

10-1973

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Nancy H. Bowen

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Recommended Citation

Bowen, Nancy H. (1973) "A Political Labyrinth: Texas in the Civil War," *East Texas Historical Journal*: Vol. 11: Iss. 2, Article 5.
Available at: <http://scholarworks.sfasu.edu/ethj/vol11/iss2/5>

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A POLITICAL LABYRINTH: TEXAS IN THE CIVIL WAR

by Nancy Head Bowen

Thirty-six years ago an eminent historian, Charles W. Ramsdell, surveyed some of the problems involved in writing the history of the Southern Confederacy. Ramsdell urged the student of the Confederacy to steep himself in the South, to acquaint himself with the "nature and extent of the material resources" of that region, and to plunge into ante-bellum state politics. Ramsdell was convinced that local and intrastate issues were as important in state affairs as reactions and responses to Federal politics. Furthermore, he asserted that local ante-bellum political alignments, personal rivalries, and social and economic distinctions carried over into the Confederate experience and helped to shape the peculiar nature of that exercise in nation-making.¹ More recently, Frank E. Vandiver supplied an updated version of the problems which remain unsolved in Confederate history. New questions, new techniques, and new analytical tools will produce new answers regarding the Confederate experience, Vandiver suggested; but old questions persist, demanding answers. Although Vandiver tends to view the Confederacy from the perspective of Richmond, or more particularly from the window of Jefferson Davis' office, he has taken a hard look at the Trans-Mississippi West and has tried to unsnarl some of the tangles in that oft-ignored Department. But, as he notes, the experience of the Trans-Mississippi will become comprehensible only after historians prowl the labyrinth of intrastate politics, factional rivalries, and personal contests.²

The history of Civil War politics in Texas, the most important state in the Trans-Mississippi Department, currently is an impoverished history. Fortunately, the neglect which characterizes non-military aspects of Civil War Texas does not attend the state's ante-bellum politics. For example, Randolph Campbell has lifted the Texas Whigs from obscurity and has managed to identify their stand on some public issues. Frank H. Smyrl and Ralph A. Wooster have scrutinized the Unionists and the Know-Nothings to the point that we will continue to equate the two groups at our own peril. Indeed, Professor Wooster, in sifting through the Federal Census returns of 1850 and 1860, has given us valuable, digested data on Know-Nothings, secessionists, wealthy Texans, and slaveholders. Llerena Friend's biography of "the great designer", Sam Houston, moved beyond its central figure and surveyed pivotal issues, including frontier defense, in the 1850's. Earl Fornell's study of Galveston on the eve of secession examined island city personalities and factions, scanned the development of informal banking operations, and sorted through at least some of the intricacies of railroad politics. In short, we know something about the parties, the major figures, and the critical issues of frontier defense and internal improvements in ante-bellum Texas.³

No one, however, has seen fit to act upon the suggestions of either Ramsdell or Vandiver to determine whether and in what ways these ante-bellum alignments and issues carried over into the political experience of Civil War Texas. Instead, historians whose essays have ranged from the complex cotton trade to the state's tortuous financial system to the massacre of German "Tories" at the headwaters of the Nueces River have rather consistently dismissed or ignored the political matrix in which such

Nancy Head Bowen is Associate Professor of History at Del Mar College. She is currently writing a doctoral dissertation under the direction of Frank E. Vandiver at Rice University.

An earlier version of this paper was read at the annual meeting of the Texas State Historical Association, March 10, 1972.

issues existed. At the risk of oversimplifying, most accounts of "Texas in the Civil War" have been written in a vacuum which choked out politics. Such failures might be explained in several ways. First, with the important exceptions of Sam Houston, Rip Ford, John H. Reagan, and Louis T. Wigfall, we have few biographical or political studies of the principal leaders of the state and therefore few secondary sources on which to base generalizations.⁴ Second, we know more about the ante-bellum Whigs, the Know-Nothings, the Germans, and the Unionists than we do about the Democrats, who, after all, led Texas out of the Union and governed the state during the Civil War. Third, much of what occurred in Texas in wartime was dictated either by the Confederate lawmakers in Richmond or by the military officials at the Trans-Mississippi Department headquarters in Shreveport. To understand Texas lawmaking, financing, purchasing, and peacekeeping requires a perspective that stretches from Austin to Shreveport to Richmond and back again. Fourth, and I think the most important reason we have failed to write more comprehensive, perhaps even synthetic accounts of Texas in the Civil War, is that we have a very limited definition of politics. We are inclined to think that there are no politics if there are no political parties. The Democratic party organization had disintegrated, hence no party, hence no politics. The time has come to approach the history of politics as something different from the history of political parties or the history of government, although politics, parties, and government are, of course, intertwined. In other words, we must look at past politics as the history of the ways men have used the formal, public institutions of government to acquire and then secure power. We must look at past politics as struggles between factions, personal rivals, and interest groups for authority.⁵ To define politics in this way permits a fresh look at Texas and at the very least, introduces us into an unexplored maze.

Statewide elections in Civil War Texas offer one entry into the political labyrinth. Although several historians have included some election results in their general accounts of Confederate Texas, they have treated these results quite casually. Such a cavalier attitude probably can be traced to Oran M. Roberts' contention in 1897 that "during the whole of the war . . . there was but little controversy of a political character in Texas".⁶ Roberts' statement has been echoed more recently by Professors Ernest Wallace and Stephen B. Oates.⁷ Consider, for example, the gubernatorial election in August, 1861, which pitted the incumbent governor, Edward Clark, against Francis R. Lubbock and General T. J. Chambers. Since the candidates had promised to prosecute the war with vigor, since they seemed avidly devoted to the Confederate cause, the contest presumably boiled down to a pageant of personalities. Professor Wallace noted that the candidates' lack of disagreement plus the paucity of issues so reduced public interest that 6,500 fewer people voted than had voted in the crucial Houston-Runnels contest in 1859.⁸

But a careful look at the 1861 election returns suggests that however "engrossed in fighting the war" Texans were, they still managed to get to the polls in great numbers. More than 57,000 of them voted in the governor's race, a respectable number if compared with either the previous gubernatorial election or the February referendum on the Ordinance of Secession.⁹ To accentuate the point, by election day in August, several thousand Texans had volunteered for military duty east of the Mississippi River. Equally significant, but certainly more perplexing, is the fact that Lubbock's margin of victory over runner-up Clark was a mere 124 votes.¹⁰ Neither Lubbock nor Clark had undertaken a statewide canvass, but Lubbock had received the endorsement of the state's leading newspapers, the *Austin State Gazette* and the *Houston Telegraph*; their support, he had assumed, would help to elect him.¹¹

These election returns permit no firm conclusions, but they do provoke questions where none have been asked. For instance, had Lubbock's early espousal of secession endeared him to the more ardent Confederates, who were thereby willing to use their political talents in his behalf? Conversely, had Lubbock's active support of filibusters and his determination to re-open the slave trade alienated the more moderate elements in the state, "especially the Unionists"?¹² Or had Lubbock's lack of opportunity to make hard decisions been a definite asset? Did Clark, identified with the Pease-Houston-Unionist wing of the Democratic party in the 1850's, reap the wrath of John Marshall, *State Gazette* editor and chairman of the Democratic executive committee? As governor, had Clark actively suppressed the Unionist "heresies"? Had he coped effectively with the enduring problem of frontier defense?¹³

The election of 1863 presents a similar enigma. A contest between Pendleton Murrah, a lawyer and former state legislator from Marshall, and General T. J. Chambers, a wealthy planter and four times candidate for governor, it too has been dismissed: the total number of votes cast was barely more than half the total in 1861.¹⁴ Both candidates, moreover, were presumed to be equally dedicated to the Cause.¹⁵ With thousands of potential voters out of the state in military service and in "political exile", the reduced vote was not necessarily the product of reduced interest. Nor did the candidates' equal devotion to the Confederacy necessarily represent common methods of actualizing their devotion.

General Chambers had received the endorsement of the *Austin Tri-Weekly State Gazette* whose editor tried to refute charges that the General was "anti-Administration".¹⁶ Jefferson Davis' refusal to grant Chambers a commission in the Confederate army may have led to Chamber's pique; at any rate, he favored subordinating military to civilian authority, especially in the question of impressment of cotton. The *Gazette* editor's assertion that "the wheat region is strong for Chambers" probably reflected Chambers' general opposition to impressment.¹⁷ On the other hand, Murrah was considered the "Administration candidate" which meant in the summer of 1863 that he sustained the impressment policies adopted by General E. Kirby Smith, commanding the Trans-Mississippi Department, and General J. Bankhead Magruder, commanding the District of Texas.¹⁸ That Smith was anxious about the election was indicated in his correspondence with Magruder. "As much importance may be attached to the results of that election," he wrote, it would be advisable to confine impressment to the vicinity of the Rio Grande "where the election will be least influenced." Moreover, "no additional exciting cause should be presented that may influence the minds of voters."¹⁹ Fear that an anti-Administration man would be elected governor reached all the way to Richmond. Texas Congressman Peter W. Gray wrote W. P. Ballinger that "so many little things have occurred to raise the idea that there is a feeling for Independence in Texas," that the election of a "hostile Govr," would be peculiarly unfortunate.²⁰

There is further evidence to underscore the assumption that the stakes were real in 1863, that men did not merely traipse to the polls out of habit. Speculation about this race began early in the spring.²¹ Although the contest finally "narrowed down to a very small affair," several prominent Texans had flirted with the notion of announcing their candidacies.²² Since there were neither nominating conventions nor formal party organizations, friends of prospective candidates "came out" for their man.

Many serious conversations doubtless preceded the announcements. For example, W. P. Ballinger, the Galveston lawyer who had been appointed Receiver under authority of the Confederate Sequestration Act, recounted the business of several such caucuses held in his Houston office.²³ Among the Texans who were mentioned as possible candidates were Guy M. Bryan, a former U.S. Congressman and secession

leader, Fletcher Stockdale, South Texas lawyer and Democratic party leader, Milton M. Potter, recently chairman of the Judiciary Committee of the Texas House of Representatives, and William Pinckney Hill, Confederate Judge of the Eastern District of Texas. Hill quickly removed himself from consideration, confiding in Ballinger that he "would not accept the office under any circumstances" nor would he ever "be a candidate for any office."²⁴ Bryan acknowledged that he had been urged by friends in Waco to enter the race; however, personal matters, an appointment to Kirby Smith's staff, and apprehension that Sam Houston would run for governor combined to convince Bryan to "electioneer" for either John Gregg or Potter.²⁵

Potter, a Galvestonian, had discussed the gubernatorial race as early as April 3, 1863, but a month later he was undecided. ²⁶ Stockdale had "tendered the track to Potter," Ballinger wrote, and Ballinger then added that Potter "will not be open & frank, takes alarm & withdraws at the 11th hour."²⁷ Some men speculated that General Henry McCulloch's announced candidacy would cut into Potter's support.²⁸ Such a fear might have forced Potter's decision. Or Potter may have realized that his health was too fragile to permit him to continue in public service.²⁹ At any rate, despite the good wishes of men whose views were so diverse as those of E. H. Cushing, editor of the *Houston Telegraph*, and George W. Paschal, reclusive Austin Unionist, Potter declined to make the race.³⁰ By mid-June, General McCulloch, commanding troops East of the Mississippi, had withdrawn from the contest; Cushing of the *Telegraph* had endorsed Pendleton Murrah; and friends and supporters of the Administration and its policies had turned to the business of insuring a friendly face in the Governor's Mansion.³¹

If wartime elections were based on personalities rather than on issues as several historians have contended, how then do we account for Murrah's victory? Guy Bryan had described Murrah as "not popular in his section & untried as a statesman."³² He was not well known in Harris County where he nevertheless polled 83% of the vote. But he was an "Eastern" man and several prominent Houstonians thought an "eastern" man stood the best chance.³³ Moreover, as even the pro-Chambers *State Gazette* noted, Murrah gained an advantage when McCulloch withdrew because their "friends . . . are to a great extent mutual."³⁴ Although the factional alignments remain obscure, it seems clear that many "good and proper" men believed that Murrah would maintain cordial relations with the Trans-Mississippi Department.³⁵ Chambers may have possessed "some high qualities for the office," but could he be relied on? Or as a staff officer at the Trans-Mississippi headquarters in Shreveport remarked, "we could not tell when [Chambers] might explode the whole machine."³⁶

One other election will serve to indicate the presence of politics where none were thought to be. In fact, with very few exceptions, no historian has recorded the results, much less commented upon the issues, of the State Supreme Court elections held in August, 1864.³⁷ The death of Chief Justice Royall T. Wheeler and the expiration of the term of Associate Justice James H. Bell prompted Governor Pendleton Murrah to issue a proclamation calling for elections to fill both vacancies.³⁸ Texas lawyers and other public men who were naturally interested in elections of men to the highest bench in the state were especially interested in this contest. At least one issue seemed clear. Justice Bell, an original opponent of secession, had written a dissenting opinion in *Ex parte Coupland* in which he went so far as to declare the Confederate Conscription Act unconstitutional.³⁹ Bell's election probably would have been interpreted as a "triumph of unionism;" consequently, the pro-Confederate leaders in the state had to settle on a single candidate to oppose him.⁴⁰

Lieutenant-Governor Fletcher Stockdale seems to have been a central figure in heading off Bell. As Stockdale viewed the upcoming election, Bell would "get the

vote of a great many true men in the country who were opposed to Secession in the outset & who while they are true to the South can't yet tolerate an original secessionist." In addition, Bell would receive the votes of "every enemy of the South or of the Confederate Government and its policy."⁴¹ The Lieutenant-Governor regarded Bell "as the most dangerous man in the state—ready to sustain the Federals at the first good opportunity."⁴² Concentrating on a single man for Chief Justice was not easy but it was necessary. Stockdale's clique had narrowed the field of prospective candidates to two men, Oran M. Roberts, President of the Secession Convention and a former justice, and Judge Peter W. Gray, former Confederate Congressman and currently Assistant Secretary of the Treasury for the Trans-Mississippi Department.⁴³ Since the Legislature was called to special session in May, 1864, friends of both Roberts and Gray had numerous opportunities to poll influential politicians. Roberts had cautiously approached his possible candidacy, noting not only "the difficulties of a canvass at this period" but also the fickleness and uncertainty of the "drifts of public favor."⁴⁴ His friends in the Legislature, however, were determined; they would not abandon Roberts in order to unite around Gray.⁴⁵

Support for Gray persisted until early summer; by that time, Gray's friends and Bell's enemies seemed to have rallied to Roberts. Several factors eliminated Gray from further consideration. J. D. Giddings, the Confederate States Receiver in Brenham, worried that Gray's vote in the Confederate Congress to suspend the privilege of the writ of *Habeas Corpus* would jeopardize his chances.⁴⁶ Furthermore, Gray had been defeated for re-election to Congress, presumably because he supported Confederate policy.⁴⁷ Thus, as one of his friends wrote, "I think it too soon for him to try again."⁴⁸ There was also some doubt whether Gray would desire a permanent place on the bench since he occupied an important office in the Trans-Mississippi Department and thus enjoyed an influence on both sides of the River.⁴⁹ In any case, uniting behind Roberts certainly obviated any change that Bell could carry for states Roberts polled a lopsided 78% of the vote in an election which must have generated some public interest, that is, if public interest can be measured at all by vote totals.⁵⁰ Nearly 31,000 voters turned out for this contest, a striking number when one considers that "the public mind [was] engrossed with the war,"⁵¹ that thousands of Texas troops were across the River, that this was not a general election year, and that the vote almost equalled that cast in the 1863 gubernatorial contest.

Surely, it is manifest that in Civil War Texas issues existed, politicians maneuvered, legislators cajoled, and friends got out the vote. Having entered the labyrinth, however, we have not yet discovered its secrets. Unless we are willing to open our eyes to see that politics are not limited to inter-party strife but extend kaleidoscopically through personal jealousies, factional rivalries, geographical divisions, and hostile interest-groups, we are destined to understand neither Texas nor the Trans-Mississippi West in the Civil War.

NOTES

¹Charles W. Ramsdell, "Some Problems Involved in Writing the History of the Confederacy," *Journal of Southern History*, II (1936), 135.

²Frank E. Vandiver, "Some Problems Involved in Writing Confederate History," *Journal of Southern History*, XXXVI (1970), 407. Also see Vandiver, *Their Tattered Flags* (New York, 1970), 190-197.

³See Randolph Campbell, "The Whigs of Texas in the Elections of 1848 and 1852," *Southwestern Historical Quarterly*, LXXIII (July, 1969), 17-34; Frank H. Smyrl, "Unionism, Abolitionism, and Vigilantism in Texas, 1856-1865" (unpublished MA thesis, University of Texas, 1961); Smyrl, "Unionism in Texas, 1856-1861," *Southwestern Historical Quarterly*, LXVIII (October, 1964), 172-195; Ralph A. Wooster, "An Analysis of the Texas Know-Nothings," *Southwestern Historical Quarterly*, LXX (January, 1967), 414-423; Wooster, "An Analysis of the Membership of the Texas Secession Convention," *Southwestern Historical Quarterly*, LXII (January, 1959), 322-325; Wooster (comp.), "Notes on Texas' Largest Slaveholders, 1860," *Southwestern Historical Quarterly*, LXV (July, 1961), 72-79; Wooster, *The People in Power: Courthouse and Statehouse in the Lower South, 1850-1860* (Knoxville, 1969); Wooster, "Wealthy Texans, 1860," *Southwestern Historical Quarterly*, LXXI (October, 1967), 163-180; Llerena Friend, *Sam Houston, The Great Designer* (Austin, 1954); and Earl Wesley Fornell, *The Galveston Era: The Texas Crescent on the Eve of Secession* (Austin, 1961).

⁴See Friend, *Sam Houston*; W. J. Hughes, *Rebellious Ranger: Rip Ford and the Southwest* (Norman, 1964); Ben H. Procter, *Not Without Honor: The Life of John H. Reagan* (Austin, 1962); and Alvy L. King, *Louis T. Wigfall, Southern Fire-eater* (Baton Rouge, 1970).

⁵See Bernard Bailyn, *The Origins of American Politics* (New York, 1968), viii. Bailyn's sensitive study of American colonial political factions deserves to be emulated for nineteenth century factions.

⁶Oran M. Roberts, "The Political, Legislative, and Judicial History of Texas for its Fifty Years of Statehood, 1845-1895," in *A Comprehensive History of Texas, 1685 to 1897*, edited by Dudley C. Wooten (2 vols.; Dallas, 1898), II, 142.

⁷Ernest Wallace, *Texas in Turmoil: The Saga of Texas, 1849-1875* (Austin, 1965), 116; and Stephen B. Oates, "Texas Under the Secessionists," *Southwestern Historical Quarterly*, LXVII (October, 1963), 167-212.

⁸Wallace, *Texas in Turmoil*, 116.

⁹James M. Day (ed.), *Senate Journal of the Ninth Legislature of the State of Texas, November 4, 1861-January 14, 1862* (Austin, 1963), 6-9, cites the 1861 gubernatorial vote as Lubbock, 21,854; Clark, 21,730; and Chambers, 13,733 for a total of 57,317. Friend, *Sam Houston*, 345, cites the vote for Houston as 33,375 and Runnels as 27,500 for a total of 60,875. On the other hand, Ernest W. Winkler, "Platforms of Political Parties in Texas," *Bulletin of the University of Texas*, LIII (September, 1916), 645, lists the vote as 36,337 for Houston and 27,500 for Runnels for a total of 63,727. Winkler was probably Wallace's source for the 6,500 vote difference between 1859 and 1861. The vote on the Ordinance of Secession can be found in Winkler (ed.), *Journal of the Secession Convention of Texas, 1861* (Austin, 1912), 88-91.

¹⁰See Day (ed.), *Senate Journal of the Ninth Legislature*, 6-9. The outcome of the election was so uncertain that Lubbock's wife advised him to enter Austin alone in the event that, should their information prove inaccurate, she would not be embarrassed. See Francis Richard Lubbock, *Six Decades in Texas; or, Memoirs of Francis Richard Lubbock, Governor of Texas in Wartime, 1861-63* (ed. by C. W. Raines; Austin, 1900), 348.

¹¹Lubbock, *Six Decades in Texas*, 321-329

¹²Since Lubbock tended to omit certain details from his memoirs, the best source for his activities regarding filibusters and his agitation to re-open the African slave trade is Fornell, *The Galveston Era*, 203-259. See also Fornell, "Agitation in Texas for Reopening the Slave Trade," *Southwestern Historical Quarterly*, LX (1956), 245-259; and Fornell, "Texans and Filibusters in the 1850's," *Southwestern Historical Quarterly*, LIX (1956), 411-429.

¹³Justin Whitlock Dart, Jr., "Edward Clark, Governor of Texas March 16 to November 7, 1861" (unpublished MA thesis, University of Houston, 1954), 23, 100.

¹⁴The total gubernatorial vote in 1861 was 57,317, Day (ed.), *Senate Journal of the Ninth Legislature*, 9. The total vote cast in the 1863 gubernatorial election was 32,409; Murrah received 17,916 votes; Chambers received 13,003 votes. See James M. Day (ed.), *Senate Journal of the Tenth Legislature, Regular Session of the State of Texas, November 3, 1863-December 16, 1863* (Austin, 1964), 35-37.

¹⁵Wallace, *Texas in Turmoil*, 118; Oates, "Texas Under the Secessionists," 172. Roberts mentions no issues at all and implied the candidates shared similar views. See for example, Roberts, "The Political, Legislative, and Judicial History of Texas," 142-143.

¹⁶*Tri-Weekly State Gazette*, June 18 and June 25, 1863.

¹⁷*Tri-Weekly Gazette*, June 23, 1863. John Marshall, influential editor of the *State Gazette* during the 1850's, was killed in Virginia in June, 1862. See Walter Prescott Webb (ed.), *Handbook of Texas* (2 vols.; Austin, 1952), II, 148. David Richardson succeeded Marshall as editor.

¹⁸Robert Pattison Felgar, "Texas in the War for Southern Independence, 1861-1865" (unpublished Ph.D. dissertation, University of Texas, 1935), 453.

¹⁹*War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (130 Vols.; Washington, D.C., 1880-1901), Series I, Vol. XXVI, Part II, 86, 95.

²⁰Peter W. Gray to William Pitt Ballinger, Richmond, Va., April 3, 1863, in William Pitt Ballinger Papers, Eugene C. Barker Texas History Center Archives, University of Texas, Austin, Texas. In his letter Gray referred to a Joint Resolution adopted by the Texas Legislature, February 27, 1863. The resolution pledged Texas to pay her *pro rata* proportion of the Confederate debt should she at any time withdraw from the Confederacy. See H. P. N. Gammel (comp.), *The Laws of Texas, 1822-1897* (10 vols.; Austin, 1898), V, 623.

²¹James E. Harrison to Ballinger, Camp Kiamiske, March 31, 1863, Ballinger Papers.

²²*Tri-Weekly State Gazette*, June 23, 1863.

²³William Pitt Ballinger Diary (typescript), Eugene C. Barker Texas History Center Archives, University of Texas, Austin, Texas. See entries for March, April, May, 1863.

²⁴Hill to Ballinger, Tyler, April 17, 1863, Ballinger Papers. Hill was in severe financial straits throughout the war; he was also hopeful of receiving an appointment to the Confederate States Supreme Court, which was never organized. These factors may have persuaded him to avoid elective office. For an account of some of Hill's war-time activities, see Nowlin Randolph, "Judge William Pinckney Hill Aids the Confederate War Effort," *Southwestern Historical Quarterly*, LXVIII (July, 1964), 14-28.

²⁵Bryan to Ballinger, Waco, April 25, 1863, Ballinger Papers. John Gregg had been a delegate to the Texas Secession Convention and also to the Confederate Provisional Congress. See Webb (ed.), *Handbook of Texas*, I, 733.

²⁶Ballinger Diary, April 3, May 2, 1863.

²⁷Ballinger Diary, May 2, May 4, 1863.

²⁸Ballinger Diary, May 4, 1863.

²⁹N. N. John to Ballinger, Richmond, Texas, October 7, 1863, Ballinger Papers. John urged Ballinger to send a doctor to attend Potter, then near death. Guy M. Bryan, on General Smith's staff in Shreveport, had learned by October 22, 1863, that Potter was dead. Bryan wrote, "His loss will be felt in the Legislature and I don't know who will supply his place in the Legislature, for in looking over the names of the members there are very few old members there. I almost wish I were there myself when I contemplate the future in connection with bad & reckless legislation." Bryan to Ballinger, Shreveport, October 22, 24, 1863, Ballinger Papers.

³⁰For comments on Cushing's support of Murrah, see Felgar, "Texas in the War for Southern Independence," 458, and *Tri-Weekly State Gazette*, June 25, 1863. Paschal implied that he supported Potter; see Paschal to Ballinger, Austin, May 4, 1863, Ballinger Papers.

³¹McCulloch's friends withdrew his name by way of a letter published in the *Tri-Weekly State Gazette*, June 18, 1863.

³²Bryan to Ballinger, Shreveport, June 8, 1863, Ballinger Papers.

³³Ballinger Diary, May 4, 1863, Ballinger Papers.

³⁴*Tri-Weekly State Gazette*, June 18, 1863.

³⁵"Good and proper men" and "good and true" are phrases running through Bryan's correspondence to Ballinger between April 25 and June 11, 1863.

³⁶Bryan to Ballinger, Shreveport, June 8, 1863, Ballinger Papers.

³⁷The Supreme Court election, 1864, is mentioned in J. H. Davenport, *The History of the Supreme Court of the State of Texas* (Austin, 1917), 72; and in Roberts, "The Political, Legislative, and Judicial History of Texas," 144. Frances Dora Ryan, "The Election Laws of Texas, 1827-1875," (unpublished MA thesis, University of Texas, 1922), 43, contended that during the Civil War the judges of the Supreme Court and the district courts were appointed rather than elected. Lelia Clark Wynn, "A History of the Civil Courts in Texas," *Southwestern Historical Quarterly*, LX (July, 1956), 1-22, discusses the judicial section of the Texas Constitution of 1861 in ambiguous terms. The Constitution of 1861, however, like its predecessor, the amended Con-

stitution of 1845, authorized elections for judges, the attorney general, the comptroller, and the treasurer. See Gammel, *Laws of Texas*, V, 6-16.

³⁸For a note on Wheeler's death, see Webb (ed.), *Handbook of Texas*, II, 891.

³⁹*Ex parte* Coupland, 26 Tex (1861/63), 387-434. The case also appears in Charles L. Robards, *Synopses of the Decisions of the Supreme Court of the State of Texas, Rendered, Upon Application for Writs of Habeas Corpus, Original and on Appeal, Arising from Restraints by Conscript and Other Military Authorities* (Austin, 1865). For a brief discussion of the conscription issue in the Texas court, see Albert Burton Moore, *Conscription and Conflict in the Confederacy* (reprint; New York, 1963), 168-69.

⁴⁰Fletcher S. Stockdale to Ballinger, Austin, May 15, 1864, Ballinger Papers.

⁴¹Stockdale to Ballinger, Fort Bend County, April 21, 1864, Ballinger Papers.

⁴²Stockdale to Ballinger, Austin, May 15, 1864, Ballinger Papers.

⁴³Stockdale, broaching Ballinger on the possibility of his running for Chief Justice, called Ballinger an available candidate and added: "your availability arises from your capacity in the first place, and from your having been an old Whig originally opposed to secession now fully and deeply committed [sic] to the cause of the South." Stockdale to Ballinger, Fort Bend County, April 21, 1864, Ballinger Papers. Ballinger quickly burst this "trial balloon."

⁴⁴Roberts to Ballinger, Tyler, April 29, 1864, Ballinger Papers.

⁴⁵Stockdale to Ballinger, Austin, May 15, 1864, Ballinger Papers. Among Roberts' special friends were Col. L. P. Butler, Representative from Smith County, Capt. Thos. Smith, Representative from Rusk County, and Dr. M. D. K. Taylor, Speaker of the House from Cass County. See Roberts to Ballinger, Tyler, April 30, 1864, Ballinger Papers.

⁴⁶Giddings to Ballinger, Brenham, May 2, 1864, Ballinger Papers.

⁴⁷Stockdale to Ballinger, Fort Bend County, April 21, 1864, Ballinger Papers. See also *Tri-Weekly State Gazette*, June 27, 1863. Incomplete election returns for the Third Congressional District show that A. M. Branch defeated Gray's bid for reelection by a vote of 2,374 to 1,450. Although the records are incomplete, it is clear that Branch won the election; he even carried Harris County, Gray's resident county, by a margin of 726 to 469. These figures are based on Election Returns, 1863. Records of the Secretary State. Archives Division, Texas State Library, Austin, Texas. Andrew Forest Muir, "Peter W. Gray," *Handbook of Texas*, I, 723-24, asserts incorrectly that Gray was a member of the Confederate Congress throughout the war.

⁴⁸Stockdale to Ballinger, Fort Bend County, April 21, 1864, Ballinger Papers.

⁴⁹Stockdale to Ballinger, April 21, 1864, Ballinger Papers.

⁵⁰Roberts received 24,067 votes or 78%; Bell received 6,918 votes or 22%. Election Returns, 1864. Records of the Secretary of State. Archives Division, Texas State Library, Austin, Texas. According to the archivist, Ms. Marilyn von Kohl, there is no printed copy of the votes in either the Chief Justice or Associate Justice races. I tabulated the Associate Justice vote as follows: Reuben A. Reeves, 12,991; C. W. Buckley, 8,944; and John Sayles, 7,414. Judge Roberts carefully avoided any substantive discussion of the election in "The Political, Legislative, and Judicial History of Texas."

⁵¹This quote is in Roberts to Ballinger, Tyler, April 29, 1864, Ballinger Papers.