to the direction of yourself and other friends and Republicans at Brownsville. Accordingly, I enclose a *blank* appointment to be filled up after you make necessary arrangements. I received at the same time a letter from Judge Russell on same subject. Please ask him to consider this a reply.

"Please remember us to Mrs. Cummings and all friends; and, *my old friend, accept my thanks for your kind remarks personal to myself.*

"Truly yours,
[Signed] "EDMUND J. DAVIS.
"Hon. F. CUMMINGS, Brownsville, Texas."

This letter could not be, and was not, a private communication. It came from a public functionary, and related to public business—a character of business in which all the people were particularly and vitally interested. Respondent in the most postitive terms denies that said letter was private, and he appeals with the utmost confidence to all the facts and circumstances which surround the writing and reception thereof to bear him out in his denial. But, aside from the public character of the letter and the public business to which it related, it bears upon its face the fact that it was intended for the eye of respondent, or at least that he should be made acquainted with its contents. An inspection of the letter, as here presented, will show to this honorable body that it could not have been intended by the writer to be private in the sense in which that word is used in the Constitution, as known to common usage, and treated of in books and courts.

When the proceedings in court were had, respondent caused the whole matter to be referred to the Governor for his action, and having learned his decision and wishes upon the subject, caused an order to be entered on the minutes of the court, recognizing the *Ranchero* as the official journal and requiring all officers to govern themselves accordingly.

The demanding of and receiving from H. Haupt the letter dated September 29, 1870, from Edmund J. Davis to F. Cummings, is not denied; but respondent insists that he violated no law, nor aggressed upon any right, private or public, in so doing; but, on the contrary was, under all the circumstances of the case, on the line of duty.

And the said William H. Russell, for the plea to the first article

of impeachment, does say that he is not guilty of any high crime or misdemeanor, because of the matters and things set forth and presented in said article first; and this he prays may be inquired of by this honorable court, in such manner as law and justice shall seem to require.

Article two charges that respondent denied one Henry Haupt a trial by jury. The fine and imprisonment in this case was for a contempt of court, and the punishment is entirely a matter of judicial discretion.

The statute provides that "each attorney and counsellor at law shall be subject to fine or imprisonment by any court in which he may practice for misbehavior or contempt offered such court." (See Paschal's Digest. article 177.) The Supreme Court, in twenty-first Texas Reports, Jackson vs. the State, declares: "The conduct here referred to must mean the officer's conduct as an attorney, not merely as a person.

Contempts are punished summarily by the court, except when offerred by an attorney and involving "fraudulent or dishonorable conduct or malpractice," for which his license may be revoked; then he is entitled to a jury trial, but the law does not contemplate a jury trial for any other class of contempts.

Contempts, not by an attorney as such, are punishable by fine and imprisonment at the discretion of the court. (See Paschal's Digest, article 1409.

The judgment of the court embracing the contempt for which H. Haupt was fined and imprisoned is as follows, a certified copy from the records being among the original papers in this case:

The State of Texas *vs.* Henry Haupt—Proceedings for a contempt of the District Court at its October term, 1870.

Now, on this twenty fifth day of November, 1870, Henry Haupt, Esq., attorney at law, being brought before the court, by attachment, to show cause why he, being an officer of said court, should not be held as in, and punished for a contempt of court in this, that he, the said Henry Haupt, being the manager of the newspaper called the *Ranchero*, did publish and permit to be published in the issue of said newspaper published in Brownsville, in the county of Cameron, on the twelfth day of November, 1870, a false and malicious statement, purporting to be an account of the proceedings of this court, as follows:

"*A modern star chamber—Outrageous proceedings in the District Court at Brownsville—A private letter of Gov. E. J. Davis, addressed to Judge F. Cummings seized by force—Proceedings suppressed—The District Judge an interested party in the case—Law and private rights trampled upon.*

"An outrage has been committed in the city of Brownsville that looks in vain for its equal in the nineteenth century. Private rights have been trodden down; the majesty of the law derided, and this by the highest judicial authority in the valley, by the District Judge of the Fifteenth Judicial District, Mr. William H. Russell. In order to have our readers fully understand this scandalous proceeding in all its enormity, we premise the following explanation:

"On the second of November, 1870, the owners of the *Ranchero* received, through Judge Cummings, the Governor's appointment of the paper as the official journal of the district. The appointment had been sent to Mr. Cummings in blank, the Governor having the greatest confidence in the judgment and integrity of that distinquished gentleman. After consultation with prominent Republicans of the city, Judge Cummings conferred the appointment as authorized upon the *Ranchero*. It may be well to remark that upon the arrival of Mr. Russell at Brownsville, he as well as Judge Cummings recommended to the Governor the appointment of the *Ranchero* as official journal, when, however, on the first of November, this appointment was conferred, Judge Russell had changed his opinion, and opposed the *Ranchero* bitterly, hinting that fraud had been committed in the matter, etc. After recommending the *Ranchero* to the Governor, Judge Russell had become interested in the *Republican* newspaper, at least his name figures under the agreement of the stockholders of said paper for two shares to the amount of one hundred dollars. He then named the *Republican* for appointment, and seemed to count upon it as a certainty. He naturally felt disappointed when the *Ranchero* received it instead. So matters stood on the morning of the ninth, at about noon of that day; the editor of the *Ranchero* was served with a summons to appear forthwith before the district court, and to bring with him the letter appointing the *Ranchero* the official journal; although the editor was at a loss to understand by what authority such demand could be made, he, nevertheless, repaired to the court house and produced the appointment. Accident would have it that just before, the editor had been charged with the return to Judge Cummings of a private letter addressed to him by Governor E. J. Davis, which had accompanied the blank appointment. In taking out the last, the heading of the letter was displayed, and, perhaps, caught the eye of

Judge Russell, at any rate, the production of the private letter of Governor Davis, which had come with the blank appointment, was demanded by him.

"The editor protested, in vain, that the letter was a private one, that it was not even his own. In spite of protest and appeal, the letter was wrested from the possession of the editor, under circumstances amounting virtually to force. Let our readers comprehend fully the magnitude of the outrage, let them note that there was no suit, no process instituted, that there was no authority vested in the judge for any part of the proceedings entered upon—after obtaining possession of the letter, Judge Russell commented upon certain portions of the same, arguing from the same that he should have been consulted by Judge Cummings in making the appointment, whilst nothing of the sort was in fact required by the letter. Judge Russell then expressed his determination to have a copy of the letter, or a part of it, against which the editor protested. Not to be outdone, the judge copied it himself, and called upon the editor to compare copy with the original, which was refused. The judge next expressed his determination to refer the appointment back to the Governor, and ordered the clerk to file the letter of appointment until the Governor could be heard from. The editor here ventured to inquire under what authority he was called before the Court, upon whose complaint or at whose suit, Judge Russell answering that the editor, as official printer, was an officer of this court and under the jurisdiction of the same. Where the Judge found his authority for such an assertion, God knows; perhaps where authority is also found to compel such public printer to deliver up the private correspondence, not of himself, but of others accidentally in his possession. In the course of the proceedings, Judge Russell had mentioned that he had lately received a letter from Gov. Davis to the effect that he should fill the blank appointment with the name of the *Republican*. The editor now demanded to know whether the letter was addressed to him privately or officially; or, in other words, was the Judge sitting in his official capacity, or merely usurping the bench in a private affair? In reply, the letter was handed to the editor for perusal. The only phrase to be discovered in the letter, bearing upon the subject, was a sentence saying that the *Republican* could or might be appointed, and as a matter of course the letter was a private one—for the simple reason that it could not be an official one. no jurisdiction attaching to a district judge as to appointment of an official journal. The editor, as a final demand, requested copies of the proceedings and process in the case, which was disposed of by the Judge by a remark to the clerk that there was no need of copies—so, at least, the editor understood it.

"This ended the proceedings in the modern star chamber. Shortly afterwards, the Clerk of the Court returned to the editor the official appointment, and when again requested for copies of proceedings, he stated that Judge Russell had directed him to make no mention of the proceedings on the record. This only was wanting to fill the measure. Not satisfied with arraigning a free citizen before a mock tribunal; not satisfied with rifling him of private property entrusted to him for delivery; not satisfied with prying into the private correspondence of the Executive of the State and an esteemed gentleman of the city, all proceedings must be suppressed; they cannot bear daylight; and all this to happen in the year of our Lord one thousand eight hundred and seventy, in a civilized and free country, and in a high court of justice.

"And what motive could there have been for the outrage, our readers must answer this for themselves. The motive is only too evident from the surrounding circumstances. And now, having placed the matter before the public, we close our *expose* of the sickening scandal. We shall keep our readers advised of proceedings that will be instituted for the vindication of private rights, and shall also place before them an account of other enormities connected with the present court and judgeship of the Fifteenth Judicial District."

And the said Henry Haupt, when questioned in open court, announced himself to be the author of said statement, so published, and the court, from its own knowledge, and from the testimony of persons present in court when said proceedings were had, knowing said publication to be false, malicious, evil designed, perverted, and believing that said act, if allowed to go unpunished, might have the effect, which said article was evidently designed to accomplish, to-wit: Might bring this court and its proceedings into contempt, as well in this county and district where the author may be partially known, as in other parts of this State where said author or his status cannot be known; and said Henry Haupt not showing any reason why said article, as aforesaid, published, should not be understood by the court to be a premeditated contempt; it is upon due consideration of the court, now here ordered, that Henry Haupt, Esq., attorney and counsellor at law, and a member of the bar of this the Fifteenth Judicial District of the State of Texas, for his disregard of the respect due to the court, by virtue of his being an officer of said court, and for the contempt by him committed, on the day of the publication aforesaid, in publishing the false, malicious and perverted statement, be held as having committed a gross contempt of this court. And it is further

ordered that said Henry Haupt be committed for said contempt to the county jail of the county of Cameron for the space of three days, and that he, the said Henry Haupt, also pay a fine of one hundred dollars.

Whereupon, it is adjudged that Henry Haupt be committed to the county jail of Cameron county for the space of three days, and that the State of Texas do have and recover of and from the said Henry Haupt, the full sum of one hundred dollars fine, as aforesaid, and also all costs in this case, and that he stand committed to the county jail until said fine and costs are paid.

The State of Texas, county of Cameron—I, Robert B. Foster, Clerk of the District Court in and for the county of Cameron, State of Texas, hereby certify that the foregoing is a true copy of a judgment rendered by our honorable District Court, at the October term, 1870, as found of record in book of proceedings, pages 498, 499, 500, 501 and 502, records of Cameron county, Texas.

In testimony whereof, witness my hand and official seal
[L. S.] this fourteenth day of January, A. D. 1870.

(Signed) R. B. FOSTER,
Clerk District Court Cameron county, Texas.

It is submitted to this honorable court that the said Henry Haupt was not find and imprisoned as an attorney at law, practicing in the courts of the Fifteenth Judicial District, but as a person who had been guilty of the grossest contempt toward the court, and the perpetration of acts calculated, in their nature, to bring the courts of the country into disrepute, and seriously impair the confidence of the people in the integrity of the judiciary and the fair administration of justice in the courts. The act for which he was fined and imprisoned was not committed in his capacity as an attorney of the court, but in his character as a citizen, a prominent and influential citizen. Had he been of less prominence, or ignorant of the contempt he was committing, the punishment would have been milder; but when the learned and influential seek to break down courts and overturn established institutions, it is submitted that their punishment should be the extremest which the law can wield, in vindication of itself and the general safety.

And the said William H. Russell, for plea to the second article of impeachment, does say, that he is not guilty of any high crime or misdemeanor, because of the matters and things set forth and presented in said article second: And this he prays may be inquired of by this honorable court, in such manner as law and justice shall seem to require.

Article three charges that respondent, as Judge of the Fifteenth Judicial District of the State of Texas, violated the most sacred right of the people of this State and of the United States, the liberty of speech, the liberty of the press and the right of trial by jury, in imprisoning Haupt, the official printer, for a publication in a newspaper; which publication is embodied in and made part of the answer to article two.

After the proceedings were had in court, (referred to in answer to article one,) wherein respondent interposed the authority of the court to prevent a journal with questsonable authority doing the printing of the court, H. Haupt published a gross attack upon the proceedings—denouncing the court as a "star chamber," and a "mock tribunal," accusing the court of seizing a private letter and rifling him of private property—such charges made during the session of the court and by its official printer, an officer of the court.

In punishing this publication as contempt, respondent is charged with having invaded the liberty of the press.

Respondent believes that he is sustained by law and by a majority of the courts of the country in his action in the premises.

He does not deny the imprisonment and fine adjudged against Haupt, and that said punishment was for contempt committed by making the aforesaid publication.

The judgment of the court is of record, and by that record he is ready to stand or fall.

He respectfully submits that had he possessed so little of respect for the position he holds, as to have permitted such an outrage and wanton attack upon the authority and integrity of a high judicial tribunal to go unrebuked and unpunished, he would have merited both censure and condemnation as one unfit to be a judge.

Conscious of the rectitude of his intentions, and believing that his acts are strictly legal, he does not seek to evade whatever of responsibility may attach.

If crime has been committed the remedy is in this honorable court—if error, the remedy is in another court, in another room of the Capitol.

And the said William H. Russell, for plea to the third article of impeachment, does say that he is not guilty of any high crime or misdemeanor, because of the matters and things set forth and presented in said article third; and this he prays may be inquired of by this honorable court, in such manner as law and justice may seem to require.

This respondent has now laid before this honorable court all the circumstances of the case, and knowing that he has discharged all his official duties with impartiality, that he has intentionally com-

mitted no crime or misdemeanor, or any violation of the Constitution or laws of the State:

And confiding in the impartiality, independence and integrity of his judges, and praying they will patiently hear and conscientiously determine this case, without being influenced by party spirit, prejudice or political motives, he cheerfully submits himself to their decision, and prays to be hence discharged.

WILLIAM H. RUSSELL.

Mr. Bowers moved that the court adjourn to 12 M. to-morrow. Motion agreed to.

By order of the President, the Sergeant-at-Arms then closed the court by proclamation.

IN SENATE.

Senator Ruby presented the following report of Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, April 12, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate bill No. 345, "An act supplemental to 'an act to provide for the release of children or other persons, citizens of the State of Texas, who are, have been, or may hereafter be held as captives by the Indians,' approved April 5, 1871," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received.

Senator Fountain offered the following resolution, which was adopted:

Resolved, That when the Senate shall be in session as a high court of impeachment, and questions of law shall be submitted to the court, the Senators shall retire and determine said question of law, and shall direct one of their number to report to the President the order which they desire to have made in the premises, whereupon the President shall, as presiding judge, direct the order to be entered upon the journal of the court.

Senator Fountain moved that two hundred copies of the articles of impeachment against Judge William H. Russell, with the exception of the fourth article and his answers thereto, be printed. Carried.

On motion of Senator Mills, the Senate, at 1:45 P.M., adjourned to 10 A. M. to-morrow.