

## House Resolution 1008

By: Representatives Greene of the 151<sup>st</sup>, Jackson of the 128<sup>th</sup>, Nix of the 69<sup>th</sup>, Taylor of the 173<sup>rd</sup>, and Smith of the 70<sup>th</sup>

## A RESOLUTION

1 Urging the State Board of Pardons and Paroles to issue a posthumous pardon for Susan  
2 Eberhart; and for other purposes.

3 WHEREAS, a careful examination and research of the events leading up to the murder of  
4 Sarah Spann, validate what oral history has long expounded in Webster County: Susan  
5 Eberhart was innocent and a miscarriage of justice occurred, as written in *Susan Eberhart:*  
6 *The Girl at the End of the Rope*; and

7 WHEREAS, the basis of the reasons given for Susan Eberhart's involvement in the crime cast  
8 doubt upon the defendant's guilt; and

9 WHEREAS, Susan Eberhart's mental capacities, young age, and personal circumstances  
10 should have been taken into consideration at her trial; and

11 WHEREAS, the only evidence presented supporting the guilt of Susan Eberhart at her trial  
12 was taken from the trial of Enoch Spann (her employer), from testimony by two posse  
13 members involved in the arrest of the two and who later collected a reward for their  
14 testimony; and

15 WHEREAS, the judge at the trial of Susan Eberhart did not follow the Georgia Code of 1861  
16 (effective January 1, 1863), which abolished mandatory death sentences for persons  
17 convicted of murder in the state and authorized the trial judge to impose a life imprisonment  
18 sentence, instead of a death sentence, in two alternate situations: (1) "if the conviction is  
19 founded solely on circumstantial testimony" or (2) "if the jury trying the traverse [trial jury]  
20 shall so recommend"; and

21 WHEREAS, when the foreman of the jury before handing the verdict to the judge asked if  
22 "... in the rendering a verdict of guilty, they could at the same time recommend the prisoner

23 to the mercy of the Court," the judge said that the appeal would avail nothing. This was an  
24 incorrect action on the part of the judge; and

25 WHEREAS, Susan Eberhart's attorneys presented no witnesses or evidence of her innocence  
26 at her trial, and afterward stated they did not expect the jury to return a guilty verdict because  
27 of Susan Eberhart's youth, gender, and vulnerability; therefore, they did not mount a defense;  
28 and

29 WHEREAS, following Susan Eberhart's conviction, the grand jurors and trial jurors who  
30 convicted her supported clemency. Writing in an Atlanta newspaper, former Confederate  
31 President Alexander H. Stephens urged clemency; and

32 WHEREAS, Susan Eberhart maintained her innocence throughout her arrest, incarceration,  
33 trial and hanging; and

34 WHEREAS, numerous mitigating circumstances were not taken into account at the trial of  
35 Susan Eberhart, especially as her statements indicated that she was not sensible of the moral  
36 and legal guilt of murder and the circumstances of being placed in a subservient position with  
37 her employer, Enoch Spann; and

38 WHEREAS, for months prior to the date of execution, the governor and the prison board  
39 were besieged with appeals to spare Susan Eberhart's life from essentially all over the United  
40 States and especially from the citizens of Georgia. Newspapers throughout the country  
41 carried the news of this travesty of justice. Adverse publicity for the state of Georgia was  
42 scathing; and

43 WHEREAS, the governor of Georgia at the time of the execution of Susan Eberhart (James  
44 M. Smith), sometimes called "iron fisted" against a request for pardon or commutation,  
45 ended his communication to the numerous appeals both locally and nationally by responding  
46 that all applications on behalf of Miss Eberhart have been considered and decided against  
47 her; Smith's refusal to pardon Susan Eberhart cost him his reelection, and he was never  
48 reelected to any other position. Obviously, the will of the people was not served; and

49 WHEREAS, the conviction and execution of Susan Eberhart was called by one newspaper  
50 of the time, "a disgrace to the age and a reproach to the state." The court case is still being  
51 used as an example of a miscarriage of justice and is often still referenced in trial situations.

52 The state of Georgia has a chance to rectify this reproach to the state by granting Susan  
53 Eberhart a posthumous pardon.

54 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that  
55 the members of this body urges the State Board of Pardons and Paroles to examine the  
56 conviction against Susan Eberhart and grant her a posthumous pardon if they conclude that  
57 her conviction was not warranted.

58 BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized  
59 and directed to make an appropriate copy of this resolution available for distribution to the  
60 State Board of Pardons and Paroles, the family of Susan Eberhart, and to the public and the  
61 press.