

MARTIAL LAW IN RECONSTRUCTION TEXAS

A Thesis

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of the Requirements for the Degree of

Master of Arts

by

Reginald G. Jayne

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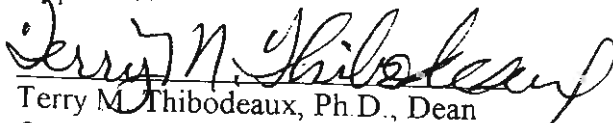
APPROVED:



Ty Cashion, Ph.D.
Thesis Director


Rosanne Barker, Ph.D.
Bernadette Pruitt, Ph.D.

Approved:


Terry M. Thibodeaux, Ph.D., Dean
College of Humanities and Social Sciences

ABSTRACT

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During 1871, radical Republican Governor Edmund J. Davis suspended *habeas corpus* and declared martial law in Texas on three occasions. This study will provide a new perspective of the events, paying particular interest to recreating the disturbances as they actually occurred. While many historians have addressed and covered Governor Davis's declarations, they have all focused far too heavily on prejudicial source material and preexisting secondary accounts. This thesis will cover martial law in Hill County and Walker County, as well as the Groesbeck Riot of 1871, which led to a joint martial law declaration in both Freestone and Limestone counties. In addition to providing a clear history of the events surrounding each individual declaration of martial law, this thesis will investigate Governor Davis's justifications and application of force to quell these county-wide uprisings.

The research is taken, to the extent possible, from original documents located at the Texas State Library and Archives Commission and The Center for American History in Austin. Wherever possible, I have sought out original source material to attempt to account for the vast discrepancies found in all preexisting studies of these events. There are also limited materials available in the Thomason Collection at Sam Houston State University, The University of Houston libraries, and the University of Texas libraries.

There are two existing studies of Davis's declarations of martial law: "A Slow Civil War: Resistance to the Davis Administration in Hill and Walker Counties" (M.A. Thesis, Baylor University, 1989) by Ricky Floyd Dobbs and "A Study of the State Police

During the E.J. Davis Administration” (M.A. Thesis, University of Texas, 1931) by William Curtis Nunn. The former study only provides a partial image of the events because it neglected to consider the Groesbeck Riot, and the latter was based, almost completely, on questionable source material. Upon completion, my thesis will be the only in-depth study of all three of Governor Davis’s declarations of martial law in 1871 grounded by primary source materials.

KEY WORDS: Edmund J. Davis, Hill County, Walker County, Limestone County, Freestone County, State Police, Reconstruction, Texas, Martial Law.

APPROVED:



Ty Cashion, Ph.D.
Thesis Director

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TABLE OF CONTENTS

	Page
ABSTRACT.....	iii
ACKNOWLEDGEMENTS.....	v
TABLE OF CONTENTS.....	vi
I. PRELUDE TO MARTIAL LAW.....	1
II. THE HILL COUNTY REBELLION.....	22
III. THE WALKER COUNTY REBELLION.....	40
IV. THE GROESBECK RIOT.....	59
V. CONCLUSION.....	83
BIBLIOGRAPHY.....	92
APPENDIX: ABBREVIATIONS.....	98
VITA.....	99

CHAPTER I

PRELUDE TO MARTIAL LAW

During 1871, radical Republican Governor Edmund J. Davis suspended *habeas corpus* and declared martial law in Texas on three occasions. This study provides a new perspective regarding the events paying particular interest to describing the events as they actually occurred. While many historians have addressed and covered Governor Davis's declarations, they have all relied far too heavily on prejudicial source material and preexisting secondary accounts. This thesis will cover martial law in Hill County and Walker County, as well as the Groesbeck Riot of 1871, which led to a joint martial law declaration in both Freestone and Limestone counties. The research is taken, as much as possible, from original documents located at the Texas State Library and Archives Commission and The Center for American History in Austin. Wherever possible, I have sought out original source material to attempt to account for the wide discrepancies found in all preexisting studies of these events.

To better understand the topics being covered, a brief historiography and history of events preceding these events is necessary. Hundreds of authors have approached the topic of Reconstruction, on a national level, during the last century. John Hope Franklin, President of the American Historical Association in 1979 and noted Reconstruction historian, once remarked that "it may be said that every generation since 1870 has written the history of the Reconstruction era." He continued that "what historians have written tells as much about their own generation as about the Reconstruction period itself."¹ His statement is an accurate assessment. The evolution of Reconstruction historiography has

¹ John Hope Franklin, "Mirror for Americans: A Century of Reconstruction History," *The American Historical Review* 85 (February 1980): 3.

indeed paralleled the viewpoints and standards on how history, particularly the Reconstruction era, are interpreted.

The first effort to chronicle the Reconstruction period began with the works of two journalists: James S. Pike, who wrote *The Prostrate State* in 1874 and Charles Nordhoff, who published *The Cotton States in the Spring and Summer of 1875* in 1876. Their works, both of which contain a collection of articles written during Reconstruction, presented an interpretation of the era by their views as Northern journalists traveling in the South. Pike's book "depicted a state engulfed by political corruption and government extravagance and wholly under the control of 'a mass of black barbarism.'" The book blamed much of the problem of Reconstruction on the incapability of blacks to serve in leadership positions, most notably in the state legislature of South Carolina. Nordhoff's book presented similar ideas, reinforcing the theory that blacks were simply unable to take advantage of the opportunities available to them and little better than "unbridled animals."²

The Prostrate State and *The Cotton States*, despite their limited scopes, were accepted as the authoritative studies on Reconstruction until the emergence of the work of William A. Dunning at the turn of the twentieth century. Taking a Southern point of view, he blamed the majority of problems in the South during Reconstruction on freedmen, scalawags, and carpetbaggers. His several monographs, *The Constitution of the United States in Civil War and Reconstruction, 1860-1867* (Ph.D. Dissertation, Columbia, 1885), *Reconstruction Political and Economic: 1865-1867* (1907), and *Essays on the Civil War and Reconstruction* (1910) became largely accepted as the authoritative

² Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877*. (New York: Perennial, 1988), 525-6.

works on Reconstruction due, in part, to the fact they were first academic studies of the period. Dunning's theories received wide exposure because his work was quite popular at the time. *The Nation*, a national magazine at the time, named *Reconstruction Political and Economic* as a "book of the week" selection in 1907.

Far more lasting than Dunning's books was the work of his students. Their collaborative effort to expand on their mentor's views labeled them and their work as the "Dunning School," including Walter Fleming's *The Civil War and Reconstruction in Alabama* (Columbia University Press, 1905), W.W. Davis' *The Civil War and Reconstruction in Florida*, (Columbia University Press, 1913), J.W. Garner's *Reconstruction in Mississippi* (Macmillan, 1901), J.G.de Roulhac Hamilton's *Reconstruction in North Carolina* (Columbia University Press, 1914), Clara Mildred Thompson's *Reconstruction in Georgia* (Columbia University Press, 1915), Thomas S. Staple's *Reconstruction in Arkansas* (Columbia University Press, 1923), and Charles Ramsdell's *Reconstruction in Texas* (Columbia University Press, 1910). These are among a few examples of the work of his progeny. These and other works furthered Dunning's theories and helped to solidify his view as the classic and definitive approach to Reconstruction studies. Concerning Reconstruction in the State of Texas, the Ramsdell book had the greatest impact, and is still in print today.

The Dunning viewpoint persisted for several decades. Over the following fifty years few scholars attacked his argument. For example, W.E.B. Du Bois, in his essay "Reconstruction and Its Benefits" (*The American Historical Review*, 1910), challenged Dunning's thesis, stating that the Reconstruction governments were every bit as sound as any Southern state administrations in the years following 1877. To prove his points, Du

Bois looked to Southern states like Florida, Virginia, South Carolina, and Mississippi, which chose not to alter their Reconstruction constitutions after the end of republican control.³ Du Bois continued to write on the period and later published *Black Reconstruction* (Russell & Russell, 1935). In that full-length monograph Du Bois directly challenged the assertion of Dunning that blacks were incapable of leadership or understanding the concept of freedom. The book, while reading more like a modern history of the era, was largely ignored until the end of the twentieth century.

Film, rather than text, may have been the single most effective instrument in the early twentieth century that guided how the public, and even academia, perceived the era. In 1915 D.W. Griffith's film, *The Birth of a Nation*, was the first full-length motion picture in the United States and drew large crowds across the country. It even had its premiere in the White House during the administration of Woodrow Wilson. In the film, freedmen were portrayed as savages, consistent with the Dunning School interpretation. For example, in one scene, black legislators are seen with their feet up on tables, drinking from bottles, and being generally unruly during a congressional debate. The film, while wholly inaccurate, was a national phenomenon because of its cinematic quality and its ground-breaking advances in movie production. The American Film Institute still considers it one of the top one-hundred films ever produced.⁴ Its popularity, largely received because of its cinematic importance was seen in movie houses across the country by enthusiastic audiences.

Interpretations of Reconstruction did not change substantially until the 1960s and 1970s when historians began attacking noticeable problems with Dunning's

³ W.E.B. Du Bois, "Reconstruction and its Benefits," *The American Historical Review* 15 (July 1910): 799.

⁴ American Film Institute, "America's Greatest Movies," <http://www.afi.com/Docs/tvevents/pdf/movies100.pdf> (accessed 12 December 2004).

interpretations. In part, their work was spawned by social changes occurring throughout the U.S. at that time. It was no longer acceptable for historians to accept blindly a theory that, simply put, blacks were incapable of understanding the concept of liberty and were thus unable to apply the concept to their daily lives. Yet, a definitive revisionist work would not be seen until 1988, when Eric Foner published *Reconstruction: America's Unfinished Revolution, 1863–1877* (Harper & Row, 1988). Foner's seven-hundred page tome marks the end of the Dunning School and presents a completely fresh interpretation of the era. His goal with the book was to “combine the Dunning School's aspiration [to synthesize the social, political, and economic aspects of the period] with the findings and concerns of recent scholarship.”⁵ His work has become the standard interpretation of Reconstruction and opened doors to numerous scholars researching the period.

The evolution of historical approaches to national Reconstruction has been, at a slower pace, paralleled by local, and state, historians. The classic work, on the era in Texas, is the Dunning-inspired *Reconstruction in Texas* by Charles Ramsdell (1910). The monograph was widely considered as the authoritative source on Texas Reconstruction for the majority of the twentieth century. Ramsdell's study provides a detailed look at Texas from the end of the Civil War until 1871. The account centers on the political turbulence seen in the post-Civil War Texas government. Ramsdell depicts a Texas that was seemingly in chaos. Commenting on Presidential Reconstruction, he argues that primary control by the military led to poor relations between the military leaders and local authorities. While *Reconstruction in Texas* gave Presidential Reconstruction low marks, Ramsdell does contend that “had Congress kept hands off, Texas would have been

⁵ Foner, xxiv.

fully restored in a short while to that condition of real peace which it was the professed aim of the Reconstruction acts to bring about.”⁶

The heart of Ramsdell’s scholarship addresses the tribulations of Texas politics during Congressional Reconstruction. He argues that the period, coupled with poor civil management in the state, led to disastrous leadership from 1867 to 1871 and beyond. While the book is critical of the Republican Party in Texas during Congressional Reconstruction, Ramsdell is somewhat forgiving of Governor E.J. Davis, whose administration was “responsible for more of the bitterness with which the people of Texas have remembered the Reconstruction era than all that happened from the close of the war to 1870.” Despite, his bias against the administration, Ramsdell writes that Davis was “personally honest,” and “the best of the faction that nominated him.”⁷ Although *Reconstruction in Texas* was considered to be the definitive work on this era in Texas for almost a century, it is dated in its style and closely follows the Dunning School philosophy. Despite the now noticeable flaws, Ramsdell’s work serves as a starting point for any scholar researching the era in Texas.

The next important work would not be seen until 1962 with William Curtis Nunn’s monograph *Texas Under the Carpetbaggers* (University of Texas Press). Beginning where Ramsdell ended his description of Texas Reconstruction, Nunn’s book provided an account of radical Reconstruction from 1870 to 1874. Nunn, who had been a student of Ramsdell’s at the University of Texas, devoted fully one-half of his text to condemning the “regime” of Governor Davis. Nunn scrutinized the Twelfth Texas Legislature, the State Militia and police, and the Texas political system from 1870-1874,

⁶ Charles W. Ramsdell, *Reconstruction in Texas*. (Austin: University of Texas Press, 1910), 141.

⁷ *Ibid.*, 317-18.

centering on the radical Republican leadership. Nunn also provided a fresh examination of the economic conditions, frontier issues, and social life in Texas during Reconstruction. Unfortunately, Nunn's account was overly biased. Had he taken into account the obstacles to Davis's success, Nunn could have provided a study of the era with far more depth. In the end, Nunn's bias against Davis skewed his research and prevented him from providing a realistic viewpoint.

For a serious study of Davis and radical Reconstruction in Texas, a reader can obtain a better picture by reading "Edmund J. Davis: Radical Republican and Reconstruction Governor of Texas," a Ph.D. dissertation by Ronald N. Gray, written in 1976 at Texas Tech. Gray argued that the popular theory – Edmund J. Davis was a despotic governor concerned primarily with increasing his own power across the state – is incorrect. Gray supported his main thesis about Davis arguing that, "because of his Republicanism combined with his determined adherence to ideals that were unpopular with conservative white Texans, history has not yet accorded Edmund Jackson Davis the recognition to which he is justly entitled."⁸ Gray delivered a convincing argument. The dissertation covers Davis' early life in Texas, the states politics, secession crises, its implications for a pro-Union Davis, Davis' tenure in the U.S. army during the Civil War, his actions during the constitutional convention of 1868-1869, his election to and term as governor of Texas, and, finally, his removal from office. Throughout the entire work Gray argued that Davis was, above all, an honest man who had the best interest of Texas at heart. Although mostly a biography, Gray's work provides the best general overview of radical Reconstruction in Texas that has been written to date.

⁸ Ronald Gray, "Edmund J. Davis: Radical Republican and Reconstruction Governor of Texas" (Ph.D. diss., Texas Tech University, 1976), 443.

Also evaluating the Radical Reconstruction Governor Edmund J. Davis, is Carl Moneyhon's article published in the *Southwestern Historical Quarterly*, "Edmund J. Davis in the Coke-Davis Election Dispute of 1874: A Reassessment of Character" (1996). Moneyhon agreed with Gray's argument that Davis was an honest man and detailed the Coke-Davis imbroglio of 1874. In his account, Moneyhon argued that most historians who charged Davis with trying to maintain his position through the use of force are mistaken. Instead, this article maintained that Davis was merely trying to facilitate a legal transfer of power from one administration to the next within the laws of Texas and without allowing the newly elected Democratic leadership to negate all of his administration's work of the previous three years.

During the last three decades, Texas has experienced an explosion of material available on the Reconstruction era. William Richter's book, *The Army in Texas During Reconstruction, 1865-1870* (Texas A&M University Press, 1987), looks at the role of the U.S. Army during this era. Richter analyzed the military, and how it sometimes clashed with the civil authorities and agencies across the state. The most important scholarship in this book is his consideration of the political activity, of the U.S. Army in Texas politics. From his research Richter concluded that the military was responsible for the failure of Reconstruction due, in part, to its collusion with Republican leaders. Richter's thesis, while attacked by many historians, remains the only in-depth modern history of the Army's participation in Texas Reconstruction politics. He followed up this book five years later with *Overreached on All Sides: The Freedmen's Bureau Administrators in Texas, 1865-1868* (Texas A&M University Press, 1992). This study of the Bureau continued the standard argument that the Bureau was ineffective in its mission to aid

freedmen across the South. Richter focuses primarily on the daily operations of Bureau administration in Texas, concluding that sub-assistant commissioners were far more important to Bureau activities than commissioners themselves, because they were responsible for enacting policy changes and initiatives across the state.

Contrasting Richter's study are the works of Dianne Neal, Thomas Kremm, and Barry Crouch. Neal and Kremm, in their article for the *East Texas Historical Journal* titled "'What Shall We Do with the Negro?': The Freedmen's Bureau in Texas" (*East Texas Historical Journal*, 1989), outlined the many difficulties facing Bureau agents and administrators during Reconstruction and found that the Bureau, while being an overall failure, did accomplish some of its goals and managed to "advance the status of ex-slaves and the welfare of the state."⁹

Adding more depth to the Neal and Kremm essay is Barry Crouch's, *The Freedmen's Bureau and Black Texans* (University of Texas Press, 1992). He, too, argued that the Bureau, while not a complete success, did accomplish more than it has been credited with. Crouch contended that historians failed to take the efforts of the Freedmen's Bureau agents seriously, and that oversight has led to the overriding popular view that it was "part of a problem in the failure of national policy."¹⁰ Crouch also maintained that no historian had attempted to judge the actions of agents and administrators of the Bureau, which allowed many factors to work against them during the Bureau's short existence. Crouch challenged that the main reason the Bureau remained in a negative spotlight for 130 years is that historians, such as Richter, have continuously judged the department based on the "big picture," which, according to the

⁹ Dianne Neal and Thomas Kremm, "'What Shall We Do with the Negro?': The Freedmen's Bureau in Texas," *East Texas Historical Journal* 27 (1989): 32.

¹⁰ Barry Crouch, *The Freedmen's Bureau and Black Texans*. (Austin: University of Texas Press, 1999), xix.

author, explains why historians have held the organization in contempt. Crouch's study provided an entirely new approach in assessing the Bureau. In a later article by Crouch "All the Vile Passions': The Texas Black Code of 1866" (*Southwestern Historical Quarterly*, 1993), he explored the passage of black codes in Texas and how they undermined the good work done previously by the Freedmen's Bureau.

The most recent work on Reconstruction in Texas is Carl H. Moneyhon's *Texas After the Civil War* (Texas A&M University Press, 2004), which provided the first attempt in forty years to chronicle the entire scope of the Reconstruction era in Texas. This work, singularly significant because of the clear need for the project, also represented the first truly comprehensive monograph on the experience. The previous two broad studies, Ramsdell's *Reconstruction in Texas* and W.C. Nunn's *Texas Under the Carpetbaggers*, discarded any sense of balance and were flawed in numerous ways, primarily their reliance on tendentious newspaper sources in lieu of primary documents which are considerably less skewed.

Moneyhon began with a short discussion of previous works and outlined his goal to "provide a new view of Reconstruction that includes not only its political but also its social and economic history," while taking into account "the findings of recent scholars."¹¹ Regarding his first goal, to address political issues during Reconstruction, Moneyhon succeeded admirably. The book provided a comprehensive study of the political conflicts, key figures, and the political gyrations of the era. However, he presented only a partial picture of economic concerns in Texas and stopped short of addressing fully the state's social conditions. Moneyhon could have expanded his two-

¹¹ Carl H. Moneyhon, *Texas After the Civil War: The Struggle of Reconstruction*. (College Station: Texas A&M University Press, 2004), 4.

hundred page work to cover more thoroughly the social issues and perceptions of the period. He provided a sound explanation of agricultural and cattle industries across the state in his opening chapter, but left the reader desiring more information.

Despite these drawbacks, the work is still tremendously significant to any study of Texas Reconstruction because it provides a clear political history of the state throughout the period. *Texas after the Civil War* is also the first book to provide an evenhanded view of the times. In addition, it offered a comprehensive annotated bibliography, which may pave the way for the next volume on Reconstruction. While *Texas After the Civil War* is presently *the* book to turn to, there remains ample room for scholars to add resonance to areas that Moneyhon has covered lightly.

Boding well for future scholarship, over the last fifteen years, the best source of information concerning the Reconstruction era can be found in journal articles, rather than books. Randolph Campbell, in his article "Carpetbagger Rule in Reconstruction Texas" (*Southwestern Historical Quarterly*, 1994) set out to define whether the radical administration in Texas could be termed "Carpetbaggers." In his study, Campbell found it was not so much Northern transplants who came to power during radical Reconstruction as it was Scalawags (Northern sympathizers who had lived in Texas prior to the Civil War). He attributed the common misconception that "Carpetbaggers" rallied to public office from 1870–1873 to an entry in the 1952 *Handbook of Texas*, which defined a Carpetbagger as "anyone, particularly Northerners, who controlled public offices through Negro votes." This misrepresentation considerably influenced such studies as Nunn's *Texas under the Carpetbaggers*, and T.R. Fehrenbach's *Lone Star* (Macmillan, 1968). Campbell contended that more recent works, such as Moneyhon's *Republicanism in*

Reconstruction Texas (University of Texas Press, 1980), have completely disproved the theory of Carpetbagger rule in Texas.¹²

Noted Texas Historian Gregg Cantrell, in his article for the *Southwestern Historical Quarterly* titled "Racial Violence and Reconstruction Politics" (1990), suggested that white violence toward black freedmen during Reconstruction was more prevalent during times of political activity. Cantrell was careful to note that perusal of the Freedman's Bureau records does not provide adequate support to his claim. Most cases of racial violence were attributed to common reasons such as rudeness to whites or speaking out of place. Cantrell surmised that while the records do not support the fact that violence was the result of political issues, whites were acting out vengeance on blacks because of their frustration at events being out of their control.¹³

In another article written for the *Southwestern Historical Quarterly* titled "Chicanery and Intimidation in the 1869 Texas Gubernatorial Race" (1993), Dale Baum contended the popular consensus that Edmund J. Davis won the gubernatorial race in 1869 through chicanery and voter fraud is, partially, incorrect. Baum's careful research established that allegations charging military authorities purposely hid and discarded voter returns in opposition counties are completely false. Baum was able to find the actual ballots in the national archives and disprove the often-maintained theory. While there is no question that there was ballot-stuffing and vote-padding in many Texas counties, Baum was able to argue that Davis received the mandate from the qualified voting populace and, all things being equal, would have won without chicanery by either

¹² Randolph B. Campbell, "Carpetbagger Rule in Reconstruction Texas: An Enduring Myth," *Southwestern Historical Quarterly* 97 (April 1994): 587-96.

¹³ Gregg Cantrell, "Racial Violence and Reconstruction Politics in Texas, 1867-1868," *Southwestern Historical Quarterly* 93 (January 1990): 335.

side. He supported his work with tabulated voter returns and quantitative evidence that explored a large sample from a variety of counties. His argument, that Davis held a far stronger support base than previously believed, provided an entirely new way to interpret the political mindset of Texans in 1869.

The first historical work to address the three occasions when Governor Edmund J. Davis declared martial law during Reconstruction was Walter Prescott Webb's *The Texas Rangers* (Houghton Mifflin Company, 1935). His engaging account, also being the first, was responsible for the long line of imprecise scholarship that followed. Webb's work on the events was taken almost entirely from newspaper sources and limited research, which led to an inaccurate account of the events in all three counties. Webb alluded that martial law in Walker County was declared primarily to extort the money that would be obtained by a special tax levied on the citizenry. He also asserted that the declaration of martial law in Freestone and Limestone Counties was wholly unnecessary.¹⁴

Webb's erroneous assessment can be attributed mainly to the negative feelings toward the State Police, which were still being voiced by actual participants while he was doing his research. Despite his biases, Webb wrote, "The force never had the slightest chance to succeed, because it was bitterly opposed by the most substantial element in the state... No fault of the police was overlooked, no mistake excused."¹⁵ Here, Webb's assessment was correct. The overwhelming majority of white citizens who felt oppressed by the Davis Administration and the lingering sting of losing the war would not accept the State Police that, as a desegregated unit, embodied everything they stood against. That distinction explains a large part of the overwhelming negativity with which the

¹⁴ Walter Prescott Webb, *The Texas Rangers; A Century of Frontier Defense*. (Austin: University of Texas Press, 1989), 224-5.

¹⁵ *Ibid.*, 221.

agency has been treated in most historical appraisals. Contempt for Davis and his police was evident in most newspapers across the state, which over the years provided the original groundwork for historians.

Following Webb's account, the next historian to investigate the events was William Curtis Nunn, who completed his Master's thesis in 1931 at The University of Texas under the tutelage of both Walter Prescott Webb and Charles Ramsdell. In Nunn's thesis, "A Study of the State Police During the E.J. Davis Administration," he selected ten outbreaks of violence involving the State Police and detailed the events surrounding them. His study, like his thesis director's (Webb) was prepared, almost completely, using newspaper accounts of the events. Dealing with each martial law declaration, Nunn gave only one side of the story and failed to consult the hundreds of primary source documents dealing with the events available at the Texas State Archives. Thirty years later, Nunn used the material again, only slightly revised, in his assault on the Davis administration, *Texas Under the Carpetbaggers*.

The first open-minded attempt to assess military occupation of Walker, Hill, Limestone, and Freestone counties appeared in Otis Singletary's "The Texas Militia during Reconstruction" (Southwestern Historical Quarterly, 1956). The essay provided a brief synopsis of all three incidents along with a history of the State Militia and State Police. While the general account by Singletary was impartial, he nevertheless tendered several factual errors in his assessment, offered no new scholarship, and left considerable gaps throughout the work. He did however, offer some interesting points, including that

the Texas militia recruited many black men, not because of a radical policy, but rather because so few whites expressed an interest in enlisting.¹⁶

Ann Baenziger's article, "The Texas State Police During Reconstruction: A Reexamination" (*Southwestern Historical Quarterly*, 1969), provided the best general history of the State Police that can be found. She clearly demonstrated the need for such a force through the use of statistical data and sound interpretations. Concerning the unpopular opinion of the State Police, she argued that a majority of Democrats, ex-Whigs, and moderate Republicans opposed most radicals or radical programs "with little consideration of possible benefits." The article also provided an insightful depiction of the Hill County Rebellion and claimed that most historians, who have argued the force was hated at the time, have neglected the fact that many Texan's "looked to the force for the protection of their property and even their lives."¹⁷ She supported this claim by citing the steady stream of letters requesting assistance of the State Police received by the Adjutant General's office.

The 1976 dissertation of Texas Tech student Ronald Gray, "Edmund J. Davis: Radical Republican and Reconstruction Governor of Texas," provided a brief, yet valuable review of the declarations. Gray was the first to claim Davis exercised restraint in using his power, and that his only intent was "to defend citizens against armed gangs and to provide law and order."¹⁸ The revisionist argument that Davis was acting only out of the best interests of his state was later articulated by Ricky Floyd Dobbs in his thesis, completed in 1989 at Baylor University, "'A Slow Civil War': Resistance to the Davis

¹⁶ Otis Singletary, "The Texas Militia during Reconstruction," *Southwestern Historical Quarterly* 60 (July 1956): 27.

¹⁷ Ann Patton Baenziger, "The Texas State Police during Reconstruction: A Reexamination," *Southwestern Historical Quarterly* 72 (April 1969): 471.

¹⁸ Gray, 248.

Administration in Hill and Walker Counties, 1871” and his article “Defying Davis: The Walker County Rebellion, 1871” (*East Texas Historical Journal*, 1993). Both works provided revisionist studies of the events. Dobbs concluded, “Rather than a capricious dictator, Davis appears a pragmatic politician seeking to prevent a loss of political power, hoping to build a broader political base, and avoiding alienation of the Texas populace.”¹⁹

The best study of a single declaration can be found in Chuck Parsons’ and Marianne Hall’s *Captain L.H. McNelly – Texas Ranger: The Life and Times of a Fighting Man* (State House Press, 2001). Their chapter addressing the Walker County Rebellion is the most detailed published account written to date. Parsons and Hall covered the rebellion from start to finish, offering new material and a solid analysis of the topic without trying to place unwarranted blame upon Davis.

Almost every book, article, or thesis written on Reconstruction dealing specifically with Texas is subject to considerable inquiry. For well over a century, historians have perpetuated the Dunning School’s interpretation and, as yet, it has not been completely negated. While many historians have begun dissecting the previously held arguments regarding Reconstruction, there is still much work to be done. New interpretations are beginning to posit that: Governor Edmund J. Davis was not the tyrant history has made him out to be; the Freedmen’s Bureau in Texas was, on a small scale, successful in helping black Texans after the Civil War; and, most importantly, historical literature on the era is so limited that all new studies must come from primary source research and not from the existing collection of secondary sources.

¹⁹ Ricky Floyd Dobbs, “Defying Davis: The Walker County Rebellion, 1871,” *East Texas Historical Journal* 32 (Fall 1993): 45.

The events leading up to Governor Davis' three declarations of martial law began with his swearing in as governor on January 17, 1870. At the time of his inauguration, his first action was to fill offices throughout the state. Most of the appointees by Davis were, understandably, radicals. Shortly after the Republican-controlled legislature met and approved the Fourteenth and Fifteenth Amendments to the United State Constitution, Davis recommended to President Grant that Texas be readmitted to the U.S.; the recommendation was approved on March 30. Davis, during his first three months in office, was somewhat cautious. With all actions, he consulted party officials and General Joseph J. Reynolds, Commander of the Fifth Military District before taking action. On April 28 he decided to begin the process of enacting his legislation and reforms across Texas.²⁰

In the governor's first message to the Twelfth Legislature, he called on them to pass bills establishing a State Police, a State Guard, and State Militia. He further requested a gun law that would prohibit the carrying of any weapons in Texas other than a shotgun or rifle in any place other than the frontier. The primary problem facing his administration and the state, he claimed, was lawlessness. He asked the legislature for the authority, if necessary, to suspend *habeas corpus* and occupy defined areas of the state where civil authorities were unable to restore or sustain order. In his speech requesting the militia and police bills he said he believed that simply allowing him the power to declare martial law would keep citizens from making it necessary to use.²¹

Davis was not exaggerating when he reported Texas as being in a state of lawlessness. From 1865–1868, the homicide rate had tripled across the state. Of the 978

²⁰ Gray, 190.

²¹ *Ibid.*, 194.

homicides that were reported statewide, there were only five convictions. By 1870 the murder rate had increased to 323 homicides, which was more than double in any other state. At the time of Davis' inauguration there were over 2,500 criminals at large across Texas.²²

The legislature quickly began consideration of the Militia Bill, and the State Police Bill, which granted the governor authority to establish a State Police, State Guard, and reserve militia. The bill, if passed, would also make the governor the commander-in-chief with the authority to appoint all officers and issue orders on behalf of the state. His request for the authority to declare martial law was also included in the Militia Bill. If approved, the bills would also provide Governor Davis the power, at his discretion, to convene military commissions to try and punish offenders by court martial and to levy a tax on the population of any county that had been placed under martial law.²³

The need for such measures was understandable. While the bills were being deliberated, numerous reports of lawlessness from across the state funneled into Austin. A group of black teamsters had been killed in Nacogdoches and the town of Victoria reported that a black man had been arrested and beaten unmercifully by a mob of men. Numerous other murders were taking place in all areas of the state. Once the bill had cleared the House, getting it through the Senate presented a more daunting process. While there was ample support for the bill, the thirteen senators who opposed it delayed the proceedings by leaving the senate chamber, thus preventing a quorum. Unlike recent similar actions by Texas legislators who fled the capitol to avoid a vote, they were not

²² Baenziger, 471-473.

²³ Gray, 194-5.

able to get out from the building. Senate President Don Campbell ordered the men arrested and had five of them returned to the chamber; the Militia Bill passed 15 to 5.

The State Police Bill was passed shortly thereafter and granted to the governor a total force of over 250 men who would report to an Adjutant General who, in turn, reported directly to the Governor. The State Police agency was granted significant powers to apprehend fugitives, including: crossing county lines to pursue fugitives, taking control of local police agencies, and transporting criminals to different counties for trial. Davis' request for a gun law was also swiftly debated and approved. The governor quickly set about organizing and appointing his new law enforcement agencies. For the post of Adjutant General, he chose James Davidson who had served with the Union during the Civil War and as military commissioner for Red River County. Davidson had gained a reputation for his strict leadership and commitment to fighting crime.²⁴

The police force was made up of approximately forty percent black men.²⁵ Historian Norman Gray noted of the use of black police that "nothing was more repugnant to the warriors of the lost cause than the presence of negro police in their towns." For many confederate sympathizers the use of blacks to enforce state laws became a major sore point. Despite the animosity felt across the state with regard to the police agency, they were remarkably successful in a short period of time. In their first month of operations alone they made 978 arrests across the state.²⁶

The first situation where Davis seriously considered declaring martial law came in November 1870. He received alarming reports that on November 8 an armed mob of men

²⁴ Carl H. Moneyhon, "James Davidson," *The Handbook of Texas Online*, <http://www.tsha.utexas.edu/handbook/online/articles/view/DD/fda26.html> (accessed 1 November 2004).

²⁵ Baenzenger, 475.

²⁶ *Ibid.*, 476.

had set out to kill Police Capt. J.H. Patrick. According to the information Davis had received, when the men could not find Patrick, they set after one of his men, Lieutenant Tinsley. When Tinsley had been captured, he was carried to Patrick's yard, hung from a tree, and shot. The following day, the mob supposedly went after two other unidentified policemen and proceeded to murder them along a county road. One man in the mob, in front of Mrs. Patrick, yelled that they intended to "kill every God damned radical in Madison County, and then go down and clean out Grimes County." One report claimed that a skirmish between the mob and State Guardsmen had resulted in the deaths of eight men and the wounding of thirty-five.²⁷

Shortly after receiving a telegraph informing him of the situation, Davis dispatched his Adjutant General with orders to take forty State Policemen and three-hundred State Guardsmen to put down what he understood to be a murderous mob. From the reports Davis had received it appeared that a declaration of martial law may be necessary. Upon arrival Davidson soon realized that the reports of an all out insurrection were grossly exaggerated and that the "mob" consisted of only seven men who had attacked a group of five freedmen, killing one. The reports from Madisonville were almost entirely fictitious. Police Captain Leander McNelly, after being dispatched to investigate what had caused the breakdown, laid blame on Patrick for complete and unforgivable incompetence. McNelly later wrote in a report that upon arrival in Madisonville he found the town "as quiet as a Quaker meeting-house." McNelly summarily dismissed Patrick from service in the State Police.²⁸

²⁷ *Daily State Journal* (Austin), 12 November 1870.

²⁸ *Ibid.*

Davis, who no doubt considered declaring martial law in Madison County, did not allow himself to be swayed by the reports he had received. Had he declared martial law, there is no doubt many would have called into question not only his judgment, but also his ability to lead. On the three occasions explored in this thesis, it is clear that Davis was always prudent in using his power, gave considerable thought to his actions each occasion, and gave the citizens of each county a chance to remedy the situation themselves before sending in state troops. Davis never declared martial law for any other reason than to restore peace and order for the citizens of Texas.

CHAPTER II

THE HILL COUNTY REBELLION

Of all of the disturbances plaguing the state during the tumultuous years of Reconstruction, and of the three occasions Governor Edmund J. Davis used the powers granted to him by the Militia Act to declare martial law, the Hill County Rebellion presents the best example of how the governor ethically used his office and power. Hill County, located sixty miles south of Fort Worth, and thirty-five miles north of Waco, had two large towns in 1870: Hillsboro, the county seat and Peoria, six miles to the west. The communities were primarily agricultural and had strong Southern sentiments. In the vote for secession, the county voted overwhelmingly to separate Texas from the Union, casting 379 votes for, 63 against.¹ During and after the Civil War, the county experienced the same rise in population that could be seen in most parts of eastern Texas. By 1870, Hill County's population was 7,453 people. The citizens of Hillsboro and Peoria were often at odds, and some of that contention was due to their differing political affiliations. Citizens of Hillsboro tended to support the Davis administration, while Peoria was "an anti-administration stronghold," as classified by at least one historian.²

The County was also a hotbed of criminal activity during Reconstruction. Outlaws such as John Wesley Hardin, the Kinch West Gang, and the Cox Brothers had gained notoriety across the state from newspaper accounts of their exploits in the Hillsboro area. The *Daily State Journal* reported in June 1870 that there were at least eight recent murders, and at least five of them had been committed by "mobs." The paper blasted

¹ Carl H. Moneyhon, *Republicanism in Reconstruction Texas*. (College Station: Texas A&M Press, 1980), 204.

² Ricky Floyd Dobbs, "A Slow Civil War: Resistance to the Davis Administration in Hill and Walker Counties" (M.A. Thesis, Baylor University, 1989), 57-8.

county residents saying that “They never have and never will volunteer to put an end to murder and violence, but have always encouraged and assisted the murderers.” The article concluded, stating that within Hill County a “reign of terror exists.”³ While charging that a “reign of terror exists” may have been an exaggeration, the charge that citizens stood by idly while lawless acts were committed was true.

In September 1870, Governor Davis began receiving alarming reports from Hill County. The County Sheriff, Owen Beauchamp, had sent a disturbing request to the Adjutant General and Chief of State Police James Davidson asking for “a small detachment of the State Police, say from twenty-five to thirty men ... to assist me in arresting the many desperadoes that are now harbored in Hill County.” The Sheriff also believed that lawless men and violence would prevent him from performing his duties. The Sheriff was convinced that the local citizenry would provide no help and he reported to Davidson that he found it “impossible to secure sufficient assistance from the residents of the county.”⁴

Davis, as he had in previous occasions of lawlessness, acted cautiously. He waited to see how the situation would unfold before issuing a warning to the county. Tensions across Texas were high and it was not uncommon for the governor to receive reports that afterward proved either outlandish or exaggerated. In the case of Hill County, neither was true. On September 2, 1870, one State Policeman, Private Nagle, was shot while on patrol. His commander, L.J. Hoffman, wrote in his report to Davidson that he had been attacked by a mob of fourteen men. Further aggravating the situation, he was unable to

³ *Daily State Journal* (Austin), 19 June 1870.

⁴ Owen Beauchamp, Hillsboro, to James Davidson, Austin, 16 September 1870, MOGD, 9.

obtain any help from the local population.⁵ Within days of Beauchamp's request for men, the West and Atchison gang attacked the Hill County jail. Beauchamp, unable to deal with the situation, sent word to Lieutenant Hoffman that he needed help. Unfortunately, there were no men available for Hoffman to send.⁶

The Adjutant General sent Lt. Thomas Williams with a detachment of fifteen men to track down and arrest the fugitives roaming Hill County. Davidson also gave the lieutenant the authority to use citizens or the local authorities if needed to track down offenders in the area.⁷ When Williams arrived in Hillsboro on September 28, 1870 with orders to arrest any desperadoes in Hill or adjoining counties, he immediately gathered information from Sheriff Beauchamp and John Purnell about "the names and places of retreat of the desperadoes and outlaws of [Hill County]."⁸ Williams left Hill County with Sheriff Beauchamp a few hours after his arrival, in pursuit of the villains. Reports had been received placing the outlaws in Peoria, only six miles away. Unfortunately the outlaws had been tipped off by Peoria residents that the police were on their way and fled. The next morning Lieutenant Williams took his men, along with Sheriff Beauchamp, to the residence of Kinch West, one of the suspected outlaws. Upon arrival there, the police were attacked by West, the Cox brothers, and others. The police returned fire and a chase ensued. For the next four miles the outlaws rode their horses at full speed, staying ahead of the police. Knowing the countryside well, the gang turned their horses into heavy woods and escaped justice. Lieutenant Williams realized that he and his

⁵ L.J. Hoffman, Waco, to James Davidson, Austin, 2 September 1870, MOGD, 10.

⁶ L.J. Hoffman, Waco to James Davidson, Austin, 21 September 1870, MOGD, 10.

⁷ James Davidson, Austin, to Thomas Williams, 23 September 1870, DCAGD, ARIS-TSLAC.

⁸ Thomas Williams, Lockhart, to James Davidson, Austin, 4 November 1870, MOGD, 15-6.

posse had little chance to capture the men because he had no knowledge of the country, and their horses were tired. Without the outlaws, he returned to his post in Waco.⁹

John Purnell, a friend of Governor Davis, sent a report to the governor's office on October 3, corroborating the reports from Beauchamp and Hoffman. Purnell wrote,

The facts of the case are as follows: Kinch, West, the Cox brothers, and a few others, are charges with having committed murders, are banded together and boldly defy the authorities of the county. They declare that they will not do any harm if let alone, but that they will resist with force all attempts to capture them, and die rather than be arrested. As a matter of course, the sheriff cannot, with a due regard to his oath of office, let them alone; several attempts have been made to arrest them, but without any favorable results.

The sheriff says that he is unable to secure aid from the residents of the county to enable him to arrest these men. From my own observations, I am of the opinion that the sheriff is correct in this view. The people in the community certainly manifest a decided determination not to assist the sheriff in his efforts to bring offenders to justice-some from sympathy with the outlaws, others with personal prejudice against the sheriff, and others from ill will against the present administration of the state and all the officers friendly to the same...¹⁰

Davis, with the facts before him, had Davidson send a telegram to Lt. W.T. Pritchett in Waco with instructions to aid Sheriff Beauchamp by supplying manpower. When the lieutenant offered to dispatch five men to Hillsboro, the Sheriff flatly refused as he was of the opinion "that it would require at least forty of fifty to do the [job]."¹¹

Davis decided to send an ultimatum to Hill County. The governor believed, based on the reports from Beauchamp, Williamson, Davidson, Pritchett, and Purnell, that within Hill County, the citizens not only allowed these criminals to escape, but also actively resisted all attempts to restore the peace. As Chief Executive of Texas, the decision to impose martial law was his. In earlier outbreaks of lawlessness across Texas, the governor had strived to inform citizens of his intentions and personal resolve regarding

⁹ Ibid.

¹⁰ John Purnell, Hillsboro, to Edmund J. Davis, Austin, 3 October 1870, MOGD, 10-1.

¹¹ W.T. Pritchett, Waco, to James Davidson, Austin, 14 October 1870, MOGD, 11-12.

the matter. Davis wrote a scornful letter to the citizens giving them one full month to restore peace. His letter gave the citizens due warning of what they could expect if peace and order were not restored. Addressing the letter to Hill County Sheriff Evan Beauchamp, the governor wrote,

The State Police sent to your county to arrest Kinch, West, Cox, Mayfield, Oliver and Atchison, and their accomplices, charged with the offenses in your county and McLennan county, report that their efforts to capture these criminals have been unavailing, and that they have the sympathies of the citizens towards these parties, or because the citizens were under intimidation by the outlaws. They did not co-operate with the police, but on the contrary furnished the outlaws information, and aided them in evading arrest.

On receipt of this letter, you will immediately call the citizens of the county together, or as many of them as you can notify without delay, and state to them publicly that these desperadoes having so far evaded arrest, either by the sympathy of citizens, or because of their intimidations, I shall at the expiration of thirty (30) days from the reading of this letter, if they have not then turned out, and arrested and delivered the above named parties to the proper civil officers, send the Militia and State Guard to the county to secure the arrests, and martial law declared, and the expenses levied upon the people of the county, or such of them as are to blame in this respect. The police report that the people of, and in the neighborhood of the village of Peoria, have made themselves most conspicuous to this lawlessness, and I desire you to respectfully notify the people of that neighborhood of the penalty they incur.¹²

Clearly the letter was especially aimed at the citizens of Peoria. From the reports Davis had received, there was real reason to believe that they had not only aided the criminals, but alerted them to the oncoming police. The governor did not immediately declare martial law; instead, he offered a thirty-day period for the locals to comply with the need for law and order.

After the letter from Davis was read in a town meeting on October 27, 1871, the citizens of Peoria were swift to reply. They drafted a letter to the governor the next day, promising to abide by the law and fulfill the governor's requests. They wrote,

¹² Edmund J. Davis, Austin, to Owen Beauchamp, Hillsboro, 3 October 1870, MOGD, 12-3.

WHEREAS, The Sheriff of Hill County received a letter from the Governor of the State, dated third day of October, A.D. 1870, calling upon said sheriff to convene the people of Hill county for the purpose of adopting efficient means to suppress lawlessness and crime, and arrest such persons as may be found in said county, who are openly resisting the civil authorities, and further stating that should not such means be adopted, the county will be put under martial law.

NOW, THEREFORE, We, the people of said county, in mass meeting assembled, adopt the following resolutions, to-wit:

1. That we desire most sincerely to see law and order prevail, to have peace and prosperity extend throughout the country; that we deprecate lawlessness and crime, and pledge ourselves at any and all times, when called upon by the officers of the law, to aid and assist in arresting and bringing offenders to justice.
2. That we, in good faith, assure the Governor of the State and the civil officers of the county, that we do not desire to see criminals go at large, bidding defiance to the law and the officers thereof, and the more effectually to prevent the same, and also to prevent the commission of same, we herein tender our services at all times to them for the purpose aforesaid.
3. That we tender our thanks to the Governor for his kindness in notifying us of the representations made to him concerning the condition of the county, and also for allowing us the privilege of expressing our sentiments and desires in relation thereto.¹³

The letter was signed by J.J. Gage, Chairman. It brought about the desired effect. Davis was so impressed by the resolutions of the town that he immediately replied to the citizens, "I am glad to be misinformed of as to the disposition of yourselves and fellow citizens." Davis continued to say that he was "only desirous that law and order should be established" and that "this purpose can best be accomplished by making my fellow citizens interested in enforcing the same." Davis also informed the citizens he would immediately halt preparations to occupy the county in an effort to help the citizens with their promise to restore peace and order.¹⁴

Despite the lofty rhetoric of the citizens of Peoria, Hill County remained in a state of lawlessness. Sheriff Beauchamp had reported prior to the governor's warning that

¹³ J.J. Gage, Peoria, to Edmund J. Davis, Austin, 23 October 1870, MOGD, 18.

¹⁴ Edmund J. Davis, Austin, to Citizens of Peoria, 3 November 1870, MOGD, 14-5

most of the outlaws had either been detained or fled the county. For Davis, these letters conveyed that the lawless factions had been removed and that his threat of martial law had sufficed. Efforts had been made to restore order in the county. State Policeman William E. Evans reported that between October 29 and November 9 he had brought six men to justice. Only one of the arrests required gunplay, which resulted in the criminal's death, and the remaining five were being held for trial.¹⁵ Regardless of the conflicting reports, Davis remained resolute in his belief that the citizens had written him in earnest and refrained from declaring martial law.

Davis also may have speculated that the problems in Hill County were the result of an ineffective sheriff. He had received worrisome news that Eyan Beauchamp was a drunkard and that his carelessness as a law enforcement officer had led to the unpleasant conditions in the county. In a letter to Judge Wood of the thirty-fifth Judicial District, the governor asked him to investigate and remove Beauchamp if the allegations were true.¹⁶ Shortly after receiving the letter, Wood appointed J.P. Grace as County Sheriff, replacing Beauchamp. J.P. Grace had been selected because he held the popular support of county residents. Despite the new leadership and lofty resolutions of the town, on November 7, newly appointed Sheriff of Hill County reported to James Davidson that a band of armed men had attacked the Hill County jail once again and, in the process, freed a murderer by the name of Samuel Stutts.¹⁷

The next month a brutal murder in neighboring Bosque County sparked a chain of events that would prove to be the final test of Davis's patience. On December 26, 1870, an unnamed freedman and his wife were found "fouly murdered" near the town of

¹⁵ William Evans, Hillsboro, to James Davidson, Austin, 9 November 1870, MOGD, 16-7.

¹⁶ Edmund J. Davis, Austin, to F.P. Wood, 1 November 1870, GCTOG, ARIS-TSLAC.

¹⁷ J.P. Grace, Hillsboro, to James Davidson, Austin, 8 December 1870, MOGD, 17.

Clifton in Bosque County. After an investigation, police Lt. W.T. Pritchett learned that the murders were two residents of Hill County named Solloela Nicholson and James Gathings, Jr. Pritchett received word that Gathings's father lived in Hill County and was harboring the murderers. The lieutenant immediately took his squad to the father's home with the intention of arresting any criminals he found. Upon arrival he announced his intention to search the home for the murderers. Col. James Gathings, Sr. met the police at his porch, wielding a shotgun, and yelled "You cannot search my house with your damned negro police." He continued to threaten that if Pritchett attempted to enter the home it would be "at the risk of his life." Showing his metal, Pritchett searched the house anyway. Unfortunately, the search proved fruitless. It is believed that they escaped out the back door during the standoff.¹⁸

Not easily deterred, Pritchett divided his men and continued his hunt for the outlaws. While searching, Pritchett and the two men with him were ambushed by twelve to fifteen men who had been hiding along the road. The mob declared that they were officers of the law and intent on arresting Pritchett's squad. The men were obviously not policemen, but at the time the lieutenant realized that he was severely out-manned and out-gunned. With no chance for escape, Pritchett and his men surrendered to the mob. They were held prisoner for two hours while a sympathetic magistrate was summoned to issue a legal warrant for their arrests.¹⁹

Pritchett later wrote in his report that he had been "thoroughly convinced that we were in possession of an infuriated *mob*, and were arrested by irresponsible persons, who were neither officers of the law and without any authority or writ for our arrest." The men

¹⁸ James Davidson, Austin, to Edmund J. Davis, Austin, 1 February 1871, MOGD, 5-6.

¹⁹ Ibid.

were taken to Hillsboro for trial under a guard of twenty “deputies.” When they arrived, Pritchett found the remainder of his squad had also been detained and were being guarded. The policemen were taken into the court, and charged with forcibly entering the premises of J.J. Gathings Sr. without a search warrant. Word of the arrests quickly spread across the county and citizens from the surrounding area gathered to watch the show. Pritchett recalled that “the court room was filled with men *armed with shot-guns and six-shooters.*” The justice ordered that bond be set at five-hundred dollars and the policemen would be required to appear at trial in one week. Believing the bond was set too low and feeling bold in the company of his “deputies” Colonel Gathings walked up to the bench and declared to the judge “by God, if the bond is not made strong and substantial, I will re-arrest him and hold him until the date of his trial.”²⁰

True to his word, immediately after Pritchett and his men had posted bond and been released, Colonel Gathings secured additional warrants and arrested the police again on trumped up charges. Pritchett wrote of the events, “Affairs were becoming still more serious, as more armed men were coming in; whiskey freely drank, and myself and men threatened and insulted.” Twice more the police were arrested and held prisoner, and in Pritchett’s opinion provided ample time for the criminals and “deputies” to escape. Finally, the police were able to escape and leave the county entirely.²¹

This had not been the first time the Gathings family had felt powerful enough to impose its own brand of law. In 1866 a man named Burnett who had married into the Gathings family stole a horse from a Cleburne man. When the victim’s brother, who happened to be the town sheriff, attempted to detain Burnett, some of the Gathings clan

²⁰ Ibid.

²¹ Ibid., 7.

prevented the sheriff from arresting him. Eventually the warrant was executed, but once again the Gathings family stepped in and used intimidation to have him released. Burnett was eventually re-apprehended and indicted for his crime, but none of the Gathings family, who had assisted in liberating him twice, ever faced the penalty of law.²²

Upon hearing of the events in Hill County, Davis felt he could no longer issue simple warnings. The arrest of his State Police had been a direct affront to the law, the police, and to his administration. The time for polite considerations and threats had passed. On January 10, 1871, Governor Davis wrote a proclamation declaring that because the lawless element in Hill County was "too strong to be controlled by the civil authorities," he was declaring martial law. Davis did not publish the proclamation. Instead, on the following day, he simply handed the proclamation to James Davidson with the following order:

In obedience to Special Orders No. 3, current series, from this office, you will proceed to Hill County, Texas.

Upon your arrival at that point, you will issue and publish the Proclamation of Martial Law, which has been signed and placed in your hands, or reserve the same as may seem best after you arrive at the scene of the disturbance.

You will assess the amount of expenses incurred, either upon the county, or upon the parties implicated in the recent outrages, as may be deemed most expedient; and authority is granted you to convene General Courts Martial, to include not less than three officers, of whom one must be a field officer, for the trial of the offenders, should you determine that justice can be better subserved in that manner than by trial before the civil courts.

It is desired that your action should be as prompt as possible, and the whole matter disposed of without delay, so that the troops may return to their homes.

But it is also desirable that a strong squad of police be left in that district of country under a good officer, with orders to hunt down and bring to justice all offenders.²³

²² *Daily State Journal*, 2 March 1871.

²³ Edmund J. Davis, Austin, to James Davidson, Austin, 11 January 1871, MOGD, 19.

In the order, Governor Davis once again tried to exhaust all possible avenues of action before actually declaring martial law. Davidson now had the ability to make a judgment call based on how he perceived the situation in Hill County. At his discretion, he could either post the proclamation of martial law or disregard it. If he did announce the governor's order, he also had the authority to decide to what extreme it should be carried out. He could impose a tax on every citizen of Hill County or limit monetary damages to those responsible for the lawlessness. Using his judgment, he could have the outlaws tried in either a civil court or a military court. In short, Davis had given the Adjutant General his proxy to handle the situation as Davidson saw fit when he arrived in Hillsboro.

Of paramount importance was that the entire operation be handled quickly. While the order asked Davidson to make all haste so the men under his care could return to their homes, there is no doubt that Davis also understood that a prolonged military occupation would not generate favorable reviews from the press, the legislature, or the people of Texas. For Davis to maintain his political credibility, the action needed to be handled quickly.

Davidson set out for Hillsboro on January 12, 1871. His progress was delayed by a freezing storm and he did not arrive until January 15. Simultaneously Captain Napier had moved fifty men to Hill County to meet with the Adjutant General. Upon arrival, Davidson was not pleased with the situation. In his report he wrote, "I found affairs in confusion, officers intimidated, authority resisted, and a spirit of defiance of to law extant, which the civil officers were powerless to control." Seeing little to inspire confidence in the local authority, Davidson posted the proclamation and declared martial

law. He immediately issued orders for the arrests of eight men. Of the eight, five were members of the Gathings family. With the sizable force now available, the State Police had no trouble arresting all of the men and moving them to Hillsboro, where they met with the Adjutant General.

Undoubtedly Davidson was aware that the Gathings family was one of the most powerful families in Hill County. James Gathings, Sr. had owned a large plantation with over a hundred slaves prior to the war. He now owned over ten-thousand acres of land and at least twenty buildings, including a store. Along with a partner, T.S. Westbrook, Gathings had introduced Durham cattle to Texas and owned more than twelve-hundred head, and had seven-hundred horses. He had founded Gathings College in 1860. His reputation was known outside of the county and Sam Houston had even offered him a colonelcy in the State Militia. The Civil War, compounded by the railroad's decision to bypass his town, had severely lessened his fortune, but in January 1871, Gathings was still the principal landowner in the county and probably the richest as well.²⁴

Gathings's wealth presented a unique opportunity for the Adjutant General. Because the governor had given Davidson the option of assessing the costs of martial law on either the county at large or just the guilty parties, he could fulfill his orders by simply requiring Colonel Gathings and his coconspirators to pay the fines out of their pockets. When Gathings was brought before Davidson, the option was presented to him. At his discretion, Davidson would allow Gathings to decide whether to pay for the costs of imposing martial law from his private funds or with a county-wide tax on the entire population. If he chose to allow a tax on all citizens of the county he would face the resentment of his local community. Also, he would be facing a court martial, where, if

²⁴ Dobbs, "A Slow Civil War," 66-8.

convicted, he could serve time in the penitentiary. Gathings was given fifteen minutes to decide. Even for Gathings the sum was not small. Davidson had calculated the costs of occupation at five-hundred dollars per day. In total, the fines amounted to three-thousand dollars. According to the *Tri-Weekly Gazette*, he was not even allowed to consult a lawyer.²⁵

Gathings, along with the other accused, begrudgingly agreed to the general's offer and paid one-thousand dollars in gold and the remainder in vouchers to the Adjutant General's Office. Davidson then turned his attention to the judge who had presided over the police when they had been arrested by Gathing's "deputies." The judge claimed that he had "acted under fear of his life" when presiding over the State Police hearing. Davidson accepted his explanation, as it was entirely credible in light of Lieutenant Pritchett's report that most of the bystanders were drunk and armed. After his obligations were fulfilled, Davidson remained in Hillsboro for two more days. On January 17, 1871, he rescinded the order for martial law. In his summary report to Governor Davis he wrote that he had decided fining the guilty parties was "more equitable and just to the inhabitants of Hill County." In closing his report he wrote "This application of martial law, I am happy to say, has had the effect of rendering [Hill] County as peaceable and subservient to the laws as any other portion of the State."²⁶

Indeed it had. Peace had been restored in Hill County and its lawless element dealt with. The governor was not without opponents, however. County Sheriff J.P. Grace had written to the governor to voice his protest regarding the actions of the State Police during their occupation. In his reply, Davis blasted the sheriff:

²⁵ William Curtis Nunn, "A Study of the State Police During the E.J. Davis Administration" (M.A. Thesis, University of Texas, 1931).

²⁶ James Davidson, Austin, to Edmund J. Davis, Austin, 1 February 1871, MOGD, 8.

Your conduct is not approved. If you had acted promptly in arresting the parties who surrounded and made prisoners the State Police, and had you seen that they were held for trial, there would have been no necessity for the declaration of Martial Law, and subsequent proceedings.

It is your duty as sheriff in the first place to see that such violations of law are inquired into, and you must not put [your] responsibilities on the State Police.²⁷

J.P. Grace was not the only resident of Hill County to take issue with the actions of the State Police in Hill County. Sixteen citizens, who were part of a Grand Jury sitting in Hillsboro to investigate excesses committed during the application of martial law, wrote a scathing letter to Governor Davis that was republished in the *Daily State Journal*. In their communication, they requested “a committee composed of members of the Legislature – Irrespective of party – to come here and investigate the matter.” They continued on to offer a promise that the citizens of Hill County “pledge to you our co-operation and support in the fair, just, and proper administration and execution of the law.”²⁸

Davis outright refused to ask the legislature to spend more time investigating the matter, as both houses had already convened committees to scrutinize the issue. He wrote that the senate, via its Committee on Militia, had already ruled that, after studying the enforcement of martial law in Hill County and considering the fines that had been assessed, they found “that no excess has been committed by the Governor.” In its resolution, the Committee cited that Davis had prudently and justly carried out martial law within the powers granted to him by the Militia Act. Davis continued to inform the citizens that he had recommended the Committee on Militia send a group to the county to investigate the matters first-hand and that the Committee has seen no need to do so.

²⁷ Edmund J. Davis, Austin, to J.P. Grace, Hillsboro, 19 January 1871, ERBSS, ARIS-TSLAC.

²⁸ *Daily State Journal*, (Austin), 7 March 1871.

Davis's letter did not end there, taking up more than an entire column in the *Daily State Journal*, he went on to use the paper as a means for justifying his decision to impose martial law. He took the opportunity to take his case to the people by publishing his response. In the letter, he took the townsmen to task on their pledge to offer their "co-operation and support in the fair, just, and proper administration and execution of the law." He wrote:

In connection with this promise, I have to call it to your attention, that when I was on the eve of establishing martial law in your county in October last, . . . a meeting of your leading citizens sent a petition to me, dated October 23rd, containing a promise "that we in good faith, assure the Governor of the State and the Civil Officers of the county, that we do not desire to see criminals go at large, bidding defiance to the law and to the officers thereof: and that the more effectually to prevent the same, and also to prevent the commission of the same, we herein tender our service at all times to them for the purposes aforesaid"

Relying upon this promise, I reconsidered my purpose to suspend civil law, and the sheriff, of whose inefficiency you complained, having been removed, I appointed as sheriff Mr. J.P. Grace, your own choice. But on the 8th day of December following, Sheriff Grace reports that your county Jail has been broken open and one Samuel Stults[sic], confined in it for murder, set at liberty.

Please let me know the number of your citizens (and their names) who turned out to hunt down and arrest these jail breakers? What measures were adopted to find them, and what is now being done by you citizens concerning it? My information leads me to conclude that you have not interested yourselves much about it.

Again, when on the 26th of December the Atrocious murder of the freedman and his wife committed on a public highway near the boarder of your county, an affair only equaled by the exploits of the Comanches – what number of your citizens turned out to hunt down the young scoundrels Gathings and Nicholson, who did the killing? What measures have you adopted to find them, and what is being done now?

You promise well, and your fellow citizens promised well before, but you will excuse me if under the circumstances, I look hereafter for something more substantial than promises.

Again I ask you to observe: The State Police being in hot pursuit of Gathings and Nicholson follow them (or believe they follow them) into your county to the house of J.J. Gathings (who was a relative of, and had raised the young Comanche of that name). They attempt to search Gathings' house, and notwithstanding his threats and delays, they make the search. He turns out immediately after they leave and raises a force of his neighbors, people of your county. To do what? To search for and arrest the murderers, as a man anxious to

enforce the laws ought to have done? Not at all, but to overtake and arrest the police? He and his mob surrounded and made prisoners the lieutenant and his police. They drag them as prisoners before a judge, who, in alarm at the constantly increasing crowd of armed men and drunken men, and under open threats from Gathings himself, goes through the form of putting the police under bond. In the meantime the murderers go off unmolested. I thereupon send troops to the county, put it under martial law, and the cost – about three thousand dollars – is assessed upon Gathings and the other leaders in the assault upon the police. Now the circumstances herein which I ask you to observe, is this: While you seem to consider the assessment of this money on Mr. J.J. Gathings and his abettors of so much importance that you, as Grand Jurors, address me officially thereon, you have no word to say about the murder of the colored man and wife, and about the jail breakers, or about the failure of yourselves and fellow-citizens to do anything toward the punishment of such offenses. What is the reason for this omission? Is the murder of this pair of poor blacks, or the credit of your people as supporters of the law, of less consequence in your minds than A money assessment on your rich neighbor?

I have to say, gentleman, in conclusion, that when I find Mr. J.J. Gathings as vigorous in the pursuit and arrest of the young murderer who bears his name, (and for whose worthless character he may largely responsible) as he was of the State Police, and when he becomes an active and earnest supporter of law and order, and an enemy of jail breakers and other disturbances, it will be time to talk of his relief. It is by no means a pleasure to me, to have to use such severity towards any one of my fellow citizens. But if there is one object I have more at heart than another, it is to leave Texas, at the end of my term of office, a quiet and peaceable and law respecting State, and I propose to devote to this purpose all the authority and appliances given me.²⁹

Davis's letter, certainly, was harsh. Nevertheless, the next day the *Journal* praised the governor's letter stating "We have never seen the old, pretentious, canting, plausible, humbugging, negative way of dealing with offenders, so fashionable in parts of Texas, more thoroughly exposed than in the reply of the Governor."³⁰ Other papers were not so supportive. The *Tri-Weekly Gazette* claimed that "We have never known in the history of America, such flagrant abuse of power – such an open and bold violation of the rights of liberty and property of citizens by a constituted authority." The paper claimed that they had not seen how the situation was being reported in Austin (i.e., *Daily State Journal*),

²⁹ Ibid.

³⁰ Ibid.

but they were certain it would be exaggerated. In the democratic version of the Hill County disturbances, Gathings had been brought before the Adjutant General and dishonored. They wrote "Here we behold the melancholy and humiliating spectacle of an officer engaged in plundering a citizen of his property by aid of military power." The article charges that Davidson and his detachment were nothing more than bullying thieves who set out to rob J.J. Gathings, a respected and influential citizen. The article includes absolutely no reference to the murdered black couple, the jailbreaks, the arrest of State Police, or the general lawlessness of the County.³¹

Despite the obvious impropriety of their actions, the Hill County grand jury continued to consider charging Davidson or Pritchett with a crime in relation to either the searching of Gathings' home or the application of martial law. After being coolly told that such an indictment, or further efforts by the citizens of Hill County to thwart the work of the State Police, would lead to another declaration of martial law, efforts to charge a member of the State Police with a crime mostly subsided.³² Gathings continued to lobby the state for a refund of the money he had been taxed by Adjutant General Davidson, which he eventually received through a resolution of the Texas State Legislature after the Republicans lost power.

Life in Hill County after the rebellion attained a sense of normality. J.J. Gathings, went on to regain prosperity and his stature in the county. In 1874, his son-in-law, Dr. A.M. Douglas, served in the Democrat-controlled Texas legislature where, by

³¹ *Tri Weekly State Gazette*, 25 January 1871. As reproduced in Nunn, "Police Study," 105.

³² Dobbs, "A Slow Civil War," 76-8.

happenstance, he likely voted for the resolution to reimburse Colonel Gathings the monies lost during the Hill County Rebellion.³³

Throughout the events in Hill County, Davis tried, to the best of his ability, to restore order without having to resort to martial law. The citizens had been warned twice, the Adjutant General was sent to the county with orders to pocket the proclamation if peace could be restored in a more amicable manner. When searching the records of Edmund J. Davis and the Adjutant General, it is noticeable that the governor, while trusting Davidson, did not allow him a free hand. Undoubtedly when Davidson was sent to Hill County he understood from the very beginning that he was not to levy a tax on the entire populace. Davis did not want to declare martial law and place additional hardships on any citizen of Texas, nor did he want to have the residents of Hill County tried under court martial. Despite what Davis would have preferred to do, as governor of Texas he could not turn a blind eye to all-out defiance of the law as was manifested in Hill County in 1870 and 1871.

³³ Ibid., 78-9.

CHAPTER III

THE WALKER COUNTY REBELLION

On December 5, 1870, the body of Sam Jenkins was found murdered outside Huntsville. Judging from the condition of his corpse, he had been brutally beaten. Just a few days earlier he had testified against local whites in an assault case in Huntsville. State Police Captain Leander H. McNelly, who was already in pursuit of the murderer R.D. Hightower, a Walker County resident, was dispatched with orders to “remain in Huntsville with at least six policemen until all murderers are arrested.”¹ After capture and arrest, the outlaws, with the assistance of local townspeople, quickly escaped during a shootout in the Huntsville courthouse. The murder of Jenkins, a freedman living just outside Huntsville would have far-reaching implications and repercussions for the citizenry of Walker County, the Texas State Police, and Governor E.J. Davis. The escape of the suspects and their lack of respect for the law and judiciary process would lead Governor Davis to declare martial law in Walker County and charge the citizens of the county for the costs. The “Walker County Rebellion,” as it is generally called, would become a symbol of tyranny for anti-Davis Texans.

Walker County was by no means agreeable with Republican ideologies prior to 1871. Before the Civil War, their economy had flourished using slave labor. When the call for secession hit the county, the citizenry voted 490 to 61 to secede from the Union.² During and following the Civil War, Texas was hit by an influx of people. Walker County saw its days of white supremacy being left behind as the population of blacks rose to be the majority of the county’s inhabitants. Most of the white citizenry had

¹ James Davidson, Austin, to Leander McNelly, Huntsville, 7 January 1871, DCAGD, ARIS-TSLAC.

² Moneyhon, *Republicanism*, 204.

supported the Confederacy during the Civil War and felt animosity toward a government that they felt, justifiably, had changed their entire way of life. Following the war, the community was polarized. On one side there were supporters of radical rule, on the other, there were many citizens who still held strong Confederate sympathies. When emancipation was announced in Huntsville, Blacks converged on the town square in jubilation – only to get a taste of the violent years to come. A man with rags over his face and a sword in his hand rode toward the crowd at full speed and slashed a black woman nearly in two.³ The celebrators were quick to disperse, but the event foreshadowed what the black residents of Walker County could expect during the Reconstruction years.

Radical Republican rule inserted itself into many aspects of daily life. To hold an office or a public job a citizen had to be on the “right side” of politics. In a small town like Huntsville, the “right side” was all too obvious. Under the Reconstruction government, many white townspeople were unable to vote at all, as a requirement of voting was the signature on an iron-clad oath swearing allegiance to the United States and denouncing the Confederacy. William H. Woodall remembered that during the election of 1869 in Huntsville “voters stood in line at the polls and were guarded by armed Negroes.”⁴

Lawlessness was not new. The *Daily State Journal* reported that despite the fact there had been twenty-four recent murders in the county, there had been no convictions. The article went on to state that “The majority of the people want law and order, yet a

³ Jane C. Monday and Patricia S. Prather, *From Slave to Statesman: The Legacy of Joshua Houston, Servant to Sam Houston*. (Denton, TX: University of North Texas Press, 1993), 80.

⁴ William H. Woodall, “Memories of Huntsville From 1853 to 1924,” in *Huntsville and Walker County, Texas: A Bicentennial History*, ed. D’Anne McAdams Crews (Huntsville: Sam Houston State University Press, 1976), 119.

faithful and prompt discharge of duty of the sheriff would be likely to bring about resistance.”⁵

Sam Jenkins’ murder, for many, was not a major event. He was an elderly freedman who had “made himself obnoxious to white people generally.”⁶ It is more likely that the people of Huntsville perceived him to be obnoxious because of his stubbornness not to allow the fact that he was black to rob him of his just rights as a man. In the fall of 1870, Jenkins had been working for a farmer named Fred Parks and had agreed to receive a portion of the crops as payment. The two disagreed about the division of the harvest and Parks ordered Jenkins off his land. Jenkins had no real recourse against Parks. A short time later, Jenkins was stopped by two men, Nat Outlaw and Joe Wright, outside of Huntsville. These men informed Jenkins he could choose between being beaten or shot. Jenkins chose the beating and the men proceeded to bludgeon him with clubs.⁷ Jenkins reported later that while he was being beaten he was told that if he testified against his attackers, they had promised that they would kill him.⁸

The harassment did not stop there. Jenkins, who had filed an assault charge against the men, agreed to testify. Despite being warned against doing so, Jenkins testified on December 5, 1870, against Parks, Outlaw, Wright, and a fourth man, Jonathan Parrish. After the trial, Jenkins was followed home by the four men. Sam Jenkins would not live to see another day. His body was found “riddled with bullets” on a road outside Huntsville.⁹

⁵ *Daily State Journal* (Austin), 19 June 1870.

⁶ *Flake's Daily Bulletin* (Galveston), 3 August 1870.

⁷ Parsons, 72-3.

⁸ *Daily State Journal* (Austin), 27 Jan 1871.

⁹ Dobbs, “A Slow Civil War,” 80.

Upon news of the shooting James Davidson ordered police Captain Leander H. McNelly to Huntsville with orders to track down and arrest the murderers. In short order McNelly succeeded in arresting Fred Parks, Nathaniel Outlaw, Joseph Wright and John Parrish and brought them before Judge J. R. Burnett in Huntsville for arraignment. Governor Davis issued a proclamation that offered a five-hundred dollar reward for either the capture, or information leading to the capture, of Jenkins' murderer.¹⁰

Serving as prosecuting attorney, W. E. Horne made a convincing case against Outlaw, Wright, and Parrish. Ironically, Judge Burnett felt that the case against Parks, the man who had cheated Jenkins in the first place, was not solid. In his letter to Governor Davis he wrote that Parks had been discharged because "it was shown that he had nothing to do with the murder."¹¹ Burnett ordered Outlaw, Wright, and Parrish to be held in the state penitentiary. The Judge had decided to remand the men to the penitentiary because he felt that the county jail did not provide adequate protection against the citizens who had voiced threats that they would be liberated. In his letter to the governor, Burnett recommended the penitentiary, but was unsure of his ability to use it. He wrote, "I doubt whether such authority [to confine prisoners to a state prison] is granted to me, except perhaps in cases of emergency."¹²

Throughout the trial, spectators had been vocal in their support of the accused. According to Horne, "During the trial... there was much excitement manifested by the friends of the prisoners, and threats were made that the prisoners should not go to jail if committed."¹³ After Judge Burnett made his ruling, both he and Horne quickly left the

¹⁰ *Daily State Journal* (Austin), 20 Dec 1870.

¹¹ J.R. Burnet, Huntsville, to Edmund J. Davis, Austin, 12 January 1871, MOGD, 22-24.

¹² *Ibid.*

¹³ W. E. Horne, Huntsville, to Edmund J. Davis, Austin, MOGD, 20.

courthouse while Captain McNelly prepared his prisoners for transport to the penitentiary. Decades later Burnett admitted that he had left the courtroom hurriedly because he suspected Outlaw, Wright, and Parrish were armed.¹⁴

Some time during the day of the trial, or perhaps during the trial, the prisoners had indeed procured firearms. Some citizens believed Sheriff Cyrus Hess had armed them before entering the courthouse. Some of this speculation is well placed, as it was Sheriff Hess who had searched the prisoners before the trial that very day and it was ultimately his responsibility to guard the prisoners. Captain McNelly later testified that Hess had been directly in front of the prisoners when Wright first drew a pistol. He also stated that “Hess had ample time to disarm [any] one of the [prisoners].”¹⁵ Not everyone was convinced of Hess’s involvement. In the initial letter from Judge Burnett to Governor Davis, he wrote that the prisoners had been under the

charge of Mr. Hess, the sheriff, and some guard, who say they had no arms when they were first taken to the courtroom yesterday morning; and if this be true, they were furnished with the arms by their friends, as they had quite a number on hand throughout the investigation.¹⁶

While Burnett believed that the prisoners had been aided by friends in the audience and not Hess, he also had to concede in his communication with Governor Davis that, ultimately, the responsibility for watching the prisoners throughout the trial belonged to Hess. In the same letter, he wrote, “I believe Mr. Hess is an honest man, but his carelessness in this case has caused me to remove him.”¹⁷

Another theory on where the firearms came from has to do with the courthouse furniture. Some, including Captain McNelly, believed that the firearms had been hidden,

¹⁴ Parsons, 85.

¹⁵ Testimony of L.H. McNelly, 26 February 1871, Court Martial of Cyrus Hess, CMAGD, ARIS-TSLAC.

¹⁶ J. R. Burnett, Huntsville, to Edmund J. Davis, Austin, MOGD, 22.

¹⁷ Ibid.

prior to the trial, inside the desks where the prisoners were to be seated. The prisoners could have quietly taken the guns and hid them in their clothing. This is the most plausible explanation and is supported by later testimony.¹⁸

Despite contradictions regarding how the prisoners obtained the guns, the reports are consistent in that each of the prisoners was armed. Immediately after Judge Burnett ordered them moved to the penitentiary under his guard, Captain McNelly began a routine search of the prisoners. McNelly had no reason to believe they would be armed, but as a precaution stood in front of Outlaw and asked, "Are you armed?" Outlaw replied, "I am, sir." McNelly quickly grabbed the pistol from the surprisingly honest Nat Outlaw and handed it to Judge Baker, who was in the courtroom. Suddenly, Wright and Parrish brandished their pistols and began firing in the direction of McNelly and State Police Private Tom Keesee. Outlaw fell to the floor. Wright shot McNelly in the leg. Wounded, McNelly managed to draw his pistol and shoot Wright in the arm.¹⁹ During the firefight Keesee was shot in the face and neck by Parrish but managed to wound Parrish. Despite their wounds McNelly and Keesee continued to shoot as the prisoners made their way out of the room. By the time they were gone, about thirty shots had been fired.

During the firefight Nat Outlaw remained lying prostrate on the floor and waited for the shooting to stop. Most accounts of the incident suggesting that he struggled free and also engaged in the fight are erroneous. Captain McNelly, on multiple occasions, restated this as fact. Also on the floor through the firefight was Sheriff Cyrus Hess. Despite being County Sheriff, he never managed to get off a shot. Hess was subsequently

¹⁸ Court Martial Records, CMAGD, ARIS-TSLAC.

¹⁹ *The Galveston Daily News* (Galveston), 8 March 1871.

court marshaled. During his hearing, Keesee testified that Hess had been “pretty badly scared.”²⁰

As the fugitives were engaged in the gunfight inside the Courthouse, other members of the State Police were prevented from assisting McNelly and Keesee. While trying to make their way through the courthouse, a crowd of local citizens blocked their path. From outside the courthouse Judge Burnett and W.E. Horne heard the shots and began making their way back toward the town square. They were quickly halted by shots they believed were being fired at them. Horne later wrote a letter to Davidson exonerating most community members of “mischief” and stated that he did not believe the shots fired in his vicinity on January 11 were specifically aimed at him or Burnett.²¹ This is in direct conflict with his letter of January 26 to Governor Davis, which implicitly stated that the shots were an “attempt to shoot down the officers of the court.”²²

Parrish and Wright, after exiting the courtroom, made their way down the stairs toward freedom. Upon exiting the courthouse, horses were waiting. Two men, Willie Parrish (fugitive Parrish’s brother), and Thomas Walker had both the horses and guns waiting for the desperate pair. Other people were standing by and cheering “Go! Go!”²³ One citizen, George Rather, helped Wright get onto his horse.²⁴ Despite both being wounded, Parrish and Wright galloped out of town while “firing their pistols and yelling

²⁰ Testimony of Tom Keesee, Court Martial of Cyrus Hess, CMAGD, ARIS-TSLAC.

²¹ W.E. Horne, Huntsville, to James Davidson, Austin, 24 February 1871, DCAGD, ARIS-TSLAC.

²² W.E. Horne, Huntsville to Edmund J. Davis, Austin, 28 Jan 1871 MOGD, 21.

²³ Parsons, 75.

²⁴ Charles Taylor Rather, “Around the Square in 1862 with a Barefoot Boy,” in *Huntsville and Walker County, Texas: A Bicentennial History*, ed. D’Anne McAdams Crews (Huntsville: Sam Houston State University Press, 1976), 139.

like savages.” Several of their friends also mounted horses and followed them out of town.²⁵

After the fray the first order of business was to get Nat Outlaw to the penitentiary. McNelly, although wounded, and Hess took Outlaw to the prison without incident. Then McNelly ordered Hess to form a posse to chase after the escapees while he sought medical attention. McNelly’s wounds were minor, but they still required the attention of Dr. Prince, the local physician. Tom Keese’s injuries were substantially worse. He was treated by both Dr. Prince and Dr. H. C. Oliphant for wounds to the face and neck. McNelly was up and around in a week but Keese’s treatment was far more substantial. He remained under their care for a total of twenty-two days.²⁶

Sheriff Hess eventually reported to McNelly that he had tried to raise a posse but the majority of the townspeople were unwilling to help. According to McNelly, most citizens refused because they had no respect for the sheriff as he had not fired a single shot during the commotion.²⁷ However, lack of respect for Hess was probably not the reason. More specifically it was rabid animosity toward the Republican government and State Police in general. The events in Huntsville on January 11, 1871, constituted an all-out disobedience of law and order. On that day, the citizens let loose their anger by helping Parrish and Wright escape, but they did not stop there. Horne reported that “the prisoners were guarded by thirty or forty well armed friends who defied arrest and threatened death to Captain McNelly at all hazards.” Horne also stated that “there were so many sympathizers and aiders to in the escape that I prefer stating who were not, in justice to the few who did not in any way give them aid or comfort.” Concluding his

²⁵ Parsons, 75.

²⁶ Martial Law Voucher, DCAGD, ARIS-TSLAC.

²⁷ *Galveston Daily News* (Galveston), 8 March 1871.

letter he included the names of only seven people who had not helped the outlaws escape. Further aiding the outlaws, some citizens provided medical help and cut the telegraph wires so the authorities in Austin could not be notified.²⁸ The escape was planned in advance and carried off with the help of a group that was prepared and ready. This bold defiance of law and order set in motion a chain of events that most of the citizenry would later regret.

While delivering his ruling, Judge Burnett alluded to threats made against him. He said to the court, "If I am to be cowardly assassinated because of my honest decision, and if the law is to be outraged by a mob... be it so."²⁹ His suspicions proved correct during the night after the trial. A group of citizens attacked and attempted to murder the Judge in his home. One of the people believed to be involved in the attempt was ex-county sheriff William Stewart. Stewart's reasons may not have been entirely politically based; Judge Burnett had relieved him from duty as sheriff in late 1870.³⁰

News of the events unfolding in Huntsville were slow to reach the governor. Without a working telegraph, Judge Burnett and W.E. Horne communicated their accounts via mail. The first notice of the events received in Austin was a telegram that came from a neighboring county. The first communication from the capitol that acknowledged the incident was addressed to Captain McNelly on January 13. The short message simply asked: "How did prisoners procure pistols?"³¹ Burnett's letter and Horne's letter, which gave the first detailed accounts of the uproar, arrived in Austin shortly after this message was sent. In a subsequent letter sent January 17, Burnett

²⁸ W. E. Horne, Huntsville, to Edmund J. Davis, Austin, 26 January 1871, MOGD, 20.

²⁹ *Daily State Journal* (Austin), 12 February 1871.

³⁰ W.E. Horne, Huntsville, to Edmund J. Davis, Austin, 11 January 1871, MOGD, 21.

³¹ A. J. Doman, Austin, to L.H. McNelly, Huntsville, 13 January 1871, GCTOG, ARIS-TSLAC.

specifically requested that, despite the involvement by so many in the escape, Governor Davis should consider sending twenty-five to thirty State Police to restore order instead of placing the county under martial law. He also cautioned against sending in the State Guard, partly because the company was primarily comprised of black troops and secondarily because they were unarmed.³²

Governor Davis was not hesitant. The first communication from him concerning the Walker County incident was a letter to Burnett, explaining his satisfaction with the judge's conduct and alluding to a possible proclamation of martial law.³³ In fact, Davis had already drafted the proclamation that day. In it he cited the reason for martial law as "various outrages against the peace and dignity [of the state]." Continuing, he further justified his declaration by stating that the local authorities were unable to restore order.³⁴ Despite the written decree, Davis did not announce a state of martial law. Instead, as he had done before in Hill County, he sent a warning. In the same letter to Burnett approving of his actions, he wrote "You are authorized to inform the citizens of Walker County, that these outrages that have taken place, will bring upon them severe expense and retribution as well as injury to the reputation and prosperity of the county."³⁵

To Governor Davis, the acts of citizens in Walker County were even more contemptible than the lawlessness in Hill County. In a letter to the Texas Senate, explaining his reasons for declaring martial law, he wrote,

I am not aware that the history of The United States, or in fact of any country, where the English language is spoken, presents a parallel to this Walker County affair, for overbearing lawlessness. While, doubtless, many of the citizens of that county deprecate the act, they all stood by supinely, or actively aided the attack

³² J. R. Burnett, Huntsville, to Edmund J. Davis, Austin, MOGD, 24.

³³ Edmund J. Davis, Austin, to J.R. Burnett, Huntsville, MOGD, 25.

³⁴ Edmund J. Davis, Proclamation of Martial Law, 20 January 1971, ERBSS, ARIS-TSLAC.

³⁵ Edmund J. Davis, Austin, to J.R. Burnett, Huntsville, 20 Jan 1871, MOGD, 25.

upon the judge and officers of the law, while engaged in the exercise of their legitimate authority and sworn duty.

He concluded his letter stating that, "I am preparing to send troops into Walker County, and ... martial law will be proclaimed therein, the guilty parties arrested and punished, if to be found, and the cost assessed upon the people of the county."³⁶

Davis had decided quickly to declare martial law. His original proclamation was written on January 20, just nine days after the shootout. However, he waited to post the order until February 20. The most logical reason Davis may have waited to declare martial law was because there had been rumblings by members of the legislature about his authority to do so. On February 7, the Texas Senate approved a resolution to ask Governor Davis for any information that he had in his possession that related to the disturbances in Hill and Walker Counties. In the twenty-seven page reply, Davis supplied a copy of each letter he had received and his reasoning for declaring martial law. He defended his actions in Hill County and made it clear that he intended to "send troops into Walker County, and [proclaim] martial law."³⁷ The Senate, upon receiving the documents, adopted a resolution to send a committee of three senators and five congressmen to "proceed immediately to Huntsville... with instructions to examine fully into the recent disturbances in Walker County, and to report fully all the facts connected with such disturbances, as well as the present condition of affairs in said county."³⁸

Two days later, on February 17 – scarcely enough time for a commission to travel from Austin to Huntsville – the Committee on Militia reported their findings from the governor's message with documents in relation to lawlessness and crime in Hill and

³⁶ Edmund J. Davis, Austin, to Don Campbell, Austin, MOGD, 4-5.

³⁷ Ibid.

³⁸ Texas Senate, *Senate Journal of the Twelfth Legislature*, 15 February 1871, 249.

Walker Counties. They reported, and a majority of the committee found, “that no excess has been committed by the Governor” and that martial law was “imperatively demanded by the reported lawless condition of affairs.”³⁹

The approval on February 17 was not without its opponents. A minority report was entered into the record on February 23. In the report Senator G. R. Shannon wrote that “there is no law of the State that authorizes the Governor to proclaim martial law, or to suspend the laws of the State while the legislature is in session.”⁴⁰ The dissenting argument was based on the language of the Militia Act. Article 26 of the Act stated that

It shall be the duty of the Governor, and he is hereby authorized, whenever in his opinion the enforcement of the law of this State is obstructed, within any county or counties, by combinations of lawless men too strong for the control of the civil authorities, to declare such county or counties under martial law, and to suspend the laws therein until the Legislature shall convene and take such action as it may deem necessary.⁴¹

The minority report argued that because the legislature had been in session, the governor could easily have dispatched a special message to the legislature informing them of the situation, at which point, the legislature could have advised on and consented to any action taken to restore order in either county.⁴² Despite the language, the majority of senators approved of Davis’ actions. Gaining approval, Davis quickly ordered James Davidson to post the declaration of martial law in Huntsville.

When Davidson arrived in Huntsville on January 20 and declared martial law, it had a sobering effect on the county. Order was restored quickly and it was relayed to the populace that, unlike Hill County where Davidson had only fined guilty parties, in

³⁹ Texas Senate, *Senate Journal of the Twelfth Legislature*, 17 February 1871, 270-1.

⁴⁰ Texas Senate, *Senate Journal of the Twelfth Legislature*, 23 February 1871, 282-4.

⁴¹ H.P.N. Gammel, “General Laws of the Twelfth Legislature of the State of Texas, Called Session,” *Laws of Texas*, V6, 190.

⁴² Texas Senate, *Senate Journal of the Twelfth Legislature*, 23 February 1871, 283-4.

Walker County he would go by the letter of the law and order a tax on every person living in the county to help pay for the occupation. Most citizens were shocked. The tax would amount to \$.50 per \$100.00 valuation of property and cost an average of \$.75 per citizen. Taking into consideration that the total valuation of assets in Walker County in 1870 was just under \$1.5 million, the tax put considerable strain on the county. In total, the tax raised \$7,621.09. The levy accounted for two-thirds of tax revenue collected in Walker County that year.⁴³

Another practice allowed by the declaration of martial law was the right of Governor Davis to order citizens tried by court martial. While in Hill County he had not attempted to circumvent the civil authority, in Walker County he gave the order to try by military law all citizens who aided the prisoners or took part in the shoot out. The legality of the governor imposing martial law was shaky at best; the power to deny citizens of their right to trial by jury flagrantly ignored rights as guaranteed by the Constitution of the United States.

In a letter to James Davidson dated February 27, 1871, Huntsville attorney A.T. McKinney wrote to both the district attorney and judge advocate that “the Court Martial now sitting in Huntsville has no legal right to try and punish citizens.”⁴⁴ In each case prisoners and defense attorneys would argue that the military authority had no right to try citizens by court martial based on rights guaranteed them by the U.S. and Texas Constitutions.

The most eloquent, and sound, argument against the use of court martial in Walker County is found in the proceedings of George Rather. Rather’s lawyer began by

⁴³ Dobbs, “Defying Davis,” 42-3.

⁴⁴ A.T. McKinney, Huntsville, to James Davidson, Austin, 27 Feb 1871, DCAGD, ARIS-TSLAC.

citing that the Texas Constitution of 1869, which clearly states that “The Constitution of the United States, and the laws and treaties made, and to be made, in pursuance thereof, are acknowledged to be the supreme law.”⁴⁵ Further, because the U.S. Constitution in Article II, Section 2 clearly states that all trials “shall be by jury” and because the Fifth Amendment further guaranteed that “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury,” the state had no right to try citizens outside of a civil court.

Governor Davis had declared martial law based on powers granted to him by the Militia Act of July 24, 1871. The Act gave the governor the right to declare martial law in any county that he deemed when, “in his opinion the enforcement of the law of this State is obstructed, within any county or counties, by combinations of lawless men too strong for the control of the civil authorities.” While there is no question the Militia Act was in direct conflict with the Texas and U.S. Constitutions, the appeal was denied. The proceedings would continue as planned and a total of eighteen citizens of Walker County were tried or investigated for participating in the shootout, aiding the escaping prisoners, or refusing to report to the Sheriff’s call for a posse.

On February 27, 1871 Benjamin Courdadt stood charged with “failing and refusing to aid and assist the Sheriff of Walker County, when summoned so to do in preventing the escape of prisoners charged with a capital offense.” He pleaded not guilty to the charge. Only one witness took the stand in Courdadt’s trial, former Sheriff Cyrus Hess. After five direct questions from the prosecution, and some inconsequential questions from the defense, it was established that Courdadt had indeed refused to obey

⁴⁵ Court Martial Proceedings, n.d., Texas v. George Rather, CMAGD, ARIS-TSLAC; Constitution of Texas (1869), art. 1, sec. 1.

Sheriff Hess when called to join a posse. After a short deliberation the court found Courdadt guilty and levied a fine of one-hundred dollars. In addition to the fine, the court ordered that Courdadt be imprisoned until the fine was paid.⁴⁶ Six other Walker County citizens faced similar trials for the same charge. Briffield, Garrett, Wilson, and Luff were ultimately found guilty and received the same penalty as Courdadt. Cox and Keenan, however, were found not guilty due to the fact that they had hesitantly agreed to help disarm the people in town, but had voiced objections to chasing the escapees. In a slight scuffle between Hess, Cox and Keenan, the Sheriff had released them from their summons when he realized his attempts at forming a posse were becoming futile.

Cyrus Hess was charged with being an accessory to attempted murder and “negligently permitting prisoners to escape.” To both charges he pleaded not guilty. Five witnesses testified in the case. The key witness was Judge Burnett. Burnett testified that Hess was “a man of irreproachable character for honesty and ... integrity.”⁴⁷ Throughout his testimony, Burnett defended Hess and made a convincing argument that Hess would not, under any circumstances, have aided the prisoners to commit a murder. Despite Burnett’s respect for Hess, he had to concede that, ultimately, it was the sheriff’s job to guard prisoners and prevent any disturbances. On that account, he had failed in his duties as sheriff.⁴⁸ Hess was acquitted of being an accessory to attempted murder, but found guilty of negligence. He was ordered to pay a fine of \$250 and remain imprisoned until the fine was paid. Adjutant General Davidson voiced his displeasure over what he

⁴⁶ Court Martial Proceedings, Texas v. Benjamin Courdadt, 27 Feb 1871 CMAGD, ARIS-TSLAC.

⁴⁷ Court Martial Proceedings, Texas v. Cyrus Hess, 28 Feb 1871, CMAGD, ARIS-TSLAC.

⁴⁸ Ibid.

considered an inappropriate ruling, writing that “the sentence will be duly inflicted but is not considered adequate to the offense.”⁴⁹

Strangely absent from the Walker County court records are detailed accounts of the court martial of Nat Outlaw. From the limited information available, it is known that Outlaw stood trial and pled not guilty to murdering Sam Jenkins. Despite his plea, Outlaw was sentenced to a five-year term in prison. Immediately after the ruling, Davidson expressed his discontent. In his review of the trial, he stated that the Adjutant General “must express his unqualified disapprobation of the action of the General Court Martial ... and reprimand the uncalled for leniency of the court, extended toward a murderer, whose hands, as proven, were red with the blood of a fellow being.”⁵⁰ Governor Davis felt that the jury had failed in its duty to punish Outlaw and later pardoned the man citing as a reason, that the measly sentence of five years could only be the result of the jury being uncertain in his guilt.⁵¹

Also missing from the records of martial law in Walker County are any records showing the capture or trial of Wright or Parrish, the two men who had begun the entire affair by brandishing their weapons in the courtroom on January 11. If they were ever caught or punished for their crimes, there remains no record in the Adjutant General’s files. The last mention of Wright and Parrish that can be found in the records available at the Texas State Archives is a letter from Captain McNelly to General Davidson stating that “it is likely they have gone to Arkansas.”⁵² It is probable then that they escaped justice.

⁴⁹ Court Martial Order #4, Texas v. Cyrus Hess, 2 March 1871, CMAGD, ARIS-TSLAC.

⁵⁰ Special Order #11, Texas v. Cyrus Hess, March 1871, CMAGD, ARIS-TSLAC.

⁵¹ Edmund J. Davis, Pardon of Nat Outlaw, 11 March 1871, ERBSS, ARIS-TSLAC.

⁵² L.H. McNelly to James Davidson, 4 Feb 1871, Index to Letters Received, DCAGD, ARIS-TSLAC.

In Walker County, many of the citizens were upset. In a petition written on March 1, 1871, forty-six citizens voiced their concerns to the legislature. They wrote that “the people of Walker County are law abiding peaceful citizens and deeply regret the acts of the prisoners and their friends ... in resisting the authority of law.”⁵³ The residents continued to question the authority and methods of the governor’s declaration. It is important to note that of the forty-six people who signed the petition, at least eleven were either under investigation themselves, pending trial, or serving as counsel for citizens being tried.

Despite the petition, the legislature stood by Governor Davis’s decision. On March 5, 1871, Davidson sent a telegram to the governor stating, “Have tried all parties implicated, also Outlaw. Will leave here about Wednesday next. Judge Burnet can hold his court in safety.”⁵⁴ Despite Davidson’s assessment that order had been restored, Captain Farrow of the State Police, who had been placed permanently in Huntsville, sent discouraging news on May 28, 1871, that “a bitter feeling exists on the part of the citizens toward the police.”⁵⁵ Davidson reminded Goddin that “You are expected to quell all disturbances at Huntsville by prompt and energetic action. If necessary call upon good citizens to help you.”⁵⁶

Captain Goddin, who was also stationed in Huntsville received the odious task of collecting taxes due. Many citizens who had been at the Court during the shootout grumbled about the taxes. Some Walker County residents who had not been anywhere

⁵³ Citizens of Walker County to The Texas Legislature, Austin, 1 March 1871, Memorials and Petitions, Texas Legislature, ARIS-TSLAC.

⁵⁴ James Davidson, Huntsville, to Edmund J. Davis, Austin, 5 March 1871, DCAGD, ARIS-TSLAC.

⁵⁵ George Farrow, Huntsville, to James Davidson, Austin, 28 March 1871, Index of Letters Received, DCAGD, ARIS-TSLAC.

⁵⁶ James Davidson, Austin, to George Farrow, Huntsville, 16 Mar 1871, DCAGD, ARIS-TSLAC.

near Huntsville that day were furious. The Adjutant General's office and the governor's office received a flurry of protests and requests for exemption status, and a good majority of the requests were denied. Some citizens out-rightly refused to pay. Governor Davis, however, would not be disobeyed. Upon receiving word that a faction of citizens would not pay, he had General James Davidson create a special order to allow the Sheriff of Walker County to seize the property of delinquent taxpayers and sell it from the courthouse stairs.⁵⁷

In one instance of a citizen who refused to pay, J.M Maxey – the lead defense attorney for the Outlaw, Parks, Wright, and Parrish – along with at least one of his partners flatly refused to pay the military tax to Captain Goddin of the State Police. Davidson ordered the Captain: "Instruct the Sheriff to seize personal property of Baker, Maxey, and the others and sell the same at public outcry. The State can become the purchaser." Davidson must have been growing weary of the entire Walker County problem because he added to the letter, "If I have to come back to Huntsville again, I will deal with Baker, Maxey, and others in such a summery manner that they will not forget it."⁵⁸

At about the same time that Davidson ordered Captain Goddin to seize the property of those delinquent in paying their taxes in Walker County, L.H. McNelly agreed to an interview with the *Galveston News*. In the interview McNelly was asked if martial law had been necessary in Walker County. McNelly responded that there had been "no occasion for it," and even more injurious, when the reporter asked him whether

⁵⁷ James Davidson, "Special Order," 1 March 1871, DCAGD, ARIS-TSLAC.

⁵⁸ Davidson to Goddin, 13 Mar 1871, DCAGD, ARIS-TSLAC.

the declaration of martial law may have been declared to raise money for the state, he responded “possibly.”

The article was extremely damaging to the governor and Davidson. McNelly, upon reading the *Galveston Daily News* article, sent a telegram to Austin to inform his superiors that “his words had been garbled.”⁵⁹ McNelly also immediately sent a letter to the editors of the *Galveston Daily News* stating that he should have been more guarded concerning his answers and that his answers may have been misconstrued. He claimed he did not remember using the word “possibly” when asked if martial law had been declared for money and went on to write on “had I thought so, I should have been the first to denounce them.”⁶⁰

Following the Walker County Rebellion, Davis had a relatively quiet six months. Placing both Hill and Walker Counties under martial law had sent a message across the state that as governor, he was not afraid to use the powers granted to him by the Militia Act. Although the debates over his authority to declare martial law did not moderate (Davis was later exonerated by the legislature for his actions), the fact remains that his methods worked. On two occasions the governor had declared martial law, and during both, he had given citizens ample warning to end the lawlessness in their counties on their own. He had followed the law as it had been set and did rescind his order for martial law, in both counties, as soon as the citizens had complied. Despite criticism by the democratic presses, both declarations of martial law had been a success and accomplished what the governor had set out to do – to restore order.

⁵⁹ *Galveston Daily News* (Galveston), 14 March 1871.

⁶⁰ *Daily State Journal* (Austin), 17 March 1871.

CHAPTER IV

THE GROESBECK RIOT

Despite Davis's declarations of martial law in Hill and Walker Counties, lawlessness was still rampant across much of Texas. In March 1871 alone there were over four-hundred arrests reports submitted by police across the state. Of these, at least sixty were violent crimes and included twelve homicides.¹ Most arrests made by the State Police during 1871 were due to gambling, theft, or disturbing the peace. Davis believed that by having used the martial law powers granted to him, he had given notice to lawless elements throughout the state that mob violence would not be tolerated. He also hoped that by showing the state he was not afraid to declare martial law, it would negate the need to use it again. On the surface, it appeared his plan had worked. After the Hill and Walker County Rebellions there were no major incidents of mob violence for six months. Unfortunately, Davis's mettle would be tested a third time.

Anti-Republican sentiments had existed in the town of Groesbeck and across Limestone County for years. The county had voted 525 to 9 in support of secession at the outbreak of the Civil War.² It had also mustered four companies of men to serve in the Confederacy and contributed twenty men to the famous Terry's Texas Rangers. All told, as much as seventy-five percent of the male voting population of Limestone County served the Confederacy. After the South's defeat, these men returned to the county beaten and bitter. Reconstruction, for some, would be worse than losing the war. Upon returning to their homes, the men of Limestone County faced a complete change in their way of life. Even more painful was the feeling that they were not in control of their own

¹ Nunn, "A Study of the State Police," 205-13.

² Ray A. Walker, *A History of Limestone County*. (Austin, Von Boeckmann-Jones, 1959), 50.

communities. The first group of town officials elected for local government posts were summarily thrown out of office by General Joseph J. Reynolds and replaced by Republican appointees. Further, the posting of Charles E. Culver as the local Freedman's Bureau Agent did nothing to ease tensions. Culver, and the agency he represented, became the symbol of everything the citizens had lost in the war.

In June of 1867, when Charles E. Culver arrived in Limestone County and began his activity as a Freedman's Bureau Agent, he single-handedly embodied all that the local residents hated. He immediately declared that the carrying of guns would be illegal in the county and went further to order all guns be surrendered to him or his appointees. Culver's overzealous approach to enforcing his doctrine is responsible for a large portion of the animosity felt by many Texans in the county toward the agency's administration. While many local blacks appreciated and used the Bureau, whites believed that Culver was rude and that he abused his power as a Bureau Agent, almost to the point of being a dictator. A short five months after arriving in Groesbeck, Culver was shot dead while harassing a local cattleman. The Culver Murder caused alarm throughout the county and many of the counties' blacks mobilized and called for revenge. Culver's murderer, William Patrick Stewart, fled the county and was never arrested.³ Fortunately, no violence came of the events and the disturbance passed. Although tensions between blacks and whites in Limestone County remained elevated in the following years, there were no major, county-wide, problems until 1871.

Throughout 1871 Adolph Zadek, the mayor of Groesbeck, encountered severe problems with political tensions around the district. One citizen particular, Dan Gallagher, had repeatedly come to Zadek's office, visibly drunk, to chastise and belittle

³ Walker, 54.

the mayor. Gallagher was not alone in his sentiments. Across the county men were angry and tired of Reconstruction policies and the Republican administration. Concerned about the safety of Black and Republican voters in the upcoming election, Zadek requested help from the governor. Davis appointed and dispatched "Special Police" to watch over the polls and keep the peace. Many citizens resented the Special Police, in part because they were primarily black and in part because they represented the government and administration they had grown to hate.

Once Zadek had a large enough police force to enforce the laws, he had Dan Gallagher brought before him on September 30, 1871. Zadek, who also served as a magistrate, was setting bond on Gallagher when another Limestone County resident, D.C. Applewhite, who was watching the proceedings, commented that he "wanted some damned policeman to try and arrest him."⁴

Applewhite had gained a reputation of being "very quick and excitable, especially under influence of liquor."⁵ On this particular day he had been drinking heavily. After Gallagher posted bond, Applewhite continued accosting the police. He commented to Gallagher that he could snatch a pistol from one of the policemen. He then added, loud enough to be heard, that he was armed and that he dared the police to try and take his firearm. In a later statement, Zadek reported the two men were "determined to have and provoke a difficulty."⁶

The two men, already drunk and surly, headed to Clark and Keys Saloon to continue drinking. In 1871, it was against the law to carry any concealed weapons anywhere across the state of Texas, including brass knuckles, large knives, six-shooters,

⁴ Statement of A. Zadek, DCAGD, ARIS-TSLAC.

⁵ Statement of H. Williams, DCAGD, ARIS-TSLAC.

⁶ Statement of A. Zadek, DCAGD, ARIS-TSLAC.

and just about anything except a rifle or shotgun. The only exception was being out on the frontier. The governor had pushed the law as one of his efforts to curb crimes throughout the state. Because Applewhite had claimed, in the presence of Zadek and the Special Police, to be armed, it became the duty of those policemen to disarm and arrest him.⁷

Two black policemen, Cotton and Jones, entered Clarks and Keys Saloon intending to disarm Applewhite. Upon entering, the suspect stood to face the policemen and discreetly pulled a derringer pistol, concealing it behind his back. Applewhite challenged, "They can't take me; if they undertake it, there will be an insurrection."⁸ Then, Cotton advanced to a position directly in front of Applewhite, drew his pistol, and held it up as if to strike the armed man on the head if necessary. The two men exchanged words and, suddenly, shots were fired.

There is considerable debate over who fired first. In the many statements surviving from the time, there are some who said Applewhite fired first, and some who said Cotton. However, most witnesses maintain they fired simultaneously. Applewhite was armed with a single-shot derringer pistol and Cotton carried a six-shooter. It would have been reckless for Applewhite to attempt a gun battle against two armed policemen, with the knowledge that he only had one shot. However, Applewhite was drunk. In that situation, anything could have happened. Regardless of who fired first, Applewhite was in clear violation of the law. He was armed, and it was the job of the policemen, Cotton and Jones, to disarm him.

⁷ Gray, 201-2.

⁸ Statement of J.S. Thuromond, DCAGD, ARIS-TSLAC.

When the shots were fired, both Cotton and Applewhite were wounded. Desperately, Applewhite rushed out of the saloon and into the street with Cotton and Jones right behind him, firing away until Applewhite collapsed, dead. The two policemen realized instantly that as black policemen who had just shot a white citizen, they were very likely in immediate danger. So, they proceeded hurriedly to Mayor Zadek's office and requested help.⁹

There was little the mayor could do. The town had hit its breaking point. The years of radical rule coupled with the presence of armed black police had been the last straw. Zadek allowed the two policemen to remain in his office while he spoke to the crowd. Confronted by an angry mob that demanded immediate justice, Zadek compromised. He asked the mob to disperse and promised that the policemen would be arrested and tried. Some citizens felt the mayor was playing both sides by agreeing to have the men arrested, but he had little choice. Surrounded by an angry mob, the best plan was to keep calm and if possible, satisfy them.

Zadek asked the policemen if they were willing to surrender to the mob. That option was quickly dismissed. Cotton told the mayor that he would only be willing to surrender to a detachment of black guardsmen or police. Cotton was no fool; he understood that to give up to the mob meant certain death for him and possibly for the small the group of black policemen who had joined him in Zadek's office. The mayor complied with Cotton's request and sent for some black guardsmen. To his credit, Mayor Zadek could have turned the policemen over to the mob at that point, but instead, he managed to curb the demand for vigilante justice, at least for the time being.¹⁰

⁹ Statement of A. Zadek, DCAGD, ARIS-TSLAC.

¹⁰ Ibid.; Statement of S. Thuromond, DCAGD, ARIS-TSLAC.

Immediately after the shooting “the excitement then became horrific indeed and [heard throughout] the city was to arms, to arms, shoot them, kill all the damned leaders of the damned [Republican] party.”¹¹ J.F Pells, a local Republican, had joined the mob to see what the commotion was about. At one point he remembered the crowd began listening to reason and an agreement was on the table for the Cotton and Jones to be arrested by a committee of townsmen who would be responsible for their safekeeping. Unfortunately, at about the same time an agreement was being made, a man raced into the town on horseback and declared that there were one-hundred armed blacks on their way to Groesbeck. The man then pulled his gun, cocked the hammer, and pointed it directly at Pells’ head, stating that Pells was one of the “damned radicals” they should kill first. Fortunately, the man did not shoot. The crowd immediately dispersed and ran to their homes to retrieve more firearms. They all returned in a matter of minutes outraged and armed.¹²

Attempting to quell the situation, two other prominent Groesbeck citizens tried to talk to the crowd: Mr. Watts, a local attorney, asked the mob to be still and end the commotion; and Mr. Stevenson, another lawyer, insisted that the policemen would be arrested and properly tried. Neither speech did anything to curb the mob’s need for immediate satisfaction. Rumors began to circulate that blacks across the countryside were collecting arms and mobilizing to rescue the police. Many more citizens, now hearing the rumors, joined the mob. Most were armed.¹³

After Mayor Zadek had left the mob, an alarm began to spread throughout the county. Men were racing into town looking for a fight. Zadek could hear the noises of

¹¹ Ibid.

¹² Statement of J.F. Pells, DCAGD, ARIS-TSLAC.

¹³ Statement of George A. Hall, DCAGD, ARIS-TSLAC.

gunfire and screaming from inside his office. He later wrote “lawlessness and mobocracy prevailed; parties armed with double barrel shotguns then came to the city in great numbers.” Sensing things were going to get worse, Zadek took his wife and child out of the town to a friend’s home for safety. Upon his return a short time later, another friend was waiting for him, urging, “for God’s sake don’t show yourself, there are... men who have sworn that they will kill you on sight.”¹⁴

A small group within the mob had tried to convince others that they should hang the mayor but it was decided he was more useful to them alive. The rioters called a town meeting and Zadek was instructed by the ringleaders that he would preside, giving him no other option but to do so. Acting on the mob’s directive, Zadek issued a warrant for the arrest of the two policemen. The mayor was then forced to make a public statement, approving the arrest warrants and calling on all citizens to arm for the purpose of defending the town. Zadek complied with every demand as he was threatened with death if he attempted to leave the town or do anything other than exactly what he was told.¹⁵

After the meeting, Dan Gallagher, who almost immediately became the ringleader, went with some men into George French’s store and demanded all the guns in stock be handed over to him. French refused. The mob’s intentions were to arm the town under to protect against an invasion of blacks who were supposedly in route to Groesbeck. One of the rioters, a Mr. Hall, was an acquaintance of French, and the store owner asked Hall what gave him the authority to demand his stock of weapons. Hall informed French that it was by order of the mayor. When Hall claimed that he was acting under the authority of the mayor, he neglected to mention that he did not mean Mayor

¹⁴ Statement of A. Zadek, DCAGD, ARIS-TSLAC.

¹⁵ Ibid.

Zadek. Some of the rioters, only minutes earlier, had appointed Steagall as mayor pro-tem.

French knew he could not keep the mob at bay, and to refuse might mean his death. Reluctantly, he allowed them to take thirty weapons. Once they had the guns, they began distributing them among the rioters. Later French would request a total reimbursement of \$1,055 from the Government for the arms lost, arguing that it was the responsibility of the state government to pay for materials lost due a riot using funds collected during the implementation of martial law.¹⁶

As word of the riot spread, the details of what was happening became obscenely distorted. Some citizens reported hearing that the black state police were in frenzy, killing all the whites they could find. James Huston reported hearing that white men were being “shot down like dogs.”¹⁷ When the news was heard that Zadek had requested a detachment of black guardsmen come to the town, it was misinterpreted by many whites to mean a black rebellion was at hand. One citizen began crying out “Arm yourselves everybody, the Blacks are marching into town armed!”¹⁸ Another yelled “Arm and kill the damn n[-----]s.”¹⁹

The town was in a complete state of chaos. As soon as Applewhite had been killed, cries went out to “arrest the police.” The mob, looking for trouble, went to the door of a local black named Bob Lee. When Lee appeared, he was confused about why they had assembled at his home. His asked the group “Don’t you know me?” There was no time for anyone to answer. A man in the mob yelled to “pull down on him!” Before

¹⁶ Statement of George French, DCAGD, ARIS-TSLAC.

¹⁷ Statement of J. Huston DCAGD, ARIS-TSLAC.

¹⁸ Ibid.

¹⁹ Statement of H. Williams, DCAGD, ARIS-TSLAC.

another moment passed, shots rang out and Lee collapsed. Mrs. Lee rushed out to see what had happened and was left crying over the body of her husband—Bob Lee was dead.²⁰

Policeman Merrick Trammell, also an African-American, had left Groesbeck before the riot had begun and set out for his home three miles outside of town. Shortly after he arrived and had unsaddled his horse, he saw group of black citizens from the town riding at full gallop toward him. They informed him of Applewhite's death and the increasing hostilities in town. Then Trammell and four other men headed to town. When they arrived at the town's limits, Trammell chose one man to go into town with him and ordered the rest to wait until he sent for them. He stumbled across a group of armed men telling another townsman to get his gun. Trammell asked them to not take any action. He told the men that if they could help him to get the rest of the townsmen to put away their guns, he would personally arrest Cotton and Jones. Two of the men, Waters and Jacobs, agreed to help Trammell, but the others were intent on violence. They pointed their guns at Trammell and one of them called out, "Let us shoot him." Luckily for Trammell, Waters and Jacobs stepped in and prevented his murder.²¹

Around this same time another townsman, S.L. Stevenson, had made his way toward the mob. He heard men shouting "Let us charge the n[-----]s in the mayor's office" and "Kill the damned n[-----] police." Stevenson, hoping to prevent bloodshed, begged the crowd to listen to him. He repeated that Cotton and Jones had agreed to surrender, just not to white police. The crowd scoffed at the idea, again crying out to kill the police. Stevenson went into the mayor's office and informed the besieged policemen

²⁰ Statement of J.S. Thuromond, DCAGD, ARIS-TSLAC.

²¹ Statement of Merrick Trammell, DCAGD, ARIS-TSLAC.

that the crowd would not accept their demand to surrender only to a black officer. He then learned of Trammell's offer to arrest the men personally. Stevenson returned to the mob and pled with the rioters to accept the offer. Trammell was acceptable to the rioters as long as the two arrested officers were taken directly to the jail. The rioters may have speculated that once the two men were in jail, the sheriff could be easily persuaded to let the mob exact their vengeance.

Stevenson, by chance, saw Trammell moving through the streets. Getting the policeman's attention, he promised he could keep the mob occupied while the arrests were made. Stevenson threatened the crowd that Trammell would fire on anyone who made a move toward the office while the arrests were being made. At the same time, Trammell made his way to the mayor's office and called for Cotton and Jones to come out and be taken into custody. The two men complied. Stevenson and Trammell quibbled for a moment on how to address the mob and Stevenson then, grudgingly, went back to the crowd. According to Stevenson's statement the mob consisted of six-hundred to eight-hundred men. At this point, the subsequent statements of Trammell and Stevenson sharply disagree.²²

Stevenson claimed that as he was talking to the mob, one of them, Watts, shouted, "Stevenson, where is Merrick [going] with the prisoners?" Stevenson told the crowd he believed Trammell had simply moved the men around the corner. This was not true; Trammell was well on his way out of town at full speed, taking Cotton and Jones with him. When the mass of men realized that the prisoners were gone, they accused Stevenson of being a radical and started to insult him. One of them yelled "He is a

²² Ibid.; Statement of S.L. Stevenson, DCAGD, ARIS-TSLAC;

damned radical, it is a trick of his to get the n[-----]s out of town.” Stevenson quickly removed himself from the scene by going to Mayor Zadek’s hotel.²³

According to Trammell, the reason he left town was that a citizen named D. Kemp had ordered the armed citizens to get in a line and told everyone else to clear the street so they could begin shooting the police. Trammell, Cotton, and Jones, accompanied by a small group of black policemen who had been in the mayor’s office, jumped on their horses and let their spurs dig into horse-flesh. Trammell later remembered that he and the policemen ran the horses as “quick as we could” because the rioters had begun shooting at them.²⁴

Stevenson was in a dire situation. In the eyes of the crowd, he had helped the policemen escape. Shortly after entering the mayor’s hotel, he went to the saloon, but was approached and asked to be part of a coroner’s jury watching over the examination of Applewhite’s corpse in French’s store. When he entered the store, a friend, Hall, told him to get out of town because there were a group of men out to get him. Hall and Stevenson realized they could not exit the front door as it led onto the open street where the rioters were waiting. They moved toward back door. Once outside, Stevenson learned that Gallagher had publicly insulted him by declaring he was not fit to serve on a coroner’s jury because he was a radical. Further, Gallagher charged that if Stevenson did not leave town, he would be killed.²⁵ For a white man, being called a radical during Reconstruction Texas was more than a subtle insult. It was about the worst curse a man could suffer.

Insulted, Stevenson borrowed a six-shooter from a friend and made his way to the saloon where French, Lewis, and Gallagher were drinking. Lewis, upon seeing him,

²³ Ibid.

²⁴ Ibid.

²⁵ Statement of S.L. Stevenson, DCAGD, ARIS-TSLAC.

asked him why he had left the coroner's jury. Stevenson replied that he had heard that "there were parties that wanted to kill me if I did not do so." Lewis didn't understand who would want to do such a thing. It is unclear whether Lewis was aware of Gallagher's threats, as he then asked Stevenson if he wanted to take a drink with them. Stevenson flatly refused the drink and the three men finished their business and left the saloon.²⁶

Stevenson followed the men outside where he met with Mr. J.S. Thuromond. Stevenson told the man of the suspected plot to kill him and Thuromond replied that he would stand with him, as his friend, in the event of any danger. The two walked down the street and found themselves face-to-face with Gallagher and French, both of them were armed. Stevenson pointedly asked Gallagher if he wanted something. Gallagher moved sideways into the alley and asked Stevenson to join him. Stevenson said he would not go into a dark alley "with such a man as he was" and told Gallagher that if Gallagher wanted him, he should come out into the open. French then yelled, "I want to see a fair fight between Stevenson and Gallagher; I want them to fight a duel!"²⁷

Gallagher was quick to approve and yelled that he would be willing to write a formal challenge. Stevenson needed no such formalities, and told Gallagher that if he wanted to fight "he would fight him right then and there." French, further antagonizing the situation, quipped, "We'll fight now then!" French had no intention of allowing Gallagher to fight alone, so he drew his six-shooter to fire, at which point Thuromond, true to his word, jumped between the two and halted the action. Stevenson told French that "he did not want to fight him and Gallagher both." French declared that "if you made

²⁶ Ibid.

²⁷ Ibid.

the remark which Gallagher says you did [while at the coroner's jury] you have got to fight me.”²⁸

Stevenson had no idea what French meant. He asked French to explain himself. French responded that he had heard, from Gallagher, that Stevenson told the jury that French was “damned glad the n[----] killed Applewhite.” Stevenson told him that “any man that said that about me [is] a liar and a thief.” French looked at them both and said “If Gallagher stands that language, I’ll have nothing more to do with him.” Gallagher asked French to walk with him and they left the scene heading toward the crowd.

Thuromond and Stevenson also left and both retired to the hotel for the night, but were kept awake by continued threats of violence. Throughout the evening and following day they remained in the hotel waiting for possible attacks. Friends brought them ammunition and extra firearms. French came by to antagonize them on a few occasions.²⁹

The bickering between French and Stevenson is indicative of the chaotic state of affairs in Groesbeck. The two had been friends. When Stevenson needed to exit the coroner's jury quickly, he went to French for help. Yet that same evening French had been so agitated by the mob that he was willing to engage in open gunplay against Stevenson. The speed at which the men turned on each other underscores the instability and mortal danger that imperiled Groesbeck that night.

Meanwhile, the black policemen who had fled the mob had arrived at Merrick Trammell's home after dark and attempted to get some rest. The men would not sleep through the night. They were awakened sometime in the late evening or early morning hours of October 1 by the sheriff, who attempted to take Jones and Cotton into custody.

²⁸ Ibid.

²⁹ Ibid.

An agreement was made that Trammell would escort the prisoners to Springfield, the county seat of Limestone, and turn over the prisoners in the morning to a combined force of twenty black men from the state guard and twenty men from the local citizenry, and this force would jointly protect the prisoners until a trial could take place.³⁰

The next morning, in Groesbeck, roughly two-hundred men had assembled in front of the Mayor Zadek's office. Still in fearful the crowd, the mayor gave a speech for the benefit of the mob, calling for all citizens to arm themselves and protect the town. H. Williams said later that "the speech was calculated to encourage rather than allay the excitement." Williams believed that the riot was not so much due to the killing of Applewhite, as it was due to "the intense feeling in politics." When Mayor Zadek told the crowd that he had not supported the appointment or use of black police, it was a bit much for the crowd to accept. One rioter stepped up with a shotgun aimed at the mayor and asked "Why didn't you say so yesterday, you son-of-a-bitch?" The question received cheers from the mob. Zadek, growing comfortable in his ability to switch sides without notice, said the police were not his choice; they were appointees of Governor Davis. The anti-Davis comment was enough to appease the crowd for the time being and the mayor was sent back to his office.³¹

Captain Richardson, the commander of a detachment of state guardsmen, had left for Groesbeck upon hearing of the situation there. When he arrived on Sunday morning and met the mob, he could clearly see that he and his men were severely outnumbered. The grumblings of the crowd did not go unanswered by the guardsmen. When a rioter voiced his anger, one of Richardson's lieutenants yelled "If [Cotton and Jones] don't

³⁰ Statement of Merrick Trammell, DCAGD, ARIS-TSLAC.

³¹ Statements of H. Williams and A. Zadek, DCAGD, ARIS-TSLAC.

surrender to us, let's attack!" To some of the Republicans in town, it came as a shock when the guard detachment seemed to be in support of the mob. Richardson then allowed a great many of the armed men to join his detachment preparing to go to Springfield to accept transfer of the prisoners. Captain Richardson's decision to augment his troops with armed citizens, which is omitted from his official report, may have been based on the fact that he was outnumbered by at least three to one. Also, it is possible, as Limestone resident W.B. Bonner suggested later, that Richardson felt that he could keep the mob from exacting vengeance simply by arresting Cotton and Jones. The rioters would surely have been less likely to begin shooting with the knowledge that they were being watched by an armed group of seventy-six guardsmen.³²

Meanwhile, making good the sheriff's word, Jones, Cotton, and Trammell arrived at the county seat and headed to the courthouse where the transfer was scheduled to take place. In his report Trammell wrote that "when we got to Springfield, we found ourselves surrounded by two-hundred or three-hundred armed men, a good many of whom were drunk." The sheriff apologized to Trammell saying he could not control the men because they were in a drunken state. The mob told Trammell and the Sheriff that they had five minutes to deliver Jones and Cotton to the jail. They had no choice but to comply. Richardson had his men take up positions around the jail as well. After Jones and Cotton were in the jail, Mr. Johnson, a Springfield resident, drew his pistol, cocked it, and pointed it in Trammell's direction, ordering him to "go back."³³

At this point, it is likely that neither Governor Davis nor Adjutant General Davidson had heard of the rioting in Groesbeck. The telegraph wires had been cut and, as

³² Statement of W. Bonner, DCAGD, ARIS-TSLAC; Richardson, Springfield, to James Davidson, 6 October 1871, DCAGD, ARIS-TSLAC.

³³ Statement of Merrick Trammell, DCAGD, ARIS-TSLAC.

far as anyone knew, there was no help coming. Further, after meticulous investigation into the documents surrounding the Groesbeck Riot, it can be said it is somewhat unclear where Mayor Zadek's loyalties were. Understandably, Zadek might have been forced by the rioters to sign some documents and, perhaps, make a coerced statement. However, as proven by Merrick Trammell, escape from the town was possible, and Zadek was seemingly not a brave man in the face of danger. It begs the question as to why he became such a willing participant. Zadek's speeches and signed documents lent a sense of credibility to the rioters' cause, and, in turn, prolonged the entire affair. His actions, more than any other person, fueled the riot.

Statewide congressional elections were slated to take place between October 3 and 6. With the conditions unfolding in Groesbeck, this would present yet another problem with which the State Police had to concern themselves. Part of the reason Mayor Zadek had been allowed to have extra police in the town was to ensure that fair elections could take place. Davis, and other Republican politicians, understood that one of their key constituencies was made up of blacks. Without their votes, the Republican Party could not reasonably expect to win any major election in Texas during Reconstruction. In many counties, blacks were kept from the polls by threats of violence.³⁴ Limestone County and bordering Freestone County were no different. On October 3, a group of citizens from Limestone County, including the Registrar, Board of Appeals, and the Sheriff, wrote a letter to Governor Davis voicing their concerns.

In the letter they requested a proclamation of martial law. It described in detail the events that had led to and occurred during the Groesbeck Riot and claimed that they were powerless to alter the state of affairs. They wrote, "Under the circumstances, we are

³⁴ Moneyhon, *Republicanism*, 123-4.

entirely unable in a civil capacity to arrest or deal with these offenders as the law demands.” They further argued that “talk of letting matters pass and these crimes be unpunished is simply to say to all the Republicans in the county, ‘Henceforth you are the slaves of these parties, and entirely at their mercy.’” Continuing the letter, the men told the governor that the mob had declared to the Board of Election that “unless the polls were opened on Tuesday [their] lives would not be safe.” Realizing that there was no way a fair election could be had amidst the lawless state of affairs, the Board decided they would not open the polls. Unfortunately they were soon swayed by the realization that if the polls were not opened, another, possibly more violent, riot would begin.³⁵

Once the polls opened, the results of the U.S. Congressional election was a foregone conclusion. Word had passed throughout the county that blacks and radicals would be killed if they attempted to vote. Blacks who did go to the polls were told to go home, as it was not their time to vote.³⁶ The election was a landslide in the county: Giddings (Democrat) 1,153; William T. Clark (Republican) 28. Considering that Clark had received 286 votes in Groesbeck during the previous election and that there were 800 registered black voters, it is clear that, although Clark’s loss was inevitable, most of his supporters did not go to the polls.³⁷

Davis, after hearing about the riot, dispatched Judge J.W. Oliver to Groesbeck with instructions to investigate the situation and arrest all parties involved. If necessary, the Judge had the ability to grant amnesty to anyone turning state’s evidence.³⁸ Oliver arrived in Groesbeck on October 4. That evening a town meeting was held to discuss the

³⁵ Registrar, Board of Appeals, and Sheriff of Limestone County, Springfield, to Edmund J. Davis, 3 October 1871, GCTOG, ARIS-TSLAC.

³⁶ Ray A. Walker, *A History of Limestone County*, 59.

³⁷ Moneyhon, *Texas After the Civil War*, 182.

³⁸ Edmund J. Davis, Austin, to J.W. Oliver, Groesbeck, 5 October 1871, GCTOG, ARIS-TSLAC.

conditions of the county and the citizens asked him to attend. At the meeting, Judge Oliver informed the group that “martial law had been threatened” by the governor and the only way to prevent it would be to immediately “organize themselves into a special police force” and arrest all offenders of the law. The message, through Judge Oliver, was Davis’s warning to the county. The events in Groesbeck were considerably more violent and dangerous than had been seen in both the Hill and Walker County fiascos. The governor had received reports that there might be as many as one-thousand riotous men roaming the area surrounding Groesbeck, both in Limestone and neighboring Freestone Counties.³⁹

Judge Oliver also served as Davis’s eyes and ears in the county. After the town meeting, he reported back to the governor that nothing short of trying fifty to one-hundred men by court martial could remedy the situation. His letter made such a strong case that Davis immediately requested a thousand rifles and one-hundred regular army troops from U.S. Secretary of War William W. Belknap to help put down the rioters. Belknap, instead of sending the men and weapons, ordered General Reynolds to investigate the matter personally.⁴⁰

Davis also ordered State Police Captain George Farrow to proceed immediately to Groesbeck and assume command of all state, city, and special police. Upon Farrow’s arrival on October 4, the riot had mostly subsided. His first order of business was to inquire around town and learn who had been responsible for the murder of the freedman,

³⁹ Citizens of Limestone County, Groesbeck, to the Twelfth Texas Legislature, Austin, 11 October 1871. Memorials and Petitions, Records of the Twelfth Legislature, ARIS-TSLAC.

⁴⁰ Gray, 244.

Bob Lee. Upon gathering information, he arrested two men and turned them over to the county sheriff to await trial.⁴¹

Farrow then sought out Judge Oliver to get a list of men Oliver wanted to have arrested. Unfortunately, in the time it took Oliver to make the list, most of the riot leaders had fled town. Farrow voiced concerns in his report to Davidson: "I must say that the course of Judge Oliver has been extraordinarily strange and his conduct very recently has been very injurious to all peace officers in the discharge of their duties."⁴² Farrow went on to report that Oliver had not recognized Governor Davis's order placing him in command. Oliver had declared to Farrow that "he was in supreme command and would have everything in his own way."⁴³ Oliver had also, behind Farrow's back, ordered some of his men to guard the local jails and to provide protection for himself. Farrow wrote in his report that this misuse of police "barred their services in arresting criminals."⁴⁴

Farrow also took issue with Mayor Zadek. The crafty politician's wavering did not fool Captain Farrow. Over the span of eleven days he arrested the mayor at least twelve times. Zadek was most often charged with swindling and gambling. In a letter to Davidson, Farrow mentioned one case where he had arrested the mayor for "swindling colored men out of their horses [and] various other devices." Closing the letter, Farrow reported that he himself had been arrested for refusing to follow the orders of the local sheriff. His refusal was based on the order he had received from Governor Davis that explicitly gave him command of all police in the county.⁴⁵

⁴¹ George Farrow, Groesbeck, to James Davidson, Austin, 15 October 1871, DCAGD, ARIS-TSLAC.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

In a subsequent letter, Farrow reported that he had finally received a copy of the charges being made against him. He accused Judge Oliver of ordering his arrest as Farrow believed that Oliver, who had been appointed by Zadek, was lashing out at the captain for arresting the mayor. In the same letter, Farrow reported making at least twenty arrests in Limestone County, only to learn that every one of them had escaped the jail, where Oliver's men had shown they were less than attentive to their duties.⁴⁶

On October 11, 1871, the citizens of Limestone County drafted a petition to the Texas Senate and House of Representatives. In this seven-page document they outlined the events that had occurred in the county from Applewhite's death through the elections. What they drafted, however, was simply untrue: "[W]e respectfully insist that we have violated no law as a people, everything done by us was at the command of officers of the law, and for our own protection." The citizens further insisted that their action in forming an armed regiment was only done at the mayor's order because they believed that there were armed men advancing on their community. According to their petition, the group had massed for the sole purpose of enforcing the law and arresting the two State Policemen who had brutally murdered Applewhite. They continued to explain that they believed that they "could not conceive how any election – could have passed off more quietly." They continued, "no intimidation was used against the Republicans of the county, but on the contrary runners were sent throughout the county by Captain Richardson & leading citizens pledging protection to colored men who came to the polls." On the murder of Bob Lee they claimed it had been committed by an insane man.

⁴⁶ George Farrow, Groesbeck, to James Davidson, Austin, 20 October 1871, DCAGD, ARIS-TSLAC.

The letter closed by asking the legislature to stand by the citizens and asked them to persuade the governor not to declare martial law.⁴⁷

The petition was received and read by the legislature on October 15. It bore just over three-hundred signatures. Those signatures would go a long way in later House deliberations about the use of martial law in the county. However, the document arrived in Austin too late to have its desired effect. Governor Davis had declared martial law a day before the citizens had signed it, on October 10. In his declaration the governor wrote that he declared martial law because he had received reports of a lawless band that had:

...organized as an insurrectionary force... which has murdered an unarmed and unoffending citizen in his own house... carrying pistols and other weapons prohibited by law... and have by threats, violence, and organized force intimidated and controlled the civil officers of Limestone county, so as to prevent them from discharging their respected duties, who have precluded the holding of a fair election... and even presume to place picket guards upon public highways, arrest and detain as prisoners, citizens of the State, and stop the coaches carrying the United States mails, and interrogate passengers therein, and to cut telegraph wires to prevent communication with the seat of government.⁴⁸

The list of offenses were considerably worse that had been seen in the two prior declarations of martial law and Davis could not simply stand by and let such actions go unchallenged.

The governor had also sent a dispatch to Major General Malloy, in Jefferson with the State Militia, instructing him to assemble two-hundred men and move them, fully armed and supplied, to Groesbeck. Malloy was able to assemble 120 men and began the 188-mile trip. Along the way he was able to recruit ninety-seven more men in Harrison County. Considering the size of his unit, he made considerable time. He traveled over twenty miles per day for six days and pushed his forces one day for a grueling thirty-five

⁴⁷ Citizens of Limestone County, Groesbeck, to the Twelfth Texas Legislature, Austin, 11 October 1871. Memorials and Petitions, Records of the Twelfth Legislature, ARIS-TSLAC.

⁴⁸ Edmund Davis, Proclamation of Martial Law, 11 October 1871, ERBSS, ARIS-TSLAC.

miles. As Malloy got close to Limestone County he recorded that he saw horses saddled and bridled at almost every home. He learned that there had been a plot to attack him while he was in route to Groesbeck. He surmised in his report his belief "that they were only delivered from open violence by the belief that my command was a detachment of regular troops – the greater portion of my men and officers being in uniform."⁴⁹ He arrived in Groesbeck on October 19 and found Col. G.W. Smith, whom Davis had also ordered to the scene, with ninety-four reserve militia from Houston, and a band of State Police.

Malloy's next step was to form a military commission to investigate the riots and, if necessary, convene a military court martial. While none of the Groesbeck citizens were tried at a military court martial, two of the provisional troops were tried for crimes during the occupation of Limestone and Freestone Counties, Lieutenant Alexander for conduct unbecoming an officer, and Private Stewart Collins for robbery. Alexander had, after creating a scene in Groesbeck, attempted to arrest Captain Farrow of the State Police. Collins had robbed three dollars from a local resident. Both were dishonorably discharged, and Collins also received a sentence of two years in the state penitentiary.

On October 27, 1871, Adjutant General James Davidson arrived in Groesbeck. The following day he carried out an order by Governor Davis to order General Malloy and his troops back to Jefferson. He then discharged all special police. The declaration of martial law had ordered the collection of a military tax on all residents of both counties for of the sum of \$50,000 to reimburse the cost of occupation. The general reported that the cost of occupation was estimated to be only \$24,000, so he had reduced the tax. He also ordered twenty individuals who had been held on military bond to be turned over to

⁴⁹ A.G. Malloy, Springfield, to James Davidson, Austin, 22 October 1871, DCAGD, ARIS-TSLAC.

the civil authorities for further action. He closed his letter by stating, "In my opinion the reported necessity for martial law has ceased to exist and I would therefore recommend that the counties of Limestone and Freestone be returned to the civil authorities."⁵⁰

The Texas legislature, for their part, had approved martial law in both Hill and Walker Counties; nevertheless, that body now requested to examine the evidence that led to Davis' declaration of martial law in Limestone and Freestone counties. Their request was made two days after the declaration. This time they were not as eager to approve his actions. After considerable machinations with the material, on November 6, 1871, the House voted 44 to 33, declaring the Governor had acted illegally in occupying the county. Their decision was based on their opinion that the courts were capable of dealing with the situation in Groesbeck. There is no doubt that the petition from the citizens of Limestone County on October 11 containing over three-hundred signatures played a part in their judgment. Davis was commanded to restore order to the "civil authority," and did so three days later on November 9, 1871.

Despite the resolution of the House of Representatives, Davis had acted in the best of his ability to enforce the laws of Texas. The evidence, when presented to him, cast the events in Groesbeck as more incendiary than had been seen in both Hill and Walker Counties. The reason the Republican legislature turned on its own Governor can be summed up in one word: politics. In the 1871 election every U.S. congressional seat for Texas went to a Democrat. It was already a near certainty that the 1873 election would put a Democratic majority in the Texas legislature and seat a Democratic governor as well. However, many of the more moderate Republican legislators still felt that they had a reasonable chance of reelection. In the final estimation, many of the governor's own

⁵⁰ James Davidson, Groesbeck, to Edmund J. Davis, Austin, 10 November 1871. DCAGD, ARIS-TSLAC.

party sacrificed E.J. Davis in a venal, speculative, and ultimately failing attempt to cling to the levers of power that had already long before slipped from their grasp.

CHAPTER V

CONCLUSION

Edmund J. Davis was justified in declaring martial law during 1871. This thesis has provided a new approach to judging Davis by returning to primary source materials and rebuilding the actual events in Hill, Walker, Limestone, and Freestone Counties. Prior studies dealing with the Reconstruction era in Texas have, for the most part, been based on inaccurate secondary source material and prejudiced accounts. On careful inspection of materials readily obtainable at The Texas State Archives, it is blatantly obvious that the majority of studies on these declarations of martial law, and the state police, are not based on facts.

The life of the Texas state police was short-lived. As a crime-fighting agency their record stands as proof of their worth. Collectively, they made 3,602 arrests in 1871. The following year they made 6,830 and recovered \$200,000 worth of stolen property. Their arrest record, during every year of their existence, was higher than the combined arrest reports across the entire state from the end of the Civil War through 1870. The number of prisoners in Texas state penitentiaries rose from 134 in 1866, to almost 1,000 by 1873. Despite the fact that most white Texans were opposed to the State Police because of its multi-racial force and ties to a radical administration, the Adjutant General's office received a steady flow of correspondence requesting the presence of State Police to restore order.¹

Whenever possible, Democratic presses across the state published damaging accounts of the State Police force. There are hundreds of exaggerated accounts of policemen committing murder, extortion, and other crimes. While it is true there were

¹ Baenziger, 476-7.

some men on the force who crossed the line, Adjutant General James Davidson was always quick to act on any report of unethical behavior. Anytime a charge was made against the State Police, Davidson's usual response was to immediately suspend the officer until he had received an adequate explanation and rebuttal. More often than not, after Davidson's investigation, officers were cleared of all wrong doing.

The most significant blemish on the State Police's record was the sudden disappearance of its leader James Davidson, who supposedly fled the state with close to \$40,000 in state funds. The common theory is that Davidson fled the country to Europe and resided there for the remainder of his life. The charge against Davidson was made by Frank Britton, the successor to the Adjutant General's post, and has never been fully investigated and remains somewhat questionable.

Despite the many reasons to keep the police force active, the Thirteenth Legislature repealed the Police Bill on April 19, 1873. Governor Davis vetoed the act and asked the legislature to reconsider abolishing the force while lawlessness was still rampant across the state. The legislature, no longer controlled by Republicans and radicals, overturned his veto on April 22 with a vote of 58 to 7. Historian Ann Patton Baenziger, in her study of this agency, concluded that "the Texas State Police was not opposed and abolished because of corruption, expense, or brutality. It was destroyed because of political antipathy and racial bias." She continued, "[T]he State Police force was guilty of two unforgivable sins: it was part of Radical rule, and it armed the Negro and placed him in a position of authority over white men."² The State Police had become the symbol of the radical Reconstruction government in Texas and thus was despised

² Ibid., 488-91.

across the state by the men and women who were still coming to grips with their complete change of life after the Civil War.

The final two years of Davis's term proved to be ineffective. Because his party had lost all power in the legislature, his control was curtailed almost completely. By 1873, Texans had voted Davis out of office. The details of his departure did little to save his reputation. The Coke-Davis Dispute, that is, the disagreement over when Davis' term officially ended, is probably the only event more damaging to the governor's legacy than his use of martial law. It was also the last time he considered using force to maintain law and order.

After Davis' loss at the polls to Richard Coke, the Texas Supreme Court declared the election unconstitutional, based on the placement of a semi-colon between two phrases in the Texas Constitution. After the "semi-colon court" threw out the results and invalidated the election, the Democrats demanded that Governor-Elect Richard Coke be sworn in. Davis, while agreeing to vacate the office, refused to leave his post until his term legally expired on April 18, 1874. His claim was based on the Texas Constitution, which states "The Governor shall hold his office for the term of four years from the time of his installment."³ Davis' opposition asserted that the Constitution also stated that the Governor "shall be inaugurated on the first Thursday after the organization of the Legislature."⁴ The Democrats maintained that Davis's term of office began with his appointment as Acting Governor in December 1869, thus his four years had already expired.

³ Constitution of Texas (1869), art. 4, sec. 4

⁴ Ibid.

As the legislature had met in January 1874, Davis' enemies demanded that Coke be installed as governor. Davis refused to vacate the office earlier than April 18, as he felt the new government would have no legitimacy if it did not follow the laws set out in the state's constitution and answers the legal issues surrounding the Supreme Court's ruling. Davis argued that if the question were not resolved prior to the new legislature and executive taking power, they would, for the length of their term, be subject to litigation and questioning regarding their validity as the legal government of Texas. Davis, at no time, intended to maintain power beyond what he felt should be the end of his rightful term of office. He simply asked the Democrats to take the time to ensure the legality of the transition.⁵

The Democrats, refusing to wait, began massing forces to storm the capitol. Davis summoned the Travis Rifles to protect his office, but they quickly allied with the Coke supporters. Davis then sent a request to President Grant for federal troops. The President's response was unsupportive. In his response, the President asked, "[W]ould it not be prudent as well as right to yield to the verdict of the people, as expressed by their ballots?"⁶ The only option left to Davis was to call out the state militia, which was composed primarily of black men. To do that would almost certainly incite violence.

Without support of the President, Davis' only recourse was either to step down or attempt to hold his office with the few supporters he had. An attempt to hold power would not only have been untenable, but also would probably have led to a riot between Democrat-controlled forces and Davis supporters. In addition to the state militia,

⁵ Carl H. Moneyhon, "Edmund J. Davis in the Coke-Davis Election Dispute of 1874: A Reassessment of Character," *Southwestern Historical Quarterly* 100 (October 1996): 145.

⁶ Ulysses S. Grant, Washington, to Edmund J. Davis, Austin, 12 January 1874, in *Documents of Texas History*, ed. Ernest Wallace, David M. Vigness, and George B Ward (Austin: Texas State Historical Association, 2002), 221.

hundreds of freedmen had begun to assemble in Austin with the intention of protecting the Governor. Davis chose to vacate his office and turn it over to Richard Coke under protest. He reached this decision because he did not wish to see a riot, in which his supporters would surely be harmed far more so than Coke's. In the end, Davis removed himself from office because it was the only way to ensure a peaceful transition of power.⁷

Over the last century, the Coke-Davis imbroglio has often been showcased as an example of Davis's tyrannical nature and his obsessive desire to hold power. The misleading accounts that support this argument have been recently negated by historian Carl H. Moneyhon in his 1996 article for the *Southwestern Historical Quarterly*, "Edmund J. Davis in the Coke-Davis Election Dispute of 1874: A Reassessment of Character." In this article, Moneyhon argues that Davis's intentions were merely to ensure the peaceful transition of power and strict adherence to the laws of Texas. The Coke-Davis Imbroglio is yet another example of Davis's zealousness in following state law.⁸

Davis's three declarations of martial law and his departure from office have been the focal point over the last century for besmirching his name. The Coke-Davis Imbroglio illustrates the reason Davis had so many problems during his term. Anti-administration Texans were simply not willing to abide by the rules of law. Conversely, Davis was dedicated to that principle. With the Texas's re-admittance to the Union in 1870, Texans had only to wait for the peaceful transition of power to take effect, yet they were unwilling to do so. If the Confederate sympathizers could not have it their way, then they would refuse to participate at all – relegating themselves to resist every action, good or

⁷ Moneyhon, "Davis Reassessment," 148-9.

⁸ *Ibid.*, 150-1.

bad, by the Davis administration. In effect, because they could not have the life they experienced in antebellum, thus, they choose to become roadblocks to every single law or action they deemed to be initiated by radical rule, regardless of its merit.

Chapters two, three, and four in this study have attempted to rebuild and correct the many misleading and mistaken accounts of this segment of Texas history by previous historians. The accounts of the Hill County Rebellion, the Walker County Rebellion, and the Groesbeck Riot have been constructed using, to the maximum extent possible, primary source documentation. From this study, there are three main points that should be clear. First, Governor Edmund J. Davis, in each outbreak of mob violence, attempted to allow the local citizenry to restore order on their own before declaring martial law. Second, each of the three occasions represented herein demanded action from the executive department and justified the use of state officers and troops. Finally, in each of the actions, Governor Davis, James Davidson, and the State Police acted with prudence and in the best interest of the people.

The power granted by the Militia Act, which allowed Davis to declare martial law, was undoubtedly in direct conflict with the United States Constitution. Davis himself had hoped that the mere fact he had the power would be enough to deter lawless elements from forcing him to use it. In each instance of martial law Davis was slow to act and did so only after receiving multiple reports from varying sources agreeing that there was no other option.

In Hill County, Davis wrote to Sheriff Evan Beauchamp asking him to notify the members of his county that if they did not act to subdue the lawless gangs harassing the

county he would send in troops.⁹ In Walker County, his warning was made in a letter to Judge Burnett wherein he asked the judge to inform the citizens that violence would “bring upon them severe expense and retribution as well as injury to the reputation and prosperity of the county.”¹⁰ In Groesbeck, Davis dispatched Judge Oliver to a town meeting to ask the citizens to organize and deal with the lawless elements on their own.¹¹

Faced by a mob of armed drunken men attacking and arresting state policemen in Hill County, men who were aiding prisoners to escape and refusing to assist in their recapture in Walker County, and an all-out riot in Groesbeck, Governor Davis had no alternative but to declare martial law. The entire state might have easily found itself engulfed in a storm of lawless activity if Davis had allowed these acts to go unchecked. Davis had no other viable options at the time. Even if his intentions were only to use the powers granted him by the Militia Act as a bluff, his hand had been called; he had no choice but to use his authority to end the lawlessness. The decision to act, in each case, brought about exactly what Davis had intended – the restoration of order.

Edmund J. Davis has been vilified by many historians of Reconstruction Texas. His leadership of the state police and his declarations of martial law have been the major focal points of the condemnation of Davis in most studies. There are two explanations for why he has been so foully treated. First, when the early studies of the period appeared, the prevalent sentiment in the state, and throughout the South, was the pain of losing the Civil War. Historians such as Ramsdell, Webb, and Nunn certainly knew Civil War veterans and Texans who had lived during the Reconstruction era and, thus, were

⁹ Edmund J. Davis, Austin, to Owen Beauchamp, Hillsboro, 3 October 1870, MOGD 12-3.

¹⁰ Edmund J. Davis, Austin, to J.R. Burnett, Huntsville, 20 January 1871, MOGD, 25.

¹¹ Citizens of Limestone County, Groesbeck, to the Twelfth Texas Legislature, Austin, 11 October 1871. Memorials and Petitions, Records of the Twelfth Legislature, ARIS-TSLAC.

influenced by those whose feelings came about through the hard experiences of the time. Second, the newspaper accounts of Davis and his state police during that time were, on the whole, expressed vehement opposition to radical rule. These newspapers provided the initial source material to historians that led to a century of historiographical misunderstandings and inaccuracies.

Ironically, Edmund J. Davis, though almost unilaterally depicted as the arch-villain of Texas Reconstruction, has never fallen under the direct scrutiny of historians. No full-length biography of man has been published. The reason for this oversight is clear: if one casts a biographer's empathetic eyes on the man, a serious academic study cannot be produced without drawing into question almost every pre-conceived and agreed-upon theory of Reconstruction Texas. In the 1976 dissertation "Edmund J. Davis: Radical Reconstruction Governor of Texas," the only genuine attempt made at properly giving a true account of the man, Ronald Gray wrote:

Davis was neither a villain nor a hero. Although he was frustrated by adversity, discouraged by innumerable disappointments, and ill-rewarded for his achievements, he profoundly influenced the political, constitutional, economic, and social history of Texas, an influence that is still felt. Ironically, because of his Republicanism combined with his determined adherence to ideals that were unpopular with conservative white Texans, history has not yet accorded Edmund Jackson Davis the recognition he is justly entitled.¹²

Despite the negative portrayals offered by the most notable anti-Davis historians, each of them, in their pinnacle works acknowledge, perhaps out of guilt, that Governor Edmund J. Davis was, above all, an honest man.

Regardless of the scholarship of the last twenty-five years, the studies by Walter Prescott Webb, Charles Ramsdell, and William Curtis Nunn are in grave need of further revision. Reconstruction Texas remains a largely untapped field of research, largely due

¹² Gray, 443.

to this poor original scholarship. Any attempt to explain and account for the Texas Reconstruction era will require setting aside their classic studies, returning to the source material, and presenting the events as they actually occurred.

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APPENDIX

ABBREVIATIONS

Message of Governor E.J. Davis with Documents in Relation to Lawlessness and Crime in Hill and Walker Counties.....	MOGD
Departmental Correspondence, Texas Adjutant General's Department.....	DCAGD
Court Martial Records, Texas Adjutant General's Department.....	CMAGD
Executive Record Book, Texas Secretary of State	ERBSS
Governor's Correspondence, Texas Office of the Governor.....	GCTOG
Archives and Information Services Division, Texas State Library and Archives Commission.....	ARIS-TSLAC

VITA

Reginald G. Jayne

HOME ADDRESS

26727 Westwood Dr.
Spring, TX, 77386

EDUCATION

Master of Arts student in History at Sam Houston State University, June 2003 – May 2005. Thesis title: “Martial Law in Reconstruction Texas.”

Bachelor of Science (May 2003) in Interdisciplinary Studies, *cum laude*, University of Houston-Downtown, Houston, Texas.

ACADEMIC EMPLOYMENT

Academic Advisor / Liaison at The University Center-The Woodlands, University of Houston-Downtown, January 2005 – present. Responsibilities include: overseeing on-site advising for prospective and continuing students, coordinating declaration of majors, serving as interface for students with admissions, registration and financial aid office, ensuring UHD representation at organized recruiting events, and acting as the UHD liaison to The University Center.

Student Support Services III, North Harris Community College District, July 2002 – January 2005. Responsibilities include providing academic advisement, providing career counseling, evaluating transcripts, recruiting students, and creating publications for the student body.

PRESENTATIONS AT PROFESSIONAL MEETINGS

Jayne, Reginald G. “The Groesbeck Riot of 1871.” East Texas Phi Alpha Theta Regional Meeting. University of Houston-Downtown. Houston, Texas. 9 April 2005.

MEMBERSHIPS

Phi Alpha Theta

Texas State Historical Association