

144  
PS

1-16-85

By: Truman

S.C.R. No. 14

**SENATE**

**CONCURRENT RESOLUTION**

1 WHEREAS, Chipita Rodriguez, a 19th century inhabitant of San  
2 Patricio County and the only woman ever officially executed in the  
3 State of Texas, may have been wrongfully convicted of the crime for  
4 which she was executed; and

5 WHEREAS, An elderly woman, she lived near an Aransas River  
6 crossing in a cabin that served also as an inn for trail riders  
7 seeking food and lodging; and

8 WHEREAS, On August 25, 1863, downstream from her cabin where  
9 he presumably had spent the night, ranchers found the murdered body  
10 of Mr. John Savage, a horse trader who was passing through the  
11 vicinity after having completed a sale of horses to Confederate  
12 troops; *and*

13 WHEREAS, Chipita Rodriguez and another defendant, Mr. Juan  
14 Silvera, were accused of the murder and taken into custody at the  
15 nearby town of San Patricio; and

16 WHEREAS, A grand jury indicted the pair on October 7, 1863;  
17 two days later a trial was held; Chipita Rodriguez was found guilty  
18 of murder in the first degree, and Juan Silvera was found guilty of  
19 murder in the second degree; and

20 WHEREAS, On October 10, 1863, despite the trial jury's  
21 recommendation for mercy on account of "her old age and the  
22 circumstantial evidence against her," Chipita Rodriguez was  
23 sentenced to death; Juan Silvera received a lesser sentence of five  
24 years' hard labor at the state penitentiary; and

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S.C.R. No. 14

1           WHEREAS, Chipita Rodriguez was executed by hanging in San  
2           Patricio on November 13, 1863; and

3           WHEREAS, Surviving court records, as well as accounts and  
4           legends perpetuated by her contemporaries and their descendants,  
5           cast great doubt on the propriety of her indictment and trial and  
6           hence on the validity of her conviction; and

7           WHEREAS, Selection of the grand jury and trial jury was in  
8           violation of explicit procedures established by law by the 7th  
9           Legislature in 1858, and among other apparent irregularities, the  
10          sheriff who arrested Chipita Rodriguez served as the grand jury  
11          foreman; and

12          WHEREAS, The quoted statement of the trial jury testifies as  
13          to the largely circumstantial nature of the evidence against her;  
14          and

15          WHEREAS, Arraignment, trial, and conviction ~~all~~ occurred  
16          within a single day, a rush to judgment that, even for 19th century  
17          Texas, was highly unusual; and

18          WHEREAS, In contrast, other murder and criminal cases then  
19          pending in the judicial district commonly were granted continuances  
20          to subsequent court terms; and

21          WHEREAS, The volatile nature of the community--involving, on  
22          the one side, vigilantes who had attempted to lynch the two  
23          defendants, and on the other side, townspeople who sympathized with  
24          them and who jeered the verdict--may have prompted a hasty decision  
25          in the case when a change of venue might have been preferable from  
26          the standpoint of justice; and <sup>1</sup>/<sub>3</sub>

27          WHEREAS, Motive on the part of Chipita Rodriguez appears

S.C.P. No. 14

1 unsubstantiated; \$600 in gold carried by the victim in his saddle  
2 pack was found, prior to the trial, alongside the river where his  
3 body was discovered; and

4 WHEREAS, Before pronouncement of the sentence, defendant's  
5 counsel withdrew a prior motion to appeal, thereby denying Chipita  
6 Rodriguez the exhaustion of legal remedies that would have been  
7 sought by more competent and more dedicated counsel; and

8 WHEREAS, The judge presiding over the case denied her the  
9 advantage of mercy recommended to the court by the trial jury; and

10 WHEREAS, She twice pled innocent to the murder charge and  
11 later during her imprisonment is reported to have confided to a  
12 visitor that she was protecting a son who she feared had committed  
13 the crime; and

14 WHEREAS, Journalistic accounts in area newspapers over the  
15 past quarter century have raised issues that have undermined the  
16 verdict that was rendered against Chipita Rodriguez; and

17 WHEREAS, The present prosecutor for San Patricio County,  
18 having independently investigated these issues, has concluded that  
19 she did not receive a fair trial and hence was executed without  
20 benefit of due process of law; and

21 WHEREAS, In 1978, the Ladies Auxiliary of the American G.I.  
22 Forum requested a pardon from Governor Dolph Briscoe; and

23 WHEREAS, A ruling by the attorney general on that occasion  
24 held, in accordance with previous opinions and court decisions,  
25 that pardons by the governor were prohibited in the cases of dead  
26 persons; and

27 WHEREAS, Legislation to allow a new trial is impractical

S.C.R. No. 14

1 because of incomplete records and because of similar procedural  
2 irregularities in other older cases whose reconsideration would  
3 burden modern courts with redressing judicial wrongs from  
4 yesteryear; and

5 WHEREAS, Symbolic redress in the case of Chipita Rodriguez is  
6 available by means of concurrent legislative resolution; now,  
7 therefore, be it

8 RESOLVED, That the 69th Legislature of the State of Texas,  
9 finding that Chipita Rodriguez was executed without benefit of the  
10 due process guaranteed citizens of this state by the constitutions  
11 of the United States and of Texas, hereby absolves her of proven  
12 guilt in the murder of John Savage that occurred in San Patricio  
13 County in 1863; and, be it further

14 RESOLVED, That an official copy of this resolution be  
15 forwarded to the district clerk for San Patricio County; and, be it  
16 further

17 RESOLVED, That the legislature direct the clerk to place the  
18 resolution in the court records for the case, as evidence of the  
19 ultimate absolution conferred on Chipita Rodriguez by the  
20 Legislature of the State of Texas.

1 By: Truan S.C.R. No. 14  
2 (In the Senate - Filed January 16, 1985; January 21, 1985,  
3 read first time and referred to Committee on Jurisprudence;  
4 March 6, 1985, reported adversely, with favorable Committee  
5 Substitute; March 6, 1985, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.C.R. No. 14 By: Mauzy

7 SENATE CONCURRENT RESOLUTION

8 WHEREAS, Chipita Rodriguez, a 19th Century inhabitant of San  
9 Patricio County and the only woman ever officially executed in the  
10 State of Texas, may have been wrongfully convicted of the crime for  
11 which she was executed; and

12 WHEREAS, An elderly woman, she lived near an Aransas River  
13 crossing in a cabin that served also as an inn for trail riders  
14 seeking food and lodging; and

15 WHEREAS, On August 25, 1863, downstream from her cabin where  
16 he presumably had spent the night, ranchers found the murdered body  
17 of Mr. John Savage, a horse trader who was passing through the  
18 vicinity after having completed a sale of horses to Confederate  
19 troops; and

20 WHEREAS, Chipita Rodriguez and another defendant, Mr. Juan  
21 Silvera, were accused of the murder and taken into custody at the  
22 nearby town of San Patricio; and

23 WHEREAS, A grand jury indicted the pair on October 7, 1863;  
24 two days later a trial was held; Chipita Rodriguez was found guilty  
25 of murder in the first degree, and Juan Silvera was found guilty of  
26 murder in the second degree; and

27 WHEREAS, On October 10, 1863, despite the trial jury's  
28 recommendation for mercy on account of "her old age and the  
29 circumstantial evidence against her," Chipita Rodriguez was  
30 sentenced to death; Juan Silvera received a lesser sentence of five  
31 years' hard labor at the state penitentiary; and

32 WHEREAS, Chipita Rodriguez was executed by hanging in San  
33 Patricio on November 13, 1863; and

34 WHEREAS, Surviving court records, as well as accounts and  
35 legends perpetuated by her contemporaries and their descendants,  
36 cast great doubt on the propriety of her indictment and trial and  
37 hence on the validity of her conviction; and

38 WHEREAS, Selection of the grand jury and trial jury was  
39 thought to be in violation of explicit procedures established by  
40 laws by the 7th Legislature in 1858, and among other apparent  
41 irregularities, the sheriff who arrested Chipita Rodriguez served  
42 as the grand jury foreman; and

43 WHEREAS, The quoted statement of the trial jury testifies as  
44 to the largely circumstantial nature of the evidence against her;  
45 and

46 WHEREAS, Arraignment, trial, and conviction occurred within a  
47 single day, a rush to judgment that, even for 19th Century Texas,  
48 was highly unusual; and

49 WHEREAS, In contrast, other murder and criminal cases then  
50 pending in the judicial district commonly were granted continuances  
51 to subsequent court terms; and

52 WHEREAS, The volatile nature of the community--involving, on  
53 the one side, vigilantes who had attempted to lynch the two  
54 defendants, and on the other side, townspeople who sympathized with  
55 them and who jeered the verdict--may have prompted a hasty decision  
56 in the case when a change of venue might have been preferable from  
57 the standpoint of justice; and

58 WHEREAS, Motive on the part of Chipita Rodriguez appears  
59 unsubstantiated; \$600 in gold carried by the victim in his saddle  
60 pack was found, prior to the trial, alongside the river where his  
61 body was discovered; and

62 WHEREAS, Before pronouncement of the sentence, defendant's  
63 counsel withdrew a prior motion to appeal, thereby denying Chipita  
64 Rodriguez the exhaustion of legal remedies that would have been  
65 sought by more competent and more dedicated counsel; and

66 WHEREAS, The judge presiding over the case denied her the  
67 advantage of mercy recommended to the court by the trial jury; and

68 WHEREAS, She twice pled innocent to the murder charge and

1 later during her imprisonment is reported to have confided to a  
2 visitor that she was protecting a son who she feared had committed  
3 the crime; and

4 WHEREAS, Journalistic accounts in area newspapers over the  
5 past quarter century have raised issues that have undermined the  
6 verdict that was rendered against Chipita Rodriguez; and

7 WHEREAS, The present prosecutor for San Patricio County,  
8 having independently investigated these issues, has concluded that  
9 she did not receive a fair trial and hence was executed without  
10 benefit of due process of law; and

11 WHEREAS, In 1978, the Ladies Auxiliary of the American G.I.  
12 Forum requested a pardon from Governor Dolph Briscoe; and

13 WHEREAS, A ruling by the attorney general on that occasion  
14 held, in accordance with previous opinions and court decisions,  
15 that pardons by the governor were prohibited in the cases of dead  
16 persons; and

17 WHEREAS, Legislation to allow a new trial is impractical  
18 because of incomplete records and because of similar procedural  
19 irregularities in other older cases whose reconsideration would  
20 burden modern courts with redressing judicial wrongs from  
21 yesteryear; and

22 WHEREAS, Symbolic redress in the case of Chipita Rodriguez is  
23 available by means of concurrent legislative resolution; now,  
24 therefore, be it

25 RESOLVED, That the 69th Legislature of the State of Texas  
26 express its sympathy with the heirs and descendants of Chipita  
27 Rodriguez; and be it further

28 RESOLVED, That nothing contained in this resolution will be  
29 deemed to waive the state's immunity from suit or to create a cause  
30 of action against the state or any of its agents or  
31 instrumentalities; and, be it further

32 RESOLVED, That an official copy of this resolution be  
33 forwarded to the district clerk for San Patricio County; and, be it  
34 further

35 RESOLVED, That the legislature direct the clerk to place the  
36 resolution in the court records for the case as an expression of  
37 the sentiment of the Texas Legislature regarding the case of  
38 Chipita Rodriguez.

39 \* \* \* \* \*

40 Austin, Texas  
41 March 6, 1985

42 Hon. William P. Hobby  
43 President of the Senate

44 Sir:

45 We, your Committee on Jurisprudence to which was referred S.C.R.  
46 No. 14, have had the same under consideration, and I am instructed  
47 to report it back to the Senate with the recommendation that it do  
48 not pass, but that the Committee Substitute adopted in lieu thereof  
49 do pass and be printed.

50 Mauzy, Chairman

BILL ANALYSIS

PURPOSE: To provide a means of symbolic redress in the case of Chipita Rodriguez.

Resolves that the 69th Legislature expresses its sympathy to the heirs and descendants of Chipita Rodriguez; that nothing in the resolution waives the State's immunity from suit or creates a cause of action against the State, its agents or instrumentalities; that an official copy of this resolution be forwarded to the district clerk of San Patricio County with the direction that the resolution be placed in the court records for the case as an expression of the sentiment of the Texas Legislature regarding the case of Chipita Rodriguez.

JB  
3-5-85  
As Substituted

Witnesses before the Senate Jurisprudence Committee meeting of 2/5/85:

Mr. Richard D. Hatch, representing himself, testified in favor of the resolution.

Mr. David Aken, representing San Patricio County, testified in favor of the resolution.

Mr. Lou McCreary, representing the Attorney General's Office, testified on the resolution.

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March 13 19 85 Engrossed  
Patsy Spaw  
Engrossing Clerk

By: Truan

S.C.R. No. 14

SENATE CONCURRENT RESOLUTION

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2 Patricio County and the only woman ever officially executed in the  
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8 WHEREAS, On August 25, 1863, downstream from her cabin where  
9 he presumably had spent the night, ranchers found the murdered body  
10 of Mr. John Savage, a horse trader who was passing through the  
11 vicinity after having completed a sale of horses to Confederate  
12 troops; and

13 WHEREAS, Chipita Rodriguez and another defendant, Mr. Juan  
14 Silvera, were accused of the murder and taken into custody at the  
15 nearby town of San Patricio; and

16 WHEREAS, A grand jury indicted the pair on October 7, 1863;  
17 two days later a trial was held; Chipita Rodriguez was found guilty  
18 of murder in the first degree, and Juan Silvera was found guilty of  
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S.C.R. No. 14

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May 17, 1985  
Fatey Spaw

S.C.R. No. 14

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22 the sentiment of the Texas Legislature regarding the case of  
23 Chipita Rodriguez.

Rec  
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S.C.R. No. 14

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.C.R. No. 14 was adopted by the Senate on March 13, 1985.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.C.R. No. 14 was adopted by the House on May 17, 1985.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor



S.C.R. No. 14

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.C.R. No. 14 (1) was adopted by the Senate on March 13 (2), 1985.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.C.R. No. 14 (1) was adopted by the House on May 17 (3), 1985.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

S.C.R. No. 14

By: Truan

SENATE CONCURRENT RESOLUTION

Absolving Chipita Rodriguez of her crime.

H-16-85 Filed with the Secretary of the Senate.

Immediate consideration ordered by unanimous consent  
\_\_\_\_\_ years. \_\_\_\_\_ nays

**JAN 21 1985** Read first time and referred to Committee on

JURISPRUDENCE

**MAR 6 1985** Reported favorably as substituted Read and Adopted.

Ordered not printed by the Senate.

**MAR 13 1985** ~~Immediate~~ consideration ordered by

(unanimous consent.)

\_\_\_\_\_ years. \_\_\_\_\_ nays.

**MAR 13 1985** Read and Adopted.

Betty King

Secretary of the Senate

\_\_\_\_\_  
Secretary of the Senate

Patsy Spaw  
Engrossing Clerk

March 14, 1985 Sent to House.

**MAR 14 1985** Received from Senate

**MAR 20 1985** Read first time and referred to Committee on Judiciary

**APR 30 1985** Reported favorably ~~amended~~ and sent to Printer

~~Printed and Distributed~~

**MAY 3 1985** Sent to Committee on Calendars h+c 8:58am

**MAY 17 1985** Read and Adopted ~~Failed~~ (as amended) by a Non Record Vote

~~Record Vote of \_\_\_\_\_ years \_\_\_\_\_ nays \_\_\_\_\_ present not voting~~

**MAY 17 1985** Returned to Senate.

Betty Mearns  
Chief Clerk of the House

**MAY 17 1985** RETURNED FROM HOUSE