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John G. Scott: A Bargain With The Devil During Reconstruction Texas

HORACE P. FLATT

Just about the same time as former president John Adams died in July, 1826, John G. Scott was born in Kentucky. Adams had written “Because power corrupts, society’s demand for moral authority and character increase as the importance of the position increases.” Lord Acton, perhaps more memorably said, “Power corrupts, absolute power corrupts absolutely.” The story of John G. Scott is a story of the abuse of the power he acquired as a district judge of Texas in the Reconstruction period following the Civil War, but the story of how an obscure school teacher in Palestine, Anderson County, Texas, acquired power is perhaps even more interesting. Nonetheless, in less than three years, Scott rose from obscurity to mention in a prominent Texas newspaper:

If Judge John G. Scott, of the Xth district, be such a man as the National Index, his own party paper, makes him out to be, then we must say, that Texas never had such a judge before. The charges of the Index are really too horrible for us to repeat, simply because we know not whether they be founded on good evidence or not ...1

This time was a turbulent period in Texas history and the story involves three dramatically different men, all residents of Palestine in Anderson County which during the period of reconstruction was described thusly: “I do not think any county in any state of the south was cursed with a more dishonest and disreputable bunch of grafters than was Palestine and Anderson County.”2 At the center of the corruption was an ex-blacksmith named John H. Morrison, a former Freedman’s Bureau agent at Palestine, while one of the while one of the opposition was John H. Reagan, a giant of Texas history.

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Reagan was now back in the good graces of his fellow citizens following his Fort Warren letter which bluntly outlined the political problems faced by them following the demise of the Confederacy. Off on the sidelines was a well-educated and respected school teacher, John G. Scott, a veteran of Hood's Texas Brigade who had been especially commended in dispatches following the battles of Gettysburg and Chicamauga.

Morrison, born about 1836 in Lee County, Iowa, initially came to Hill County, Texas in the 1850s, but moved to Anderson County in 1861 after marrying Nancy Sarah Jane Mead of Elkhart in that county. Anderson County had overwhelmingly voted for the secession of Texas from the Union, but Morrison was opposed to secession, and was only saved from conscription by his occupation as a blacksmith deemed an essential one to help preserve the agricultural economy. Scorned by his neighbors for his failure to support the Confederacy, he later claimed he had fled as a “refugee” to Iowa for his personal safety. At the end of the war, with the formation of the Freedman’s Bureau, Morrison applied for a position as its agent at Palestine, working for a time in an unpaid capacity for the agency in Marshall, Texas.

Morrison was finally appointed in March 1867 as the Bureau agent at Palestine, with responsibility not only for Anderson County, but also for Cherokee and Freestone counties. While an agent was supposed to be primarily involved in promoting the welfare and education of the newly freed slaves (and Morrison was sincerely involved in this), agents also acted as the “eyes and ears” of the military government as far as who should be dismissed from civil offices as well as who should be appointed. In general, the agents were not politically neutral, perhaps feeling that freedman and those supporting the objectives of Reconstruction would be better served by greater Republican control of local and state government. When in November 1867, Gen. J.J. Reynolds, responsible for the Fifth Military District in Texas, ordered the dismissal of most civil officials in Anderson County, Morrison retained his position as Bureau agent, but was also appointed county treasurer, his half-brother G.D. Kelly was appointed as sheriff, and others later to be involved in the corruption which evolved in Anderson County: W.V. Tunstall as county judge, Samuel R. Peacock...
as district clerk, James H. Leaverton as tax assessor and collector, and W.H. King as county clerk. All were to be involved in the ensuing corruption in Anderson County and were deemed “Unionists” by many in Anderson County.

Morrison was able to build from his powerbase in Palestine till, over time, he exerted great influence in the Texas Legislature. Comparatively uneducated, as judged from his correspondence, he was intelligent and a good speaker. As a bureau agent, he made a good “footman of the Republican party” as described by Bean. He was particularly effective in organizing the freedmen in his area:

Negroes organized into what was known as the Loyal League ... The Loyal League had their lodge at Mound Prairie in the old Murchison factory (a few miles to the northeast of Palestine). It drew negro members from four or five adjoining counties. They would come in columns of a mile or more long, in all kinds of conveyances, some in wagons, buggies, horseback, muleback and donkey, and on foot, some were armed and they brought their provisions with them .... J.H. Morrison, G. D. Kelly and Sam Peacock were the principals in charge of the Loyal League at the Murchison factory. The lodge dues were from 25 to 50 cents each, and they had to pay this before they could get into the lodge room. Some nights they would take in from five hundred to a thousand dollars. On several occasions I’ve seen them come into town with a sack full of silver.

With many former rebels disenfranchised, Morrison was able to use the votes of the Loyal League to build a power political base for himself and the Unionists in Anderson County that was to be an especially important factor in the election of 1869.

Notwithstanding their political power, the Unionists in Anderson County faced many problems. Peacock was later to describe Palestine as a “hell-hole” for them. Not only were they shunned, they and the freedmen were at times violently attacked and those guilty of the attacks most commonly received no punishment. In early 1868,
Peacock prepared a summary report showing the disposition of cases for the most violent crimes (murder and assault with intent to kill). This report showed that while since 1865, 125 persons had been indicted for these offenses, only 15 were actually convicted. In fact, he reported that one man was murdered in 1865 simply because he declared himself to be a Unionist. Others were shunned: W.H. King was excluded from his own church because he was a Unionist. W.M. Waddell, one of the supervisors of public free schools in Texas, testified to the U.S. Congress that there was not only violence against Unionists, but the “rebels” also practiced ostracism against Unionists. Businessmen thought to be Unionists saw their patronage drop sharply. Such was the extent of the unpopularity of the radical Republicans that a thirteen year old boy, John Rankine, fired bullets into the homes of suspected Unionists families and threatened their children.

While other illustrative examples could be cited, it is clear that persons thought to be Unionists in Anderson County were not only unpopular but were in actual physical danger. It is not plausible that any intelligent person in the county would be unaware of this situation. But the problems went even deeper: the county government was corrupt. The best documented example involved the payment of taxes which were required to be paid in “hard” money – money legally acceptable, such as gold or silver coins or U.S. currency. But hard money could be scarce, and many counties issued “county scrip” instead of hard money in order to pay their debts, such as fees for those serving on a jury. There was no “backing” for this scrip, but it circulated in the county as money, usually valued at only fifty to sixty cents to the dollar. Payments to the county’s tax assessor and collector in hard money was then transferred to the county treasurer in county scrip but credited at full value to the financial benefit of anyone involved. In particular, W.H. Morrison who had scarcely a penny to his name when he was appointed as a bureau agent in 1867 became one of Palestine’s more prosperous citizens by 1870, at least according to the federal census for that year. This situation was not unnoticed by the citizens of that city, including John H. Reagan.

While much has been written about the career of Reagan, his involvement in some of the civic affairs and problems of Palestine
other than the railroads has escaped attention. Most of the citizens of Anderson County had not experienced directly the ravages of that war; many were willing both directly and indirectly to express their opposition to the dictates of the military government that had been imposed afterwards. When Reagan returned to Palestine after his release from prison, he was greeted not with thanks for his service to the Confederacy, but with scorn by many of his fellow citizens because of his letter from Fort Warren. Reagan once again became a farmer in order to provide support for his family – there were too few seeking his services. Of course, but very gradually, people began to accept the correctness of the advice he offered and he was requested to take a lead role in the investigation of corruption in the county.

The replacement of Tunstall as County Judge by J.N. Garner on October 24, 1868, was to lead to the first formal investigation of corruption in Anderson County. In March 1869, at the request of the Acting Controller of Texas, Garner initiated an investigation of the County Tax Assessor and Collector, J.A. Wright. On March 10, 1869, Garner presented his findings in a letter, accompanied by several affidavits, to the Secretary of State, W.C. Phillips. Garner found that Wright had violated the law a number of times, and, according to law, Garner was justified in removing him from office. However, the letter and affidavits documented at some depth the corruption in the county. Wright would collect county and state taxes in valid currency, and before turning it over to Morrison as county treasurer, replace much or all of it in county scrip. In one notable case, he simply used fifteen or sixteen hundred dollars collected in taxes for his own purposes without paying any of it into the county treasury. He further noted that Wright had been absent from the county several weeks in Galveston selling cotton and buying goods for the store operated by Morrison and Wright.

Included in the affidavits sent to Phillips was one from the District Clerk, W.H. King, certifying the statements in Garner’s letter to be true and correct and King further noted that “And I do further certify that Capt. John H. Morrison stated to me, voluntarily – that Joseph A. Wright Assessor (sic) & Collector had Furnished $2000.00 State Funds, to him (Morrison) to Purchase Goods at Galveston.”
By April 5, 1869, C.A. Leaverton was listed as the tax assessor and collector for the county.21 However, in the July term of the court, Morrison’s conduct as treasurer was questioned. Initially, his report as treasurer was received, approved, and allowed.22 However, two days later, the approval was rescinded, with the notation that the “Report of the Treasurer stand open for investigation and approval.” Morrison was “required to make a complete report according to Law to Court, all his official acts as Treasurer from the time he came into office to show what kind of funds he has received as Treasurer; to show what kind of funds he has received from Assessor and Collector, no report having been filed heretofore as the Law directs.” The report was to be returned to the court at a special meeting of July 26th. A.E. McClure (the editor and publisher of the local newspaper, the Trinity Advocate) and Jeff Word, Jr. (the acting county attorney) were to “assist” Morrison in examining the books of the sheriff and county clerk.23

At the meeting of July 27th, Morrison’s report was allowed and approved as far as money and jury scrip paid him by the Assessor and Collector J.R. Reid.24 All of his other reports from other sources were approved but the county drafts paid in by Wright into the county fund were rejected and not approved because county and other taxes had to be paid in U.S. currency. He was given thirty days to prepare a new report.25 At that same meeting, the county attorney (T. J. Word) was ordered to institute suits for money due the county against the bondholders for Wright and Peacock and against the administrator of the estate of Leaverton, the former Assessor and Collector.26

It is noted that proof of his acceptance of scrip could make Morrison criminally responsible for malfeasance in office, but, by law, prosecution had to begin within three years of the date of offense. This limitation was to be exploited by Morrison.

Of course, Morrison’s political enemies now had specific knowledge of his illegal actions in the treasurer’s office. Those enemies centered around John Reagan and A.E. McClure. Morrison needed to forestall an indictment for his offenses by a grand jury – at least for three years. How could this be accomplished?

Immediate action by the Police Court in presentation of evidence
was prevented by having Judge Garner removed from office by Gen. Reynolds and Morrison appointed in his place. Reynolds issued such an order, but the order also allowed Morrison to retain control of all records of the treasurer’s office until a new treasurer was appointed at some time in the future. In effect, Morrison was both treasurer and county judge. As county judge, he held a meeting on November 10, 1869. As the acting county treasurer, Morrison resubmitted his original report, and the record shows that the court ordered that Morrison’s report be allowed and stand approved in all things and furthermore “the said Morrison stand exempt from any further investigation on his report.” Morrison thus demonstrated his control over the actions of the Police Court. In protest, Word resigned as the acting county attorney.

However, Morrison also needed a longer range plan. 1869 was an election year. After the election to be held at the end of November for state officials, military rule would come to an end. Morrison was running for office as a state representative and had every expectation of being elected. However, he no longer would have the power to stop action of the Police Court against him. He needed a “friend in court” to prevent his indictment by a grand jury of the District Court – at least for three years. What could he do? He found a possible solution in the provisions for district judges of the new constitution. The judges were not to be elected – they were to be named by the Governor whose nominations could be influenced by political considerations. The judges were powerful and could easily control all actions in their courts if they were so inclined. Furthermore, a judge received $3500 per year and the term of office was eight years. This was a significant consideration for a needy person, and Morrison found that person in John G. Scott.

But who was Scott? He had probably first visited Palestine in 1857 as an agent for the “Masonic Times” at a meeting of the Grand Lodge of Texas. He apparently liked what he saw, for he returned in 1859, proposing to start a new school in town. He apparently failed to attract sufficient interest in his school but found employment as a teacher in the Palestine Independent Institute, starting in September 1860. He was listed as a teacher of “Ancient Languages and Natural Sciences,” and it was noted that he had a Bachelor of Arts degree at a time when
few teachers had such an educational background.\textsuperscript{30}

He also courted Josie Tully, reputed to be the most beautiful young lady in Palestine, and they were married in January 1860.\textsuperscript{31}

**AMBROTYPES OF JOSIE AND JOHN G. SCOTT**\textsuperscript{32}
Three months later, on April 19, 1861, Scott enrolled as a private in a volunteer company, the “Reagan Guards.” A few weeks later, the company marched to Shreveport, going on by boat to New Orleans to await orders. While there, he and others had ambrotypes (an early form of photographs) made to be sent back home as remembrances for those they had left behind.

The Reagan Guards, following several weeks in New Orleans, went by rail to Richmond, Virginia, where they formally became a part of the First Regiment of Texas Infantry of the Texas Brigade of the Army of Northern Virginia. Following some early and unexplained differences with his company commander, he was placed on detached duty with the commissary of the Texas Brigade, and the following month promoted to the rank of sergeant. This transfer probably saved Scott from participation in the disastrous battle of Antietam on September 16.

Apparently Scott’s talents were recognized by a number of officers, for when Jerome B. Robertson was appointed a Brigadier General in command of the brigade, twenty-six officers signed a letter to Robertson recommending that Scott be appointed his aide-de-camp. Robertson accepted the recommendation and as of November 12, 1862, Scott was promoted to the rank of First Lieutenant and assigned to Robertson as aide-de-camp. He remained at Robertson’s side almost until the end of the war.

Robertson specifically commended Scott’s assistance to him at the battles of Gettysburg (discharged his duties “with a promptness and ability that merit special notice”) and Chickamauga (“active and efficient, and rendered me valuable assistance”), two of the fiercest battles of the Civil War. Somewhat later, Robertson was court-martialed because of some comments he made in Tennessee and as a result, was relieved of his command.

Robertson, accompanied by Scott, then went to the Trans-Mississippi Command to seek a new assignment. Robertson was initially ordered to form a reserve army in Texas formed of whatever men who volunteered or could be conscripted. On February 4, 1865, Robertson reported that 39 companies of the Reserve Corps had been organized and were on their way to the rendezvous point.
at his headquarters in Brenham. He asked for field duty and was assigned to command a brigade in the division of Brig. General Maxey. Although no record has been located, it appears that it was at this point that Robertson and Scott finally parted — with Scott appointed a lieutenant colonel in the Third Texas Reserve.

Many years later, Josie said that she had not seen her husband from the time he marched out from Palestine until he returned at the end of the war. It is not known exactly when Scott did return. Josie Scott was listed on a roll of the Confederate indigent families on March 16, 1865. Scott must have returned about that time, for “Bertie,” the first daughter of Josie and John Scott was born that year. Scott had been formally paroled at Palestine on July 17 as a Colonel of the Third Texas Reserve. A second daughter, Phabby, was born in 1866. The family lived at 807 E. Murchison in a two-room home that had been a schoolhouse at an earlier time. On March 6, 1867, they apparently purchased the property. He joined the Masonic Lodge in Palestine on August 11, 1865, and established a school, described as one with four teachers and over 100 students of all ages. This school included both male and female students of all ages, suggesting that some of the returning soldiers did enroll - young men who would have been in school were it not for the war. Many felt that schools should start at once for their benefit. Some felt that the soldiers should be financially aided if they returned to school. Scott’s school became highly regarded in the town. There were four teachers in the school, probably including Scott himself, but there were less than 150 students in the school, and this meant financial difficulties for the teachers. While it is not known what the tuition was in his school, the typical school of the time appears to have had a session of five months — a length of time dictated by the agricultural economy. In Dallas at the time, in three different schools, the fees ranged from as little as $7.50 for the school session up to as much as $25, depending upon the educational level of the classes. While good teachers were highly regarded (and Scott was said to have been a very good teacher, especially of speech), it is obvious they were not highly paid.

As other educated men of that period, Scott turned to the study
of law as an additional way of supporting his family which now also included Josie’s mother. Scott successfully passed the required examination conducted by three practicing attorneys (including the noted attorney, T.J. Word), and was licensed to appear as a lawyer in all of the district and inferior courts of Texas. However, as previously noted, these were difficult times for all, including lawyers – many potential clients couldn’t afford the necessary fees. As a lawyer, essentially nothing is known about his work. He did become a member of the board of directors of a proposed railroad – possibly as their legal advisor.

Because of his war record, the people of Anderson county would not have thought of Scott being a Unionist. If they had, they would not have supported his school, much less elected him as Worshipful Master of the local Masonic lodge at the end of 1868.

However, Morrison needed not only a judge who could prevent his indictment, but one who would be politically acceptable to Davis should he be elected. As one writer expressed it, “it is also proper to add that I know very well that politics have nothing do with the duties of a judge, but at the present time (that) is not practically true.”

It is not known whether Morrison first approached Scott, or whether Scott first approached Morrison. What Morrison could offer was his support of Scott as the new judge for the 10th Judicial District – support which could play a decisive role in the naming of the new judge and, under the new constitution, would guarantee Scott economic security for the next eight years.

Clearly, by accepting the role of a Davis supporter, Scott would be giving up the good will of most citizens of Palestine and the respected status he enjoyed in the community. There was also the chance that Morrison could not deliver the job as district judge to Scott. There were others more qualified who were interested in the power and financial security association with the position as, for example, P.T. Tannehill of Athens who “had always been and then were Republican san reproche ....”
In November 1869, Scott’s decision to support Davis became public knowledge, not only in Palestine, but throughout much of Texas:

Anderson county is in a completer (sic) fermentation. The old leaders of the so-called Conservative party are much chop-fallen—their faces are as long as a yard stick. Col. Jno. G. Scott went from here to Virginia as a private soldier the late war, and served till the close thereof, when he held the rank of Colonel. After the surrender he went quietly to teaching school for a support, taking no part in politics until to-day, when he made the most eloquent speech before the Union League I ever heard delivered by any man. He spoke two hours, reviewing his own record, and gave his reason for the inactivity of his political course since the surrender...

The Hamiltonians—or, in other words, the Democrats, are now denouncing Col. Scott in the most bitter terms. They say that no one should be countenanced who pretends to continue their children under his instructions. They think he ought to be hung higher than the most vile assassin in the land...

our new convert will address the surrounding country for Davis and the Republican party. His appointments are as follow – viz. Tyler, November 18th; Canton, Van Zandt county, November 20th, and at Athens, November 22nd. He challenges an adversary that is so inclined, to meet him and discuss the issues of the day, and especially the famous Reagan and the infamous McClure, who infest our immediate burg.55

Davis was elected and even before taking office was deluged with letters from those seeking office. Friends of John G. Scott were not remiss in sending their own letters. W.H. King, amidst
reporting on the status of the radical Republicans in Anderson County, wrote that “Your friend John G. Scott of this place is going to apply through the Nomination of the League (Loyal League) Here – (of 1200 Leagues) for the office of District Judge of this Dist. Which I hope will be duly considered by your Excellency.”

And, most likely referring to the letters recommending Earle, the newly elected representative from Palestine, John H. Morrison, wrote to Davis noting that Anderson County had given Davis 200 of the little over 800 votes by which Davis was elected:

Govener I write you this to say to you that I have been informed that several recomedations have gon up from here recommending persons for Judge of the Dist to include Anderson Co – and I would ask you not to make any selections until you here from the Loyel people of which I represent –the Loyel peple are very ancious to have Col J G Scott appointed we have urged uppon to Acept and he has not consented as yet; but we are still in hope he will yeald to the reqests of his friends | hoping you may not think me presumptive I am Respectfuly....

This letter was followed shortly by another very unusual but very informative letter sent by members of the Palestine bar – certainly one of the most prestigious in Texas at the time. This letter will be transcribed in its entirety:

Palestine Texas
Apl 22nd 1870

His Excellency,
Edmund J. Davis,
Governor of the State
Sir.

We the undersigned Citizens of the County of Anderson, attorneys and counselors at Law, residing at this place, and practicing in the courts of the county and District, beg
leave respectfully to present to your Excellency our views, as to the appointment of Judge to preside in the courts of this District. And we do so the more readily because Col. John G. Scot one of our citizens of this place, has gone to the Seat of government as we are informed to seek at your hands the appointment of Judge to preside in this District.

The life, liberty, character and property of the citizen, depend on a correct expounding of the law, and a faithful execution of its commands. We have known Col Scot for the last ten or twelve years during his residence at this place and we state the following facts: viz – Most the time he has resided here, he has been engaged in the laudible vocation of teaching school, except during the four years of civil strife during which time, he was a soldier in the service of the so called Confederate States; on his return from this service he again engaged in teaching; at the Spring term of the District court for this county, he under went an examination in open Court and was admitted to the practice of the law, but continued to teach, and we state the fact, that he has up to this term, never appeared as an attorney in a District Court in this State, and that he never appeared as an attorney in the County Court until after the election last Nov. And while we disclaim any and all unkind feelings to Col Scot, we deem it our duty as attorneys, to state, that in our judgement, from his want of practical, legal knowledge, and his deficiency in the knowledge of the law generally, Col Scot is not a proper person to place in so responsible a Position. We state a further fact, that Col Scot is not a registered voter, and he has declared to some of the undersigned that he was once a number of the Legislature of the state of Kentuck (sic) before he came to this State. The interest of the people, and our interest as attorneys have prompted us to make these statements, that your Excellency may have the benefit of them, and attach to them what weight you see fit to do.
It is noted that T.J. Word was one of the lawyers who examined Scott originally. This assessment of Scott’s lack of legal capabilities came from those best qualified to evaluate them. By pointing out that Scott was not a registered voter, the lawyers were noting that his political disability under the Fourteenth Amendment to the U.S. Constitution had not been removed.

There appears to be no record of a formal application by Scott for the position, or of his request for the removal of his disability to serve in an office as a result of his service in the Confederate army. However, on June 2, his political disability was removed by an act of the U.S. Congress. On July 2, 1870, Texas was formally divided into 35 Judicial Districts. The 10th District was composed of Anderson, Henderson, Kaufman, and Van Zandt counties. On July 7, 1870, Davis submitted his nomination of John G. Scott as the judge for the 10th Judicial District. This nomination was approved.

About a month later, the time for holding court was established: in Kaufman County, on the first Monday in October, February, and June, for three weeks; in Van Zandt County, on the fourth Monday of October, February, and June, for two weeks; in Henderson County, on the second Monday of November, March, and July, for three weeks; and in Anderson County on the first Monday of December, April, and August, and could continue in session as long as required. We note that this circuit required Scott to be gone from Palestine for two months at a time three times a year – a requirement not really conducive for a good family life, especially that of a young family. And, of course, while he was traveling, he did not have an expense account – all the costs of travel came from his salary of $3500 per year. The salary was not quite as “handsome” as it might first appear, for he still had a home and family in Palestine to maintain.
Even before Scott was to hold court, potential problems arose for Morrison: at the July Term of 1870, the Police Court asked Reagan and T.J. Word to investigate the official conduct of Kelly, King, Peacock, Wright, and Morrison. Morrison knew that they would only reinforce the evidence gathered by Garner, and he no longer controlled that court. Also, on July 20, 1870, Davis had appointed W. H. Howard of Walker County to be the District Attorney for the 10th Judicial District and he accepted the appointment. Usually a district attorney could influence the actions of a grand jury, and Scott and Morrison were concerned, for, apparently, neither really knew him. Accordingly, as it appears, Howard was invited to come to Palestine to meet with Scott (and Morrison) before Scott would begin to hold court. After meeting with him, it appears that they had some concern about his future actions as District Attorney — he might well be too honest. They began to devise a plan to convince Howard to resign his office.

Howard had been an agent of the Freedmen’s Bureau in Walker County, but he subsequently also became a newspaper publisher and editor in Huntsville. After a falling out with his partner in the newspaper, he became in 1869 the county judge of Walker County. Newspapers of this period were the primary way of getting the “news” out to the people and the editors who determined what “news” of the day should be printed were politically important personages. A listing in the Texas Almanac of newspapers showed that few were “neutral” in their coverage of the news, and in order to help ensure that the views of the radical Republicans were made known, the legislature approved an act establishing “official” newspapers in each judicial district. By this act, the Governor was “empowered to designate certain journals to perform and publish the county and judiciary printing and advertising of the judicial district, respectively, in which such journals may be published.” Included in the required notices were any pertaining to a public or private sale ordered by a court, and even a requirement that a railroad passing through a county in the judicial district advertise the hours of arrival and departure of all regular trains as well as the charges for passengers and freight.
Of course, the Governor would select journals that could be expected to be supportive of his views, and the provision of the act almost ensured the financial success of one so selected – or even one formed to take advantage of the situation.\textsuperscript{70}

W.M. Wadell wrote to Governor Davis from Palestine “W.H. Howard and myself will commence the publication of a newspaper in this town ... which will be devoted to the advancement and interests of the Republican party ... this being the only paper of the party published in this Judicial District, we would like very much to have the public printing ....”\textsuperscript{71} However, in a letter written only two days later than that of Wadell, Morrison requested Davis to designate the Palestine \textit{Chronicle} (a new newspaper) as the official newspaper. He noted that the newspaper would be published weekly “and shall be an unfaltering, live, worker in the interest of the true Republican party of our State, and of which we esteem you as the standard-bearer, firm friend, and able supporter.”\textsuperscript{72}

A few days later, on September 2-3, 1870, there was a large gathering of Radical Republicans at Palestine as described in a letter signed “W.G. Howard.” In addition to those from Anderson County, there were representatives of Leon, Freestone, and Cherokee Counties. “Several hundred of our colored citizens from various parts ... came into town yesterday, under the soothing influence of the Militia bill, singing ‘Babylon Has Fallen.’”\textsuperscript{73}

Among the attendees from out of town was J.W. Farr, a former Union soldier who was to play a significant role in Scott’s later life. Farr was born in Canada in 1836, but after coming to New York by 1860, volunteered in the 18\textsuperscript{th} New York Infantry Regiment, and later volunteered for service as a sergeant in the 18\textsuperscript{th} New York Infantry Cavalry Regiment. After a citation for gallantry in action in the battle of Mansfield, he was promoted to the rank of second lieutenant and later to that of captain of Company “D” of the regiment. That regiment was mustered out of service at Victoria, Texas on May 31, 1866.\textsuperscript{74} After his discharge, he apparently went to Louisiana before coming back to Texas.\textsuperscript{75}

Of course, J.H. Morrison was prominent among the speakers. Morrison had been chairman of the House militia committee in the
previous legislative session and had introduced the militia bill in the House. A consistent supporter of Davis, he had been rewarded by his appointment as a colonel in the State Guard. Exercising his recently-granted authority as the Colonel of the Second Regiment of the Texas Guard, he, together with “Major” J.W. Farr, organized two companies of the regiment. Of course, Morrison had no experience in military matters, but Farr had been a captain in the Union army. The article noted that Farr had arrived in Palestine only a day or two before the meeting, but the article expressed the hope that he would remain in town.

Shortly thereafter, Morrison’s original proposal for an official newspaper failed because of a lack of proper machinery which had been expected to be obtained from a nearby newspaper. The problem of what to do with Howard remained. Apparently machinery was found, for Scott wrote to Davis requesting his approval of the Central Journal of Palestine as the official newspaper of the 10th Judicial District, noting that it would be “conducted as a high toned straight out gentlemanly, respectable Republican paper.” Morrison was to be the publisher and Howard the editor. The next day, September 21, 1870, Howard resigned his post as district attorney. With his resignation, at least until Davis appointed a new district attorney, Scott was free to appoint a district attorney pro tem — one amenable to his views.

Court Begins. A district judge has a great deal of power, and it is important how that power is used. As early Associate Justice of the U.S. Supreme Court, Samuel Chase, said in 1803:

Where law is uncertain, partial, or arbitrary...where justice is not impartially administered to all; where property is insecure, and the person is liable to insult and violence without redress by law, the people are not free, whatever may be their form of government.

The result of Scott’s conduct in office was to validate Chase’s observation.
Scott appears to have been virtually unknown outside of Palestine, and while some lawyers in the “traveling court” came from Palestine and would be presumed to know of Scott and his qualifications, it is doubtful that anyone really anticipated the extent to which Scott would abuse his power. Apparently some persons outside of Palestine even had a good impression of their new judge – before he began presiding:

Kaufman Star says of Judge Jno. G. Scott, new judge of the 10th district “We have no personal acquaintance with Judge Scott, but in a private letter from H. J. Em. Hawkins to the editor of this paper, Judge Scott is most favorably spoken of as an honorable and high-toned gentleman. Dr. Pyle also makes favorable mention.”

In accord with the court schedules, Scott presided as judge for the first time in Kaufman on October 3, 1870. James Brown, a prominent Republican in the county, was foreman of the grand jury. The docket was a very full one, and court did not finally adjourn until October 22.

Criminal cases ranged from those involving gambling up to murder, and there were a wide range of civil cases. One case provided a reminder of the days of the Fifth Military District which had governed Texas until earlier in the year. A man named Said Allen had been indicted for murder, and appeared before Judge Scott, claiming that he should be released on bail. He said that two officers of the United States Army had released him on receipt of bail for $5,000. However, he had no proof of this, and could not provide bail. He was remanded to the sheriff’s custody until his trial could take place.

After the first week of the court, N.M. Burford (a former law partner of John H. Reagan as well as a former District Judge), was quoted as giving “a flattering account of the flourishing town and county of Kaufman. Said of J.G Scott, spoke (of him) in complimentary terms as a scholar, a traveled man and a gentleman.
in his manners."84 It might be noted that Burford said nothing of Scott as a jurist. Burford was probably following the earlier dictum of John J. Good, who, in 1858, had written his wife from Weatherford "the judge has at last begun extending to me some little consideration and I find it has a happy effect on my purse. I have concluded no money is to be made by getting crossways with a presiding judge and hereafter and determined to be friendly with him at all events."85

Scott was very conscious of his prerogatives, and showed even at this time evidence of what became more obvious later: he wanted to control all aspects of what transpired in his court — whether it involved lawyers, jury members, or those appearing before the court. He fined Green J. Clark, a Kaufman lawyer and publisher of the Kaufman Star, for being absent from the first day of court. Subsequently, he fined T.T. Gammage of Palestine, N.M. Burford of Dallas, and F.D. Hallonquist of Kaufman for contempt of court. All of these fines were for $5, to be paid into the jury fund.86

Scott next held court in Athens in November. At that term, Reagan informed Scott of the intent to indict former Anderson County officials for their conduct in office in the December term in Palestine.87 For now unknown reasons, Howard was reappointed as District Attorney for the 10th Judicial District on November 10, 1870, and qualified on November 22, but then resigned again on November 28, but the effective date of the resignation was January 1.88 It is to be noted that this date forestalled the appointment of another district attorney until the December term of the District Court in Palestine would either be concluded or effectively so.

Little is known about this somewhat strange series of events. Howard, a new associate of Morrison, possibly began experiencing ostracism by the "good" citizens of Palestine and decided he didn't like it — there were better places to live. It is known that on November 28, Morrison wrote to Secretary of State James Newcomb naming G.D. Kelley as Registrar and Willis Cowan (a black minister), J.W. Farr, and W.H. Howard to the Board of Appeal for Anderson County.89 This board ultimately determined who could vote in that
county, but also paid the appointees well for their time. It is known
that Scott wrote Newcomb on December 8, noting that Morrison
and Farr "have made Howard resign his office as Dist. Atty." Scott
went on to note that Howard had never been in the courthouse and
"... I can't get him in without coming to an open rupture – which I
wish to avoid as long as possible – He ought not to draw the salary
while another man is doing the work ..." and "I wish you have his
resignation accepted to take effect from its date ...." 90

As a part of this series of events, Farr became editor of the
Central Journal in Palestine and Howard became editor of
Morrison's new official newspaper (also named Central Journal)
in nearby Crockett.

Scott’s real abuse of his power became very evident in his
conduct in his first court session in Palestine in December 1870.
Only a very few illustrations will be cited in this particular work,
but many others may be found in the report previously referenced
as “Impeachment.” Nineteen specific charges were made against
him, but some of these charges covered multiple subversions of
justice in the district.

When court convened in Palestine, the grand jury venire
appointed by the Police Court was immediately dismissed by Scott.91
He then ordered Sheriff G.D. Kelley to summon a new venire from
bystanders at the court. The new venire included Morrison, and
Scott appointed him as the foreman.92 Jerome C. Kearby, a young
lawyer from Canton, was appointed as district attorney pro tem.93
During the grand jury deliberations, Morrison was asked to step
from the room, and while he was gone, indictments against both
Morrison and Kelley were approved. On his return to the grand
jury room, Morrison refused to sign the indictments. Scott learned
of the actions of the grand jury, and coming into their room, he told
them they could not compel the foreman to return an indictment
against himself and if any member of the jury attempted to present
an indictment against Morrison in court, he would be heavily fined
– if not also imprisoned. The jurors were intimidated by Scott. It
does appear that an indictment was finally returned against Kelley
for shooting a drunken negro constrained by two policemen, but
no action was taken, for Scott forestalled any action at that term against Kelley as well.94 Reagan also testified they repeatedly tried in later terms of court in Palestine to get indictments against Morrison and Kelley for their mishandling of public monies, but never succeeded in doing so.95 It is obvious that these actions were payback by Scott to Morrison who never, in court, had to answer the charges against him for malfeasance in office.

At these first court sessions, no district attorney appointed by Governor Davis was present. However, early the next year, Davis appointed Thomas D. Evans of Bonham.96 He assumed office on March 1, 1871. In him Scott found a more than a willing accomplice in subsequent court sessions. The relatively small salary of a district attorney ($1200 per annum at the time) was augmented through a system of "court costs" assessed defendants which not only recovered actual costs such as jury fees, but also fees expected to motivate the district attorney to do his best to convict those persons indicted by the grand jury. However, at the time, the district attorney could decide not to prosecute the case (nolle prosequi) for any reason, such as defendants agreeing to paying costs, without a trial being held.97 This was a practice adopted very early in the Republic of Texas,98 but was subject to abuse, as illustrated in the life of Augustus M. Tomkins. His short tenure as the district attorney of the Second Judicial District showed that the position could be a very lucrative one. Just one of the ways in which Tomkins increased his income was by "nol-prossing causes in which the defendants had confessed judgment for costs" which confessions were regarded as admissions of guilt.99

A nolle prosequi is an entry made on the court record, by which the prosecutor or plaintiff declares that he will proceed no further. In early Texas, a prosecutor such as Tomkins could make the decision on his own. However, the ability of a district attorney to simply enter a nolle prosequi was severely limited by the time of Evans' appointment, as was noted in a law passed July 23, 1870. The district attorney had to make a written statement as to his reason for entering a nolle prosequi and that statement had to be approved by the presiding judge.100
An early example of the abuse of the *nolle prosequi* by Scott and Evans occurred in Kaufman County. Scott, as customary in those days, traveled by horseback. After a year of such travel, it appears that Scott decided that he needed a buggy and horses to make his judicial rounds in greater comfort. But he professed not to have the money to pay for them. He ordered Evans to “compromise” the forfeiture of bonds given by several members of the Gibbs family caused by the flight of M.M. Gibbs after his arrest for murder. Evans, after some negotiations with the Gibbs family, gave $500 to Scott and the matter of the forfeiture of the bonds was not pursued further. Evans claimed that the money given Scott was simply a loan – but one which was never repaid.\(^1\)

The abuse of this process was extensive. It became well understood in the district that “every crime had a price” and that a settlement with Evans for a criminal offense was less expensive than hiring a defense attorney. In one case in Van Zandt County in which the grand jury failed to indict an individual, they were subjected to extended verbal abuse by Scott, including the threat to not allow them to serve on any juries in the future.\(^2\) He actively participated in the court proceedings, treating the lawyers almost as little children who needed his guidance and in the case of disagreements, threatening them with imprisonment until fines were paid.

In Henderson County, in July 1872 in the courtroom in which a political meeting was being held, Scott threatened to assault the former sheriff, William Davis, who was present and with whom he had had a disagreement. This disagreement had led to Scott dismissing him from office.\(^3\) Scott claimed that there was a conspiracy to assassinate him, and that L.B. Greenwood, a local attorney, was the head of it. In this case, it was thought by some present that Scott, while still in the courtroom, had a pistol concealed beneath his duster.\(^4\) Many years later, George R. Davis, the son of William Davis, described the basis for Scott’s charge. It appears that George Davis and his younger brother, Jefferson, were hunting along Kickapoo Creek just to the north of Palestine. George Davis was only about fifteen years old at the time. The brothers saw Scott
and Evans on the road from Canton to Athens, and apparently were seen by them. On arrival in Athens, Scott claimed the boys were seeking a chance to assassinate him.\textsuperscript{105}

In another case in Palestine, Scott apparently decided to drive a man named McClellan out of town. McClellan operated a grocery and saloon on the courthouse square. Gambling occurred in them. Scott had him arrested and jailed, charged with so many separate offenses each with such a large fine, that McClellan had no possibility of securing his release unless he reached some sort of compromise with Evans. This ultimately resulted in the operation for a time by Evans, in his capacity as district attorney, of a saloon with gambling and with prostitutes available if desired.\textsuperscript{106} It appeared that all profits went to Evans in settlement of "court costs."

Judge Scott's conduct first began to surface at the state level in 1872. A number of Republicans in Van Zandt County stated their grievances with his conduct in an article printed in the \textit{National Index}, a Republican newspaper published in the nearby city of Tyler. No copies of that particular issue are currently known; however, it is referenced in the article in the \textit{Houston Telegraph} referenced in the introduction.\textsuperscript{107}

The Republicans of Van Zandt also sent a letter to Governor Davis which most likely elaborated on what was said in the article in the \textit{National Index}.\textsuperscript{108} In a letter to Scott and Evans, Davis said that he had received letters from citizens in the 10\textsuperscript{th} Judicial District charging "... That a combination and collusion exists between the Judge and Dist. Attorney in regard to the entering of a nolle prosequi in criminal cases on payment of costs and that a large number of cases some of them very important, have been dismissed with this understanding." He noted that some of these charges had been reported in newspapers and he asked for further information from them, including a "list of cases in which a Nolle Pros. has been entered ..... containing a statement of the nature of each case so disposed of."\textsuperscript{109} Evans received a subsequent letter from Davis concerning a charge by V.J. Stirman, Treasurer of Kaufman County, that "about half the amount of a certain judgment for $1000" from
the bondsmen for M.M. Gibbs (as described above) had been appropriated for the use of Evans and Judge Scott. Davis asked for an explanation from Evans.\textsuperscript{110}

At first Davis thought that the charges should be referred to a committee of leading citizens “for an unprejudiced investigation of the whole matter,”\textsuperscript{111} but apparently he had finally concluded to wait and call for a Committee of the Legislature to do this investigation. However, Scott picked up on Davis’s early suggestion the “the best course to be pursued by me with regard to the base malicious & Devilish course pursued toward me by the conspirators against my honor & manhood here (Canton) & at Tyler” was to select a committee to do the investigation. Scott felt that a legislative inquiry would take too much time and money and “I am poor.” Scott went on to suggest a committee of five composed only of Democrats, stating that “This quarrel is between Republicans.” Among those suggested was T.J. Word of Palestine (who had originally examined him for the bar) and former District Judge John G. Good of Dallas and Green J. Clark of Kaufman “the most thorough lawyer in this Dist.”\textsuperscript{112} Scott clearly wanted the matter settled before the next meeting of the Legislature. Evans endorsed Scott’s proposal, and even went so far as to state that his popularity in the district had not diminished and that he intended to run for office.\textsuperscript{113} In a note dated July 12, Davis expressed some concern about the time and distances involved and whether or not those finally selected would accept such an appointment. Moreover, Davis felt that Scott and Evans should select only two members of the committee, while their opponents would select two members and the Governor would appoint one member.\textsuperscript{114}

Travel in Texas was very difficult at this time. There was concern expressed about the ability to get together a suitable investigative committee. The proposal was not implemented – perhaps for the above or some unknown reason. Further action was deferred to the Legislature.

However, as noted in the \textit{Galveston News}, Scott, in response to the accusations to Davis, finally began to take action against many of those he formerly defended:
Samuel Peacock, District Clerk by appointment of General Reynolds, was tried and sentenced to the Penitentiary at hard labor for a term of two years with his diamond ring and gold headed cane. He was charged with the embezzlement of money – jury fees. J. G. (G.D) Kelly, holding the positions of registrar, postmaster, sheriff, and by virtue of being sheriff, tax collector, has given no bonds. He was tried before Judge J.G. Scott and cited to appear in twenty days and show why he should not be removed from the office.

The case of W.H. King, district clerk, an appointee of Davis and removed by District Judge Scott, was called this morning. He was charged with the embezzlement of county funds to the amount of fifteen hundred dollars. He absconded after the trial and conviction of his friend Peacock.

Col DeGress, in company with John H. Morrison, has just arrived, direct from Austin.\textsuperscript{115}

The Impeachment of Scott

The impeachment of John G. Scott was not the first of Davis’s appointees to be impeached by the House of Representatives. It was noted in a local newspaper in 1871 that Judge William H. Russell of the 15th Judicial District had been impeached, but was not expected to be convicted by the Senate. It predicted that his trial would be postponed until the next session. However, it was not postponed, but Russell was not convicted.\textsuperscript{116}

It is important to note that impeachment by the House required only a majority vote in favor, but conviction by the Senate required a two-thirds majority. Russell’s impeachment and trial were during the 12th Legislature. The Republicans dominated the House and usually did what the Governor wished, but in the Senate, the Republicans nominally had only a four vote majority – not enough to produce the vote required for conviction. In the 13th Legislature, the situation was almost reversed: the Democrats had a strong majority in the House, but only a small majority in the Senate because of “holdovers” in the Senate from the election of 1869,
the Republicans having lost only four seats. It is in this political setting that the impeachment and trial of Scott took place.

On March 24, 1873, the chairman of the judiciary committee, John Ireland, a former district judge and future Governor of Texas, reported that John G. Scott had been charged with being “guilty of many acts of malfeasance in office, of corruption in and oppression and tyranny under color of his office....” He enumerated ten charges, eight originating in Anderson County, one in Henderson County, and one in Kaufman County. Ireland asked that a special committee be appointed to examine the charges and present the results to the House. His request was approved, and he was named as chairman of the committee, along with Representatives Bewley, Cooke, Kleberg and Rimes. The investigation that followed led Rep. Harrison to introduce on April 7 a resolution allowing the committee to include further charges against Judge Scott. The committee submitted its report on April 17. This report contained ten articles of impeachment; the first being a general charge “that the administration of the criminal laws of the State of Texas, in said Tenth Judicial District, under the administration of the said John G. Scott as judge, has become and is notoriously corrupt” and that it was the general opinion of the people of the judicial district “that every crime had its price, and that he who had money could evade or escape punishment, no matter how guilty of violations of the criminal laws ....” The other articles were more specific and included charges against Judge Scott for his actions in Anderson, Henderson, Van Zandt, and Kaufman counties. He was charged with dismissing cases from the court docket in Henderson and Van Zandt counties after payments had been made to the District Attorney Thomas D. Evans, part of which was given to Judge Scott in open court. In Kaufman county, after a jury brought in a verdict of “not guilty” in a particular case, he did not allow the jury to hear any other cases and declared that none of the jurors could serve on a jury for at least a year. In another case in Anderson County, Scott claimed that a John G. Kirksey (the young son of a physician in Palestine) had unlawfully abused him by attacking him with a pocket knife. The charge would normally been heard by the justice
of the peace, but Scott ordered Kirksey arrested the same day and brought before Scott, who ruled that Kirksey had to produce within fifteen minutes a peace bond of $15,000 or go to jail. In this trial, Scott was the accuser, the jury, and the judge!

As been noted in the case of Morrison and Kelley, it paid to be a friend of Scott. His boarder, J.W. Farr, had been indicted on 34 charges of gaming in the Spring Term of 1872 of the court in Anderson. Ultimately, all but one charge was dismissed, and Farr paid a fine of $10.122

The testimony of one witness (the attorney J.J. Hill of Van Zandt County) was particularly revealing as to Scott's character. Hill quoted Scott as telling him during the June 1871 term of court in Kaufman that "he was a Southerner, as I was, and every pulsation of his heart was with his people; that he had taken office under the Radicals that he might serve his people; that he loathed his affiliations with the Radicals, and knew that his Southern friends censured him, but that they would understand him sooner or later.... no such man should be hurt in his court for killing a d...d negro." Hill testified that Scott hinted to him that he was open to a bribe to settle the case, saying that "I had not been on the bench but a little while before an offer was made to bribe me!" Continuing, Scott said with great emphasis: 'I grew indignant at it! But now it has become, so common, bribes are offered to me so frequently, that I pay no attention to it.' Hill claimed that Scott never forgave him for his "seeming stupidity" in failing to act upon the hint.123

The House of Representatives voted to transmit the articles of impeachment to the Senate and appointed a committee headed by Ireland to take the charges to the Senate. The committee was to demand the Senate order the appearance of Judge Scott to answer the charges of impeachment.

The Senate. The next day, Ireland and others on his committee, appeared before the Senate, transmitting the message of the House: “We do impeach John Scott, Judge of the Tenth Judicial District of the State of Texas, of high crimes and misdemeanors ... in due time (we) will submit articles.” The Senate then adopted a resolution to
appoint a select committee to consider the message and to report back to the Senate. This committee reported back the same day with a resolution asking the Senate to "resolve itself into a court of impeachment" the following day (April 19) at which the House committee would formally present the articles of impeachment. That resolution was subsequently approved.

The Senate was convened at noon the following day to sit as a court of impeachment. The Senate formally heard the charges, and after privately discussing them, issued a summons to Judge Scott to appear before the court at 12 o'clock noon on April 23.

Honey vs. Graham. Of course, Scott was entitled to be represented by counsel at his trial. John J. Good, a former district judge from Dallas who had appeared fairly regularly in Scott's courtroom, acted as lead counsel and assembled a small team of lawyers to assist him. In fact, three of these took a very prominent lead in the subsequent trial: J. W. Robertson of Tyler, David Sheeks, and Sebron Snead, both of Austin. These lawyers were awaiting a Texas Supreme Court decision in the case known as Honey vs. Graham, a case which had attracted much attention in Texas and one important for understanding the background of Scott's impeachment trial in the Senate.

In order to understand the focus of the trial, it is necessary to step somewhat backward in time. In 1870, George W. Honey was the clerk of the Texas Supreme Court in Galveston, as well as a Methodist minister engaged in helping to build churches for freedmen. Somewhat reluctantly, he agreed to run for the office of State Treasurer, and campaigned with Davis. He was elected, with a plurality even greater than that of Davis. Once in office, they didn't work well together almost from the beginning, and in May 1871, after Honey had refused to accept for deposit some cancelled coupons on frontier defense bonds given him by Bledsoe, the State Comptroller, Davis attempted, in vain, to have Honey removed from office.

Just about a year later, Davis issued a proclamation removing Honey from office, charging him with misappropriation of
public funds as well as taking an unauthorized absence from the state.  

He then appointed Dr. Beriah Graham, Superintendent of the State Lunatic Asylum, to the post. In a subsequent trial, the presiding judge, J.W. Oliver, found Honey innocent of the charges on misuse of public funds, but ruled that Davis had the power to remove Honey from office because his unauthorized absence from the state created a vacancy in the office. Thereupon, Honey appealed Judge Oliver's decision to the Texas Supreme Court. Arguments in the trial did not begin until January 1873 and in the following April were reargued at the request of the court. The primary issue was clearly that of under what circumstances the Governor had the right to declare an office of an elected official vacant. The legal case came to be known as "Honey vs. Graham." It is easy to infer that the attorneys could perceive the court's ultimate ruling. Nonetheless, the final ruling was not to be rendered until October 1873.

It is important to note that J.W. Robertson was the attorney for Honey and David Sheeks and Sebron Sneed were attorneys for Graham. All were noted attorneys and subsequently became the major figures in Scott's defense team.

At that time, the court of impeachment convened, with Judge Scott present and represented by counsel. As might be expected, Scott denied each and every "material allegation" contained in the articles of impeachment, and his counsel requested that further consideration of the charges be postponed until May 12. The court approved the request, but only until May 7, setting the time for the hearing at 11 o'clock that day.

At that meeting, eleven additional articles of impeachment were presented. The defense requested and was granted a recess of the trial until the next day in order to consider the new charges. The charges were not technical in nature; it does not require training in the law to understand why Scott (if the charges were true) should be removed from office. As one example, it was charged that as early as August 1871, Scott effectively stopped in Palestine a grand jury investigation of Evans for extortion. As another example,
it was charged that Scott instructed Evans that he had the right to “compromise” outside the courthouse cases on the court docket. On payment of an amount of money which depended upon the charge, Evans then withdrew criminal prosecution. Evans, with the knowledge and approval of Scott, received money in “not less than three hundred cases, and in sums of not less than five dollars in each case so disposed of, a great many of which were felony cases.”

Of course, in such a short time, it would have been impossible to attempt to refute the individual charges. Instead, the defense, building on their experience in the current case “Honey vs. Graham,” answered all articles with generally applicable statements, perhaps best summarized in their fifth and sixth points:

5. Because the ninth of said articles and the general charge in said articles of impeachment charge him ... with high crimes and misdemeanors in office, whereas no such offenses are made by the Constitution and laws of the State of Texas cause for impeachment.

6. Because said respondent can not be lawfully impeached under any existing Constitution or laws of force in the State of Texas.

These two points focused on the key question: could Scott be removed from office lawfully? The Constitution and law of the day simply prescribed the punishment for an offense; it did not specify the grounds for the offense. The “law of the land,” a principle dating back centuries in English and American law, requires that in order for a penalty to be imposed for some perceived offense, the grounds for the offense must be specified in the written law along with the punishment for the offense.

On May 9, in the House, additional charges were made against Scott, and, with the approval of the House, nine additional articles were added to those already approved. A vote was then taken in the court on whether or not the additional articles would be accepted. The vote was only 14 to 13 in favor of acceptance. It is
not clear whether the power of the radicals was simply too great or the defense argument made additional charges pointless. It was obvious that a two-thirds majority for conviction could not be obtained, and so Senator G. P. Finlay made a two-fold motion, first, to continue the trial until February 5, 1874, and secondly, to adjourn the court. This time the vote was 14-14, and the chair decided that under the rules of the Senate, the motion to adjourn the court prevailed. Thus, a vote on Scott's case was postponed, possibly with the hope that changes in the Senate might occur before the court reconvened, for state elections were scheduled for November.

There was, however, a quick rejoinder in the Senate on the decision. It was claimed that the postponement of Scott's trial was unconstitutional and deprived Scott of his right to a quick trial on the charges against him. However, the argument didn't address the real problem of Scott's guilt or innocence of the charges, but whether two-thirds of the court was willing to remove him from office. Whatever the decision of the Senate, Scott was still subject to arraignment in civil courts on any charges that might be made.

The Constitution of 1869 did provide another means of removal from office. Judges of the Supreme and District Courts could be removed by the Governor on the "address" of two-thirds of the members of both the House and Senate for "incompetency, neglect of duty, or other reasonable causes which are not sufficient ground for impeachment ...." In the prevailing political climate in the Legislature in 1873, this did not even seem a feasible approach for the removal of Scott from office. After the election of 1873 which resulted in a majority of Democrats in both houses of the legislature, other judges were removed using this provision of the Constitution, as discussed by Campbell in the referenced article.

The reaction of the House was swift. On May 14, 1873, they passed a resolution calling for the publication of 1000 copies of the document containing all of the testimony they had received:

WHEREAS, The special and counsel friends of John G. Scott, late Judge of the Tenth Judicial District of this State, are falsely endeavoring to prejudice the minds of uninformed citizens of this
State, in this, that this House of Representatives, together with the good people of the Tenth Judicial District, through partisan motives, are persecuting without just cause the said John G. Scott; therefore, in order that this House and the people aforenamed may be fully vindicated from the foul aspersions aforesaid ....

**Death of Scott.** Under the law, as soon as Scott was impeached, he could no longer serve as District Judge until such time as the Senate refused, by a two-thirds majority, to convict him of the charges brought against him. A special session in Anderson County had been approved on April 28. Davis acted quickly, appointing the highly respected M.H. Bonner as judge. However, because of a delay in the notification to Bonner, he presided over only a few cases, none relevant to the present study. On May 26, 1873, Bonner opened court in Kaufman County.

Scott had lost all his power over the citizens of Palestine, and he had returned from the hearings in Austin to the hostile environment there. We have previously noted that even though his home was only a few blocks from the courthouse, Scott didn’t always go to his home after holding court in Palestine. As borne out by subsequent events, it is quite possible he wasn’t really welcome in his own home. By the first of August, he had been indicted or was about to be indicted in all of the courts of the 10th District. Just as one example, he was indicted on two different counts of bribery and complicity in bribery in Henderson County. In a sense, these charges were more serious problems in that conviction in the Senate could only result in his removal from office; the new charges could result in fines and/or imprisonment. His trial could be conducted by the new district attorney, W.H. Martin, who was already quite familiar with Scott’s transgressions and had participated as a witness in his trial. It might also be noted that the political environment in Henderson County would be much more hostile to him than that in the Texas Senate. Of course, there were indictments of Evans as well, and it is obvious that he returned to Tennessee rather than to go to trial in Texas, for a letter was received in Austin from there:
Editors Democratic Statesman – That highly interesting attorney, Thomas D. Evans, who figured so extensively with one Judge Scott of your State, is well known here. At one time he was Deputy United States Marshal for the Middle District of Tennessee, and while in office displayed great financial ability. In the short space of one year, he succeeded in borrowing about ten thousand dollars from Uncle Sam, for which he failed to give his note. He also piously forged the official bond pertaining to his office. For the above irregularities he has been indicted, and his trial set for next November.

Hard Brick

On July 29, 1873, John and Josie Scott sold their home and some adjacent lots to J.W. Farr for $1000. Presumably they did this in order to raise money for Scott’s legal defense against the charges made against him, but it is just as likely that at least some of the money was expected to be used to find a new home for him. Whatever sources of support that Scott might hope for were most likely to be found in Austin – if, indeed, there was much real support even there. However, he was determined to go there to await the Supreme Court decision in the case Honey vs. Graham.

Scott checked into the Raymond House at the corner of Pine Street and Congress Avenue in Austin on August 17. Seemingly, Scott almost immediately contracted from an unknown source a disease known as erysipelas, sometimes known as “St. Anthony’s fire.” It is a bacterial infection which results in hard red rashes which can spread rapidly over the body and, in those times, usually resulted in death, for there was no known remedy. He was found dead in his hotel room at 10 p.m. on Sunday, August 24. He was buried the next day in what is now Oakwood Cemetery in Austin. His body had been taken in charge by the Masons, and he was buried with full Masonic honors in what is now Oakwood Cemetery in Austin. It was noted that he was a Knight Templar in that order.
The grave is now unmarked.

A radical newspaper gave a sympathetic account of his life:

He was unfortunate in being a victim to the malice of his political opponents. At the last session of the Legislature his enemies proposed articles of impeachment before the Senate, to which he filed his demurer....Naturally a fine and generous man, always the friend of the poor, and a lover of law and order, he was led by his generous impulses to do some acts, which laid him subject to attacks from his enemies. Such acts were the cause of the troubles which brought him to the city.151

Aftermath. Almost two months after Scott’s death, the final decision was delivered on October 21, 1873. Judge McAdoo in the majority opinion was quoted extensively in a newspaper article, but, in particular, said:

The sixteenth section of the first article of the Constitution reads thus: “No citizen of this State shall be deprived of life, liberty, property or privileges, outlawed, exiled or in any manner disenfranchised, except by due process of the law of the land,”

The right to hold and exercise the functions of an office to which an individual may have been duly elected or appointed, may be regarded both as property and privilege, and, therefore, the incumbent can only be deprived of his office in the manner pointed out in the above quoted section of the Constitution.152

Further, in the actual opinion, McAdoo pointed out that “due course of the law of the land”, in regard to the removal of officers, is clearly laid down by the constitution of the state, and in the criminal laws of the state, by impeachment or indictment and conviction.” He also ruled that “Mere malfeasance or misfeasance in office, or
even high crimes committed in office, do not of themselves vacate the office, but they do subject the incumbent to impeachment, or to indictment, trial, conviction and judgment of expulsion, by 'due course of the law of the land.'”

Impeachment of Judge William M. Chambers. On April 28, 1873, after the impeachment trial of Scott had already begun, the Senate received notice of the impeachment “for high crimes and misdemeanors” of Judge William M. Chambers of the 1st Judicial District. Subsequently, the Senate received the specifications of the charges against him on June 3, 1873, and two motions were made: one to set them aside and one to reject them. There is no notation in the Senate journal of the action taken on either motion before adjournment of the session the next day. However, the articles of impeachment were included in the journal.

As described above, before the next session of the Legislature, the Supreme Court decision in the case of Honey vs. Graham was delivered, including, in particular, the comments on the removal of an official by impeachment. The unresolved impeachment of Chambers provides some interesting, but mixed conclusions as to the thinking in the Legislature on this matter at the time.

At the following session of the Legislature, the Democrats were very firmly in control of the House, and following the recommendation of the Judiciary Committee, a Board of Managers was appointed on January 23, 1874, to represent the House at the trial of Chambers. The Senate referred the matter to the Judiciary Committee (chaired by Ireland, with William H. Russell (a former subject of impeachment as a judge) now a member) to determine what should be done. It was determined that Chambers was to be notified that a trial was to be held. It was already clear that a great deal of the time of the Senate (and particularly the Judiciary Committee) was going to be taken up by hearings on the impeachment but also by a number of pending House resolutions for addressing various judges. As a result, the Senate passed a resolution which required that a joint Senate and House committee be established to decide whether or not a judge should be addressed.
Chambers’ trial began on March 2, 1874, and the next day, he stated his answers to the charges made against him. While there were several points peculiar to his case, his defense followed exactly (but with more detail) the arguments made by Scott’s counsel, and were summarized in his last point that be “cannot be lawfully impeached under any existing Constitution or laws in force in the State of Texas.”\textsuperscript{160} His arguments were rejected by the Senate, with Ireland, an original accuser of Chambers, voting with the majority.\textsuperscript{161} Nonetheless, by overwhelming majorities in spite of seemingly overwhelming proof of his misbehavior, Chambers was found innocent of all thirteen charges against him.\textsuperscript{162}

As might be expected, the House was not pleased with the Senate’s decision — they wanted Chambers removed from office. “Addressing” Chambers didn’t appear to be a viable option — there just wasn’t enough time left in the session. Apparently, the question was raised as to whether or not the 1\textsuperscript{st} Judicial District could be abolished and thereby Chambers wouldn’t have an office. The opinion of Attorney General George Clark was requested on March 21; he replied on the 23\textsuperscript{rd}, saying essentially that a judge couldn’t be removed from office by legislation, even by abolishing a judicial district. However, he did point out that the Legislature did have the power to re-organize judicial districts at any time.\textsuperscript{163}

The Legislature did that, transferring all counties (except one — Orange County) from the 1\textsuperscript{st} Judicial District to the 2\textsuperscript{nd} Judicial District. It was said that this action “practically beheads Chambers.”\textsuperscript{164}

Nonetheless, it seems clear that in the final arguments of the case, the Senate agreed with Chamber’s position, for despite the overwhelming proof of his illegal actions, no article was sustained as grounds for impeachment.\textsuperscript{165} Nonetheless, this decision did not end the attempt of the House to remove him from office.\textsuperscript{166}

\textbf{The Constitution of 1876}. The trials of Scott and Chambers, as well as the trials of those district judges that were addressed, focused particular attention on district judges in the Constitutional Convention of 1875. Article V on the Judicial Department specified minimum
qualifications for one to hold the office and removed some powers given in the prior constitution, such as the power to remove sheriffs.\textsuperscript{167} Article XV on impeachment differed only from that of the Constitution of 1869 in that the provision for “addressing” judges was moved from the article on the Judicial Department and placed in the article on impeachment.\textsuperscript{168} More importantly, the whole problem of the misbehavior of any district judge was effectively moved from the Legislature to the Supreme Court. Grounds for the removal of a district judge were spelled out in some detail, and so due process of the law could be observed in the future.

In this manner, the argument used in Scott’s defense and followed in the defense of Kea Chambers was finally vindicated.

Conclusion. Four of Davis’s appointments as district judges were impeached but none were convicted.\textsuperscript{169} William Russell’s impeachment was quickly settled on the basis that the Legislature was not the place for resolution of any complaint against him – the complainants properly should have gone to the Supreme Court if they charged he erred in the actions. The charges against Scott and Chambers certainly justified, at a very minimum, their removal from office. While Scott died before the argument of his defense team could be heard, it was followed in the defense of Chambers and prevailed. The net result was a change in the state’s constitution.

Chambers was an unsuccessful Republican candidate for governor in 1876, even with his tarnished record of his actions as a judge. John G. Scott passed into history with his story and actions quickly forgotten. He was one of the most corrupt judges in Texas history – possibly the most corrupt because of the number and varied nature of his abuses of power. As noted previously, he allowed the lawlessness of the time to enter even the courtroom, and, in his district, no man was truly free.

Notes on Morrison:
House Journal, Adjourned Session, Sept 28, 1871, pp. 120-121. J.W. Robertson, a lawyer and representative from Robertson County, asked Morrison to withdraw a motion that he had made.
Morrison then said: I won’t withdraw it – my set have been under for many years; we have the power now, and intend to use it.” Robertson replied “You are a dirty penitentiary thief, an escaped convict from the Iowa penitentiary, and ought to be there now.”

*Flake’s Bulletin*, Nov. 24, 1869, which reported that several freedmen on the way from Freestome County to the Union League meeting in Anderson County (last Sunday) said that they were going to vote in this county at the election; that they have been told that they could and ought to do so, there is now no doubt. … The freedmen are ignorant of their duty and responsibility, and are not so much to blame. The blame rests on those black-hearted men with white skins, who have informed them…”

**Notes**

1 *Houston Telegraph*, April 17, 1873

2 Charles Henry Moore, “Anderson County During Reconstruction”, Typescript, Dolph Briscoe Center for American History, University of Texas at Austin. 3. The typescript was dated 1933, but clearly was written at a much earlier time for inclusion in the family archives.

3 Western Historical Co., *The History of Lee County, Iowa* (Chicago: Western Historical Co., 1879), 846. Morrison had an older half-brother, G.D. Kelley. Kelley also moved to Texas, initially living in Hill County, and then in Palestine.

4 Frances T. Ingmire, *Anderson County, Texas, Marriage Records* (St. Louis, MO: F.T. Ingmire, c1985), 33


6 The birth of Morrison’s daughter in 1862 and a son in 1864 does suggest he somewhat overstated his status as a refugee during the war. See *United States Federal Census*, 1870, Anderson County, Texas.

7 For a short introduction to this subject, see Claude Elliot, “The Freedmen’s Bureau in Texas”, *Southwestern Historical Quarterly* 56 (July 1952), 1-24. Also see William L. Richter, *Overreached on All Sides: the Freedmen’s Bureau Administration in Texas, 1865-1868* (Austin: University of Texas Press, 1991), 187. This references Morrison specifically. For more details and references in the complex subject, see Christopher B. Bean, “A
Stranger Amongst Strangers; An Analysis of the Freedmen’s Bureau Sub Assistant Commissioners in Texas, 1865-1868” (Ph.D. Diss., University of North Texas at Denton, 2008).

8 Election and Appointment Register (Texas State Library and Archives Commission). Special Orders No. 36, 5th Military District, March 26, 1867.


10 Register of Elected & Appointed State & County Officials, Anderson County, 80-81, November 19, 1867, by S.O. 195, 5th Military District, November 15, 1867, Texas State Library and Archives Commission.

11 Claude Elliott, “Union Sentiment in Texas, 1861-1865”, Southwestern Historical Quarterly 50 (April, 1947): 469. Elliott has described Unionists during the war as falling into three classes: those who actively and openly supported the Federal cause; those who remained outwardly neutral; and those who submitted. Such a classification seems to have continued after the war.


14 Tri-Weekly State Gazette (Austin), August 5, 1870. The problems of the Unionists during the Reconstruction era was not confined to Anderson County or Texas. From Louisiana, it was noted that “I was with astonishment that I found how complete is the re-establishment of the old ‘Reign of Terror’ for Southern Union men; the wistful glance at strangers, the constraint upon their speech – for none dare to speak out who wish to live in the South – with the exception of those who live in large cities, where numbers make men bold. These, and an air of depression and suffering, are the present characteristics of the ‘native Unionists’.” Also see Harpers’s Weekly, August 4, 1866.


16 Flake’s Bulletin (Galveston), August 7, 1868. W.M. Waddell, one of the supervisors of public free schools in Texas, testified to the U.S. Congress that there was not only of violence against Unionists, but the “rebels” practiced ostracism against Unionists. The wives and children of Unionists were also ostracized. Businessmen who were Unionists were not patronized and, consequently, their businesses failed. See “Certificate of the Election of Hon. W.S. Herndon”, Misc. Doc. No. 5, 42nd Congress, 2nd Session (1872).

17 Note, Anderson County District Court Minutes, Book K: 507, Anderson County Courthouse, Palestine, Texas.

18 Register of Elected & Appointed State & County Officials, Anderson County, Get precise reference _Reel 4?

20 Garner, “Containing evidence of Malfeasance”, Affidavit of King. Wright had previously been a successful grocer in Houston County. See United States Eighth Census (1860), Houston County, Texas, Schedule 1 (Free Inhabitants), Record Group 29 (National Archives, Washington, D.C.). We have previously noted the presence of a clerk in the home of J.H. Morrison in 1870.

21 Note, April 5, 1869, Book 10: 137, Anderson County Minutes of the Commissioners Court, Anderson County Courthouse, Palestine, TX.

22 Note, July 5, 1869, Book 10: 137, Anderson County Minutes of the Commissioners Court.

23 Note, July 27, 1869; Book 10, 139-140, Anderson County Minutes of the Commissioners Court.

24 Leavorton had died, and Reid appointed in his place. ELECTION REGISTER


26 Note, July 27, 1969: Book 10, 142-143, Minutes of the Commissioners Court of Anderson County, Anderson County Courthouse, Palestine, Texas.

27 Flake’s Bulletin (Galveston), Nov. 6, 1869. It was also noted that as of the date of Reynold’s order, Morrison resigned as county treasurer, but was to “retain the books and papers belonging to that office until his successor qualifies.” In effect, he would still be in control of the office.

28 Note, Nov. 10, 1869: Book 10, 149, Minutes of the Commissioners Court of Anderson County, Anderson County Courthouse, Palestine, TX.


30 Trinity Advocate (Palestine), December 12, 1860.

31 Ingmire, Marriage Records of Anderson County, 1, 41.

32 Ambrotypes from the Lawrence T. Jones III Texas photography collection, courtesy of the DeGolyer Library, Southern Methodist University. The ambrotype of Josie Scott was made by Isaac Cline in Palestine, Texas, in 1863. Scott’s portrait is extracted from the original ambrotype made in 1861, and is the only known portrait of him.
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33 Harold B. Simpson, Hood’s Texas Brigade: Lee’s Grenadier Guar


35 Ibid.

of Chicamauga, he noted that he was waiting to talk with Hood when Hood was
wounded in the leg and fell into the arms of Texans of his division. Whether
Scott was with Robertson at the time or had been sent elsewhere is not known.

37 Ibid.

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38 Harold B. Simpson (ed.), Touched with Valor (Hillsboro, TX: Hill

39 Ibid, Touched with Valor (Hillsboro, TX: Hill
Junior College Press, 1964), 12-15

40 Mary Kate Hunter Papers, Palestine Public Library. Vol. 10, p. 93.

41 Linda Mearse, Confederate Indigent Families List of Texas 1863-

42 War of the Rebellion, 69 (Supplement), p. 128. It will be noted
later that Scott wrote that he was actually a Lt. Col. In the Third Texas
Reserve, but he was always referred to simply as “Col. Scott.”

43 Hardy, Heck, Moore, Historic Resources Survey of Palestine,
Texas ([n.p.], 1991), Appendix B-39, Special Collections, Palestine
Public Library, Palestine, TX. The home has since been destroyed. A
picture of it may be accessed at http://texashistory.unt.edu/ark:/67531/
metaphth10107/?q=John%20G.%20Scott%20Palestine. This was a very
small house for the number of occupants.

44 Deed Record, March 6, 1867, Book I: p. 585, Anderson County
Deed Records, Anderson County Courthouse, Palestine, Texas.

45 Charles Lee Steen, The 150 Year History of Palestine Masonic

46 ri-Weekly Telegraph (Houston), June 7, 12, 1865.

47 Flakes’s Daily Bulletin (Galveston), July 4, 1865.

48 Steen, The 150 Year History of Palestine Masonic Lodge No. 31, 306.

49 Dallas Herald, July 8, August 19, November 11, 1865.

50 Entries, April 11, 1867, Book H, 175 and April 12, 1867, Book H,
194, Anderson County District Court Minutes, Anderson County Courthouse,
Palestine, TX.

51 H.P. N. Gammel (comp.), The Laws of Texas 1822-1897 (10 vols.;
Austin: Gammel Book Co.,1898), 6 81. August 3, 1870. This law provides
for the incorporation of the Bolivar Point,Eastern Texas, and Red River
Railroad Company. Scott is listed as a member of the Board of Directors, as
is G.D. Kelley.

George C. Rives to A.D. McGinnis, *E.J. Davis Governor's Papers*, Record Group 301, December 27, 1869, Texas State Library and Archives Commission.

The State of Texas Against Judge John G. Scott, of the Tenth Judicial District, Impeached for High Crimes and Misdemeanors in Office (Austin: John Cardwell, State Printer, 1873), 81.

*Union* (Houston), November 24, 1869. The views expressed by Scott in this speech of the political consequences of the South’s loss in the Civil War did not materially differ from those of Reagan in his Fort Warren letter.

Rives, to McGinnis, April 7, 1870, Governor’s Papers (Davis).

John H. Morrison to E.J. Davis, April 12, 1870, Governors’ Papers (Davis). It might be noted that at that time, Morrison was a member of the Republican State Executive Committee and Chairman of the Committee for the First Congressional District with Scott as the Secretary. See *Union* (Houston), March 20, 1870. Morrison had quickly risen in political power and it is doubtful his views would have been ignored by Davis.

Scott received his license to practice law at the Spring Term of 1867. See Book H, 175-176, Anderson County District Court Minutes, Anderson County Courthouse, Palestine, Texas.

A review of the names of Kentucky legislators in the years 1843 – 1860 as compiled by the Kentucky Historical Society does not confirm Scott’s supposed declaration. See *Biographical Directory of the Kentucky General Assembly* (Frankfort, Kentucky: Kentucky Historical Society, 1965).

John H. Reagan et al to Edmund J. Davis, April 22, 1870, Governors’ Papers (Davis).

*Senate Journal of the Twelfth Legislature, State of Texas, First Session* (Austin: Tracy, Siemering & Co., State Journal Office, 1870), 134. On May 26, 1870, the Senate postponed “indefinitely” action on Senate Bill 54 which proposed to prescribe qualifications for the Judges of the Supreme and District Courts and District Attorneys. Although it is not currently known what qualifications had been contemplated for these offices, it is entirely possible that the Texas Legislature might have spared itself much work in coming sessions, and the people of Texas might not have had to endure the injustice that prevailed in a number of the judicial districts.

*Congressional Globe*, 41st Cong., 2nd Session (1870), 969. It appears that the note which appeared in the Dallas Weekly Herald, May 7, 1870, to the effect that Scott had been relieved of his disability by a bill passed April 27 was in error, for the *Congressional Globe* reported that the bill passed on June 2, 1870.

Gammel (comp.), *The Laws of Texas*, 6, 195.
Several appointees of Davis to this office declined to take office, believing as they did that such an appointment was unconstitutional. One such appointee was Capt. J.K.P. Record of Dallas. It was noted that “J.K.P. Record refuses to be District Attorney by appointment from King Edward” (Honey-Grove Enterprise, September 24, 1870) The Constitution of 1869 specifically stated that the District Attorney was to be elected. Some appointees could not take the required oath and therefore could not qualify. In the absence of the official district attorney, the district judge was empowered to appoint a lawyer in the court to act in his place, and Record did in fact serve as a district attorney pro tem. (Dallas Herald, October 8, 1870).

For additional information on Howard’s work as a Bureau Agent, see Richter, Overreached on All Sides, 246-248. Richter also mentions Howard’s former partner in the newspaper business, M.H. Goddin, and commented that that the Bureau was probably glad to get rid of both of them.

The intended purpose of the Militia Bill was to help preserve law and order and, in particular, to help protect the freedmen. It should be noted that the federal census for that year doesn’t list someone named “W.G. Howard.” Given W.H. Howard’s background as an editor, he was most likely the author of the letter. It might also be noted there was no mention of the formation of the State Police - possibly because there was no direct involvement of Morrison. See Barry A. Crouch, Donaly E. Brice, The Governor’s Hounds - The Texas State Police, 1870-1873 (Austin: University of Texas Press, 2011).
In fact, in Scott’s letter to Davis, he suggested that Davis should be in no hurry to appoint a replacement for Howard, since Scott could make his own appointments as needed.


The editor of the *Kaufman Star* was Green J. Clark, while Dr. Pyle was a highly respected physician in Kaufman.

Note, Book 3: 311, Kaufman County District Court Minutes, Kaufman County Courthouse, Kaufman, Texas.

Note, Book 3: 330-331, Kaufman County District Court Minutes.

*Weekly Herald* (Dallas), October 15, 1870. It might be noted that former District Judge J. J. Scott somewhat later “spoke in glowing terms of Judge J.G. Scott.” See *Weekly Herald* (Dallas), February 25, 1871.

John J. Good to his wife, January 7, 1858, “Letters of John J. Good” (AR-500, Special Collections, University of Texas at Arlington Library, Arlington, Texas).

Notes, Book 3: 320-321, Kaufman County District Court Minutes, Kaufman County Courthouse, Kaufman, Texas.

The *State of Texas Against Judge John G. Scott*, 64.

Election and Appointment Register, *loc. cit.* Undoubtedly Howard had knowledge of the pending action against Morrison in December, and perhaps this information influenced a change in his thinking.

John H. Morrison to James P. Newcomb, November 28, 1870. Secretary of State Letters, Archives Division, Texas State Library, Austin, TX.

John G. Scott to J. Newcomb, December 8, 1870. Secretary of State Letters.

The stated reason for the dismissal of the venire was that two Democrats were members.

It should be noted that by December 1870, John H. Morrison was serving in the Texas House of Representatives, having been elected in 1869.
Claiborne Kearby, later became a noted criminal defense lawyer in Dallas and was very active in politics. He was known as “Major Kearby”, a purely honorary title as shown by his Civil War service record. See Dallas Morning News, July 25, 1905.

94 The State of Texas Against Judge John G. Scott, 22. It should be noted that there is no known account of Scott’s interaction with the grand jury in which the District Attorney pro tem Kearby is noted as being present.

95 The State of Texas Against Judge John G. Scott, 67.

96 United States Ninth Census (1870), Fannin County, Texas. T.D. Evans was recorded as lawyer born in Tennessee living in Bonham and as a single man with personal property valued at $5,000. His age was given as 27. The source of his relative wealth was to be revealed to Texans several years later (1873).


100 Gammel (comp.), The Laws of Texas, 6, 213. Law of July 23, 1870.

101 The State of Texas Against Judge John G. Scott, 6-7, 55-56, 60-61.

102 The State of Texas Against Judge John G. Scott, 91-93

103 “Texas Constitution of 1869” (Article V, Section XVIII). This section of the Judiciary Article gave the district judge this authority. HOWEVER, THIS WAS OVERTURNED BY SUPREME COURT.

104 The State of Texas Against Judge John G. Scott, 37-38.

105 Athens Weekly Review, February 1, 1923, 7-8. George Davis stated that his father was “too honest” to suit Scott and Evans. This incident seems to reflect Scott’s insecurity based upon his perception of the low regard in which he was held in the district.

106 The State of Texas Against Judge John G. Scott, 16-17, 27-29, 42-54, 84-85

107 Houston Telegraph, April 17, 1873. A series of copies of affidavits provided me by Mr. Elvis Allen of Van Zandt County (obtained from the Archives Division of the Texas State Library) provide additional evidence of the misconduct of Scott and Evans in the courthouse in Canton, Van Zandt County. In one document dated May 6, 1872, a man indicted for selling spirituous liquors without a license appeared in court and showed Judge Scott his license. He was told that his license was “well and good”, but he had not paid enough money and that the best thing he could do was “to go to Col. Evans, Dist. Attorney, and compromise said matter, as it would cost me less than to let it come into Court.”

108 The State of Texas Against Judge John G. Scott, 96-103.

109 E. J. Davis to J.G. Scott and T.D. Evans, May 24, 1872, Governor’s Papers (Davis).
Tri-weekly State Gazette, Austin, April 17, 1871. Russell’s impeachment in 1871 is an interesting story in itself, for it gives some insight into Davis’s early expectations of the judges he had appointed. Without going into detail as outlined in the Journal of the House of Representatives, Judge Russell had held in contempt of court several radicals of Brownsville. They first appealed Russell’s actions to Davis who initially upheld Russell’s actions, writing to him “Do your duty fearlessly whether it strikes friend or foe. I want all sorts of lawlessness on the Rio Grande suppressed; and, if any suppose that I will permit any of our political or personal friends to be screened from just punishment, why I can say that he is badly mistaken.” See Houston Telegraph, December 15, 1870. Later, Davis supported the impeachment of Russell, who, ultimately, was not convicted, and became a political foe of Davis. See Weekly Democratic Statesman (Austin), August 31, 1871; Brown, History of Texas 2, 465.


Journal of the House of Representatives, Thirteenth Legislature, 663.

The State of Texas Against Judge John G. Scott, 110.

The State of Texas Against Judge John G. Scott, 148.

Journal of the Senate of Texas, Thirteenth Legislature (Austin: John Cardwell, State Printer, 1873), 530.

Journal of the Senate of Texas, Thirteenth Legislature, 547.

Journal of the Senate of Texas, Thirteenth Legislature, 558.

Journal of the House of Representatives of the Twelfth Legislature, Part First (Austin, J.G. Tracy, State Printer, 1871), 1734, May 26, 1871 and Galveston Tri-Weekly News, May 31, 1871. A primary factor in this failure appeared to be that the legislature was scheduled to adjourn on May 29.


Tri-Weekly State Gazette (Austin), June 17, 1873.

Journal of the Senate of Texas, Thirteenth Legislature, 583.
Some of these charges simply provided more details to other charges, so at this point in time, there were only nineteen articles of impeachment under consideration.

In the election of 1873, Democratic candidates completely overwhelmed most Republican candidates. With the defeat of Edmund Davis by Richard Coke, only a few districts remained Republican and Republicans could only offer token opposition to Democratic proposals in the 14th Legislature.

Bonner did not receive a notice of his appointment until much later in May. He presided over the court for the first time on May 21. A few days later, with no actions pertinent to the present study, court was adjourned to the August term. See Note, Book M, 336-345, Anderson County District Court Minutes, Anderson County Courthouse, Palestine, Texas.

Micajah H. Bonner was born in Alabama in 1828, and came to Texas in 1849. At Rusk, he became a law partner of J. Pinckney Henderson. It is said that in 1873, following the impeachment of Scott, the lawyers in the 10th Judicial District unanimously recommended that he be appointed as the District Judge. He was reappointed by Gov. Coke in 1874, and ultimately became an Associate Justice of the Texas Supreme Court.

Josie Scott and J.W. Farr were married less than a year after the death of Scott. See Ingmire, Marriage Records, 2, 15. Also see Notes, Anderson County District Court Minutes, Book I, 406, 453, 477.453. During that term, Farr was admitted to the practice of law (p. 406, April 23, 1872), faced a number of charges of gambling which were dismissed by Scott (453). and on April 30 served as district attorney pro tem in the case of the State vs. A.J. McFarland (477). Farr practiced law the remainder of his life and
served as a mayor of Palestine. He was very active in Republican politics in Anderson County.

146 The Standard (Clarksville), August 7, 1873. The account was somewhat in error as to the nature of the charges against Scott. One of the indictments was for carrying a pistol, while another was for bribery. Two different indictments of Evans for bribery were presented by the Grand Jury in July. See Note, Henderson County District Court Minutes, Henderson County Courthouse, Athens, TX, Vol. F, 37-44.

147 David S. Walkup, “Martin, William Harrison”, <http://tshonline.org/handbook/online/article/ma62>. W. H. Martin was remembered as “Major Martin”, the officer who led the remnant of Hood’s Texas Brigade from Appomattox Courthouse back to Texas.

148 Democratic Statesman, August 14, 1873. Evans had fled Texas and never answered the charges against him in the courts of the 10th District. Evans was later found guilty in Tennessee of forgery and sentenced to imprisonment for five years at hard labor. See Memphis Daily Appeal, November 29, 1873.


150 The Houston Telegraph, August 28, 1873. This particular account says that he received no care from any of his radical “friends.”


152 Austin Daily State Journal, October 23, 1873.


154 Journal of the Senate of Texas, Thirteenth Legislature, 777.

155 Journal of the Senate of Texas, Thirteenth Legislature, 1146

156 Journal of the Senate of Texas, Thirteenth Legislature, 1153.


158 Journal of the Senate of Texas, Fourteenth Legislature ([Austin: Caldwell & Walker, State Printers], 71), February 10, 1874.

159 Journal of the Senate, 121, February 24, 1874.


161 Journal of the Senate, 143, March 5, 1874.

162 Journal of the Senate, 169-170, March 14, 1874. Ireland did not participate in these votes.


164 Weekly Democratic Statesman (Austin), April 9, 1874. The law was approved April 8, 1874. See Gammel (comp.), The Laws of Texas, 8, 84-85.

165 Journal the Senate of Texas, Fourteenth Legislature, 541-545.
The House proceeded to “address” Chambers for the offenses defined in the Constitution of 1869. For reasons now unclear, the Senate was not willing to proceed on this action. Finally, the House was successful in “beheading” Chambers by removing all counties in his district (save Orange County) to another judicial district.

Gammel (comp.), *The Laws of Texas*, 8, 800-808.

Gammel (comp.), *The Laws of Texas*, 8, 825-826.

Three judges (Russell of the 15th District, Scott of the 10th, and Chambers of the 1st) were actually tried in the Senate; J. W. Oliver of the 33rd resigned before a trial was held. None of the charges against these judges were as numerous or as serious as those against Scott.