

MEMORANDA
AND OFFICIAL
CORRESPONDENCE
RELATING TO THE



REPUBLIC
OF TEXAS

ITS HISTORY AND
ANNEXATION

1836 TO 1846

ANSON JOHNS

This is copy number _____

of an edition bound in leather and
limited to 150 copies containing
a facsimile of the extremely
rare and little known

pamphlet reproduced on the following
30 pages.

The Declaration of Texas Independence
and the
Constitution of the Republic of Texas, a pamphlet

Rupert N. Richardson, one of the grandest of a long line of Texas historians, applied his talents to the study of the Texas Constitution of 1836 as early as 1928. In that year, he published an article in the *Southwestern Historical Quarterly* entitled "Framing the Constitution of the Republic of Texas." He subtitled one section of the article: "Adopting the Constitution: the Mystery of the Official Copy." The essence of his story is that George C. Childress and Robert Hamilton, who were appointed to go to Washington, D.C. to secure the recognition of Texas as a Republic, took copies of both the Texas Declaration of Independence and the Constitution of 1836 with them when they left the convention. David G. Burnett, *ad interim* President of Texas, dated his appointment of Childress and Hamilton on March 19, and they left immediately—arriving in Washington May 21. The following day they visited the publishing offices of Joseph Gales, Jr., and William Winston Seaton to contract for the printing of the two documents. One reason for putting them in print was of course historical, but another was to create a more favorable impression in the minds of the United States officials. For historical purposes, their action was important because it represented the first time the Constitution of 1836 was printed at all, and also the first time both the Declaration of Independence and the Constitution had been printed together. Richardson concludes that if an official copy of the constitution ever existed, it was the copy the printers used to prepare this pamphlet.

Now, 38 years later, as I trail Richardson's footsteps, I have come to the same conclusion. No official, signed original of the Texas Constitution

of 1836 has ever come to light. The Texas State Archives contain fragments of several working drafts, and the General Land Office of Texas possesses an almost complete but unsigned copy of the document. But an engrossed original has never been found. A primary reason for this was the turmoil of the times. The Convention of 1836 adopted the Constitution late in the night of March 17, but it was not ready for signatures until after the meeting adjourned *sine die* the following day. Sam Houston, writing to Thomas J. Rusk in August 1836, stated that the President of the Convention assumed the right to sign the names of many members who had not even seen the document. This evidence could lead to the conclusion that an official document was never created, but it is evident that Childress and Hamilton (who left immediately from the Convention) carried with them the nearest thing to an authentic document.

They also carried with them a signed original of the Declaration of Independence which they used as a prefix in their printed pamphlet. Good reasons exist to explain why this was possible. This document had been approved, finally, on March 2, 1836. The process of signing began the following day, and was continued until March 11, when 59 delegates had by then appended their signatures. Five of these documents were made, one of which Childress and Hamilton carried with them to Washington. They were in Natchitoches, Louisiana, on March 27, where John F. Mosely, who was on his way to Texas, noted that Childress read it to a small gathering. When Childress and Hamilton were relieved on May 26, 1836, they relinquished possession of the document to William H. Wharton, another Texan in Washington on official business, who placed it in the U. S. Department of State on May 28. Years later, in 1896, the document was discovered and returned to Texas. It now rests for all time in a marble and glass case in the Texas Archives and Library Building in Austin.

No such simplicity encompasses the Constitution of 1836, as repeated painstaking searches for an original have not met with success. One can only conclude that the pamphlet herewith reprinted facsimile is the nearest thing to an original that exists. For certain it was the first time the document was set in type. From its printing in Washington on May 22, 1836, until its publication in the *Telegraph and Texas Register* of Houston on August 7, 1836, and again on August 9, the contents of the instrument remained relatively unknown to the people of Texas. The printing in the Houston newspaper was instigated by David G. Burnett, and it was identical to the one the people of Texas had ratified. The Borden's issued and advertised in pamphlet form, but no copies of this pamphlet have ever been located. Evidence points to the fact that Gail and Thomas Borden, editors of the *Telegraph and Texas Register*, used the Gales and Seaton pamphlet as copy. Fifty-seven delegates are listed as endorsing both printings, and

their names are listed in exactly the same order. The chart below will reveal some variations in spelling to prove the point:

<i>Gales & Seaton edition</i>	<i>Borden edition</i>
J. Antonio Navarro	J. Antoine Navarro
Mathew Caldwell	Matthew Caldwell
Lorenzo de Zavalla	Lorenzo de Zavala
Elijah Stepp	Elijah Stepp
William B. Leates	William B. Leates
Thomas I. Rusk	Thomas J. Rusk

The evidence suggests that Gales and Seaton knew nothing of the names of the persons, but that the Borden's, when they recognized an error, corrected it. The fact that the names Stepp (properly spelled Stapp) and Leates (Properly spelled Scates) were not corrected proves conclusively—to my mind, at least—that the Borden's copied from the Gales and Seaton pamphlet. In any case, the people of Texas ratified the document at an election on September 5, 1836.

Another edition of the Constitution was printed in Washington late in June 1836, as President Andrew Jackson forwarded the Gales and Seaton pamphlet to the U. S. Senate. The Senate ordered it printed, along with correspondence concerning Childress and Hamilton and Sam Houston's official report of the Battle of San Jacinto. This appeared as *U. S. Senate Document 415, 24th Congress, 1st Session*. Interestingly enough, this Senate document was also printed by Gales and Seaton, who published between 1825-1837 twenty-nine volumes of the *Register of Debates in Congress*, and between 1832-1861, thirty-eight volumes of *American State Papers*. These they did as contractors for the government, but they also issued a newspaper called the *National Intelligencer* and did job printing as well. So it is clear that Gales and Seaton printed the Texas Constitution of 1836 two times before Texans saw it in their own newspaper. All of this was owing to the industry of George C. Childress and Robert Hamilton, both of whom ardently pleaded the cause of Texas Independence.

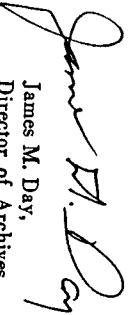
This particular pamphlet's provenience is partially unknown, but two names have been written on the title page to reveal part of its history. The name of John Enrico is in ink and can be dismissed because nothing is known of him. The other is a somewhat bemuddled rendition of the name of Anson Jones. Why it is written there we do not know. Possibly it was penned by Jones himself; if so, this was his personal copy. Comparison of his penmanship with known specimens of Jones' handwriting are not conclusive because the writing is too smudged. Still, the possibility does exist that Jones owned this copy. One can conclusively establish the fact

that this copy was sold at auction on January 22, 1926, for \$100.00. This copy was listed in a catalog advertising the collections of two deceased persons, A. R. Turner, Jr., and Charles A. Munn. The catalog listing describes it thus:

"Excessively rare, and apparently an unrecorded item. No record of a copy having been sold at public sale. Not in Wagner. Not in Brinley. Not in New York Public Library. This work must not be thought a Government publication, although printed by Government printers. It was printed for, and at the expense of, the 'Plenipotentiaries from the Republic of Texas to the United States of America'."

The purchaser was probably Thomas W. Streeter, who loaned it to Rupert Richardson in 1928. In December 1953, it was acquired from Streeter by the Texas State Library, where it rests in the Archives near the original drafts whence it sprang.

It is gratifying, indeed, to add this historic pamphlet to the limited edition of the Rio Grande Press edition of Anson Jones' *Republic of Texas*. The publishers, Robert B. McCoy and John T. Strachan, have gone the last mile to make this title an exceptional addition to an already outstanding line of basic source documents of American history; I think they have outstandingly succeeded.


James M. Day,
Director of Archives

August 1966
Austin, Texas

IV

CONSTITUTION

John C. Jones

THE REPUBLIC OF TEXAS

TO WHICH IS PREFIXED

THE DECLARATION OF INDEPENDENCE

Anson Jones
MADE IN CONVENTION, MARCH 2, 1836.

WASHINGTON:

PRINTED BY GALE AND SEATON.

1836. 110972

potism, in which every interest is disregarded but that of the army and the priesthood, both the eternal enemies of civil liberty, the ever-ready minions of power, and the usual instruments tyrants : when, long after the spirit of the constitution has departed, moderation is at length so far lost by those in power, that even the semblance of freedom is removed, and the forms themselves of the Constitution discontinued; and so far from their petitions and remonstrances being regarded, the agents who bear them are thrown into dungeons and mercenary armies sent forth to force a new Government upon them at the point of the bayonet : when, in consequence of such acts of malfeasance and abdication on the part of the Government, anarchy prevails, and civil society is dissolved into its original elements : in such a crisis, the first law of nature, the right of self-preservation, the inherent and inalienable right of the People to appeal to first principles, and take their political affairs into their own hands in extreme cases enjoins it as a right towards themselves, and a sacred obligation to their posterity, to abolish such Government, and create another in its stead, calculated to rescue them from impending dangers, and to secure their future welfare and happiness.

Nations, as well as individuals, are amenable for their acts to the public opinion of mankind. A statement of a part of our grievances is therefore submitted to an impartial world, in justification of the hazardous but unavoidable step now taken, of severing our political connexion with the Mexican People, and assuming an independent attitude among the nations of the earth. The Mexican Government, by its colonization laws, invited and induced the Anglo-American population of Texas to colonize its wilderness, under the pledged faith of a written constitution, that they should continue to enjoy that constitutional liberty and republican Government to which they had been habituated in the land of their birth, the United States of America. In this expectation they have been cruelly disappointed, inasmuch as the Mexican nation has acquiesced in the late changes made in the Government by General Antonio Lopez de Santa Ana, who, having overturned the Constitution of his country, now offers us the cruel alternative, either to abandon our homes, acquired by so many privations, or submit to the most intolerable of all tyranny, the combined despotism of the sword and the priesthood. It hath sacrificed our welfare to the State of Coahuila, by which our interests have been continually depressed, through a jealous and partial course of legislation, carried on at a far-distant seat of Government, by a hostile majority, in an unknown tongue; and this too notwithstanding we have petitioned in the humblest

terms for the establishment of a separate State Government have, in accordance with the provisions of the National Constitution, presented to the General Congress a Republican Constitution, which was, without just cause, contemptuously rejecte
It incarcerated in a dungeon, for a long time, one of our
zens, for no other cause but a zealous endeavor to procure
acceptance of our Constitution and the establishment of a
Government.

It has failed and refused to secure, on a firm basis, the right trial by jury, that palladium of civil liberty and only safe guarantee for the life, liberty, and property of the citizen.

It has failed to establish any public system of education though possessed of almost boundless resources, (the public main,) and although it is an axiom in political science that, less a People are educated and enlightened, it is idle to expect the continuance of civil liberty, or the capacity for self-government.

It has suffered the military commandants stationed among to exercise arbitrary acts of oppression and tyranny, thus trampling upon the most sacred rights of the citizen, and rendering military superior to the civil power.

It has dissolved by force of arms the State Congress of Coahuila and Texas, and obliged our Representatives to fly for their lives from the seat of Government, thus depriving us of the fundamental political right of representation.

It has demanded the surrender of a number of our citizens and ordered military detachments to seize and carry them to the interior for trial; in contempt of the civil authorities, an defiance of the laws and the Constitution.

It has made piratical attacks upon our commerce by commissioning foreign desperadoes, and authorizing them to seize vessels and convey the property of our citizens to far-distant ports for confiscation.

It denies us the right of worshipping the Almighty according to dictates of our own conscience, by the support of a native religion calculated to promote the temporal interests of its man functionaries rather than the glory of the true and living God.

It has demanded us to deliver up our arms, which are essential to our defence, the rightful property of freemen, and for sale only to tyrannical Governments.

It has invaded our country, both by sea and by land, with intent to lay waste our territory, and drive us from our homes; it has now a large mercenary army advancing, to carry on against us a war of extermination.

It has, through its emissaries, incited the merciless savage, with the tomahawk and scalping-knife, to massacre the inhabitants of our defenceless frontiers.

It has been, during the whole time of our connexion with it, the contemptible sport and victim of successive military revolutions, and hath continually exhibited every characteristic of a weak, corrupt, and tyrannical government.

These and other grievances were patiently borne by the People of Texas, until they reached that point at which forbearance ceases to be a virtue. They then took up arms in defence of the National Constitution. They appealed to their Mexican brethren for assistance. Their appeal has been made in vain: though months have elapsed, no sympathetic response has yet been heard from the interior. They are, therefore, forced to the melancholy conclusion that the Mexican People have acquiesced in the destruction of their liberty, and the substitution therefor of a military despotism; that they are unfit to be free, and incapable of self-government.

The necessity of self-preservation, therefore, now decrees our eternal political separation.

We, therefore, the Delegates, with plenary powers, of the People of Texas, in solemn Convention assembled, appealing to a candid world for the necessities of our condition, do hereby resolve and DECLARE that our political connexion with the Mexican nation has forever ended, and that the People of Texas do now constitute a FREE, SOVEREIGN, and INDEPENDENT REPUBLIC, and are fully invested with all the rights and attributes which properly belong to independent States; and, conscious of the rectitude of our intentions, we fearlessly and confidently commit the issue to the decision of the Supreme Arbiter of the destinies of nations.

RICHARD ELLIS, President.

C. B. Stewart,
Thomas Barnett, of Austin,
James Collinsworth,
Edwin Waller,
Asa Brigham,
J. S. D. Byrom, of Brazoria,
Francisco Ruis,
Antonio Navarro,
Jesse B. Badgett, of Bexar,
Wm. D. Lacy,
Wm. Menifee, of Colorado,
James Gains,

W. Clark, jr., of Sabine,
John Fisher,
Matt. Caldwell, of Gonzales,
Wm. Motley, of Goliad,
L. de Zavala, of Harrisburg,
S. C. Robertson,
Geo. C. Childress, of Milam,
Steph. H. Everett,
Geo. W. Smith, of Jasper,
Elijah Stapp, of Jackson,
Claborne West,
Wm. B. Scates, of Jefferson,

M. B. Menard,
A. B. Hardin, of Liberty,
Baily Hardiman, of Matagorda,
J. W. Bunton,
Thos. J. Gazeley,
R. M. Coleman, of Mina,
Robert Potter,
Thos. J. Rusk,
Charles S. Taylor,
Ino. S. Roberts, of Nacogdoches,
Robert Hamilton,
Collin McKinnie,
Alb. H. Lattimer, of Red river,
Martin Palmer,

E. O. Legrand,
S. W. Blount, of San Augu:
Syd. O. Bennington,
W. C. Crawford, of Shelby
J. Power,
Sann. Houston,
David Thomas,
Edward Conrad, of Refugio
John Turner, of San Patric
B. Briggs Goodrich,
G. W. Barnett,
James G. Swisher,
Jesse Grimes, of Washington

TO THE PUBLIC.

The undersigned, Plenipotentiaries from the Republic Texas to the United States of America, respectfully present the American People the unanimous DECLARATION OF INDEPENDENCE, made by the People of Texas in General Convention, the 2d day of March, 1836; and, also, the CONSTITUTION framed by the same body.

ROBERT HAMILTON,
GEO. C. CHILDRRESS.
WASHINGTON CITY, May 22, 1836.

UNANIMOUS DECLARATION OF INDEPENDENCE

BY THE

DELEGATES OF THE PEOPLE OF TEXAS.

In General Convention, at the town of Washington, on the 2 day of March, 1836.

When a Government has ceased to protect the lives, liberty and property of the People from whom its legitimate powers are derived, and for the advancement of whose happiness it was instituted, and so far from being a guarantee for the enjoyment of their inestimable and inalienable rights, becomes an instrument in the hands of evil rulers for their oppression: when the Federal Republican Constitution of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their Government has been forcibly changed without their consent, from a restricted Federative Republic, composed of sovereign States, to a consolidated central military des

Sec. 15. Senators and Representatives shall receive a compensation for their services, to be fixed by law, but no increase of compensation; or diminution, shall take effect during the session at which such increase or diminution shall have been made. They shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of Congress, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

Sec. 16. Each House may punish, by imprisonment, during the session, any person not a member, who shall be guilty of any disrespect to the House, by any disorderly conduct in their presence.

Sec. 17. Each House shall keep a journal of its proceedings, and publish the same, except such parts as, in its judgment, require secrecy. When any three members shall desire the yeas and nays on any question, they shall be entered on the journals.

Sec. 18. Neither House, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which the two Houses may be sitting.

Sec. 19. When vacancies happen in either House, the Executive shall issue writs of election to fill such vacancies.

Sec. 20. No bill shall become a law until it shall have been read on three several days in each House, and passed by the same, unless, in cases of emergency, two-thirds of the members of the House where the bill originated, shall deem it expedient to dispense with the rule.

Sec. 21. After a bill shall have been rejected, no bill containing the same substance shall be passed into a law during the same session.

Sec. 22. The style of the laws of the Republic shall be, "Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled."

Sec. 23. No person holding an office of profit under the Government shall be eligible to a seat in either House of Congress, nor shall any member of either House be eligible to any office which shall be created, or the profits of which shall be increased during his term of service.

Sec. 24. No holder of public moneys, or collector thereof, shall be eligible to a seat in either House of Congress, until he shall have fully acquitted himself of all responsibility, and shall produce the proper officer's receipt thereof. Members of either House may protest against any act or resolution, and may have such protest entered on the journals of their respective Houses.

Sec. 25. No money shall be drawn from the public treasury but in strict accordance with appropriations made by law; and no appropriation shall be made for private or local purposes, unless two-thirds of each House concur: in such appropriations.

Sec. 26. Every act of Congress shall be approved and signed by the President before it becomes a law; but if the President will not approve and sign such act, he shall return it to the House in which it shall have originated, with his reasons for not approving the same, which shall be spread upon the journals of such House, and the bill shall then be reconsidered, and shall not become a law unless it shall then pass by a vote of two-thirds of both Houses. If any act shall be disapproved by the President the vote on the reconsideration shall be recorded by yeas and noes. If the President shall fail to return a bill within five days (Sundays excepted) after it shall have been presented for his approval and signature, the same shall become a law, unless the Congress prevents its return within the time above specified by adjournment.

Sec. 27. All bills, acts, orders, or resolutions, to which the concurrence of both Houses may be necessary, (motions or resolution for adjournment excepted,) shall be approved and signed by the President, or being disapproved, shall be passed by two-thirds of both Houses, in manner and form as specified in section twenty

ARTICLE II.

Sec. 1. Congress shall have power to levy and collect taxes and imposts, excise and tonnage duties, to borrow money on the faith, credit, and property of the Government, to pay the debt and to provide for the common defence and general welfare of the Republic.

Sec. 2. To regulate commerce, to coin money, to regulate the value thereof and of foreign coin, to fix the standard of weight and measures, but nothing but gold and silver shall be made lawful tender.

Sec. 3. To establish post offices and post roads, to grant charters of incorporation, patents, and copy-rights, and secure to the authors and inventors the exclusive use thereof for a limited time.

Sec. 4. To declare war, grant letters of marque and reprisal and to regulate captures.

Sec. 5. To provide and maintain an army and navy, and make all laws and regulations necessary for their Government.

Sec. 6. To call out the militia to execute the law, to suppress insurrection, and repel invasion.

Sec. 7. To make all laws which shall be deemed necessary and proper to carry into effect the foregoing express grants of power, and all other powers vested in the Government of the Republic, or in any officer or department thereof.

ARTICLE III.

Sec. 1. The Executive authority of this Government shall be vested in a chief magistrate, who shall be styled The President of the Republic of Texas.

Sec. 2. The first President elected by the People shall hold his office for the term of two years, and shall be ineligible during the next succeeding term; and all subsequent Presidents shall be elected for three years, and be alike ineligible; and in the event of a tie, the House of Representatives shall determine between the two highest candidates by a viva voce vote.

Sec. 3. The returns of the elections for President and Vice President shall be sealed up and transmitted to the Speaker of the House of Representatives, by the holders of elections of each county; and the Speaker of the House of Representatives shall open and publish the returns, in presence of a majority of each House of Congress.

ARTICLE IV.

Sec. 1. The Judicial powers of the Government shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges of the supreme and inferior courts shall hold their offices for four years, be eligible to re-election, and shall, at stated periods, receive for their services a compensation not to be increased or diminished during the period for which they were elected.

Sec. 2. The Republic of Texas shall be divided into convenient judicial districts, not less than three, nor more than eight. There shall be appointed for each district, a judge, who shall reside in the same, and hold the courts at such times and places as Congress may by law direct.

Sec. 3. In all admiralty and maritime cases, in all cases affecting ambassadors, public ministers, or consuls, and in all capital cases, the district courts shall have exclusive original jurisdiction, and original jurisdiction in all civil cases when the matter in controversy amounts to one hundred dollars.

Sec. 4. The judges, by virtue of their offices, shall be conservators of the peace, throughout the Republic. The style of all process shall be, The Republic of Texas; and all prosecutions

shall be carried on in the name and by the authority of the same, and conclude, Against the peace and dignity of the Republic.

Sec. 5. There shall be a district attorney appointed for each district, whose duties, salaries, perquisites, and terms of service shall be fixed by law.

Sec. 6. The clerks of the district courts shall be elected by the qualified voters for members of Congress in the counties where the courts are established, and shall hold their offices for four years, subject to removal by presentment of a grand jury and conviction of a petit jury.

Sec. 7. The Supreme Court shall consist of a chief justice and associate judges; the district judges shall compose the associate judges, a majority of whom, with the chief justice, shall constitute a quorum.

Sec. 8. The Supreme Court shall have appellate jurisdiction only, which shall be conclusive, within the limits of the Republic; and shall hold its sessions annually at such times and places as may be fixed by law; provided that no judge shall sit in a case in the Supreme Court tried by him in the court below.

Sec. 9. The judges of the supreme and district courts shall be elected by joint ballot of both Houses of Congress.

Sec. 10. There shall be, in each county, a county court, and such justices' courts as the Congress may from time to time establish.

Sec. 11. The Republic shall be divided into convenient counties, but no new county shall be established, unless it be done by the petition of one hundred free male inhabitants of the territory sought to be laid off and established, and unless the said territory shall contain nine hundred square miles.

Sec. 12. There shall be appointed, for each county, a convenient number of justices of the peace, one sheriff, one coroner and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county, as Congress may direct. Justices of the peace and sheriffs shall be commissioned by the President.

Sec. 13. The Congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require and in all criminal cases the common law shall be the rule of decision.

ARTICLE V.

Sec. 1. Ministers of the gospel being, by their profession dedicated to God and the care of souls, ought not to be diverted

from the great duties of their functions, therefore, no minister of the gospel or priest of any denomination whatever shall be eligible to the office of the Executive of the Republic, nor to a seat of either branch of the Congress of the same.

Sec. 2. Each member of the Senate and House of Representatives shall, before they proceed to business, take an oath to support the Constitution, as follows:

I, A B, do solemnly swear [or affirm, as the case may be] that, as a member of this General Congress, I will support the Constitution of the Republic, and that I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the People.

Sec. 3. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the duties thereof, take an oath to support the Constitution of the Republic, and also an oath of office.

ARTICLE VI.

Sec. 1. No person shall be eligible to the office of President who shall not have attained the age of thirty-five years, shall be a citizen of the Republic at the time of the adoption of this Constitution, or an inhabitant of this Republic at least three years immediately preceding his election.

Sec. 2. The President shall enter on the duties of his office on the second Monday in December next succeeding his election, and shall remain in office until his successor shall be duly qualified.

Sec. 3. The President shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during his continuance in office; and before entering upon the duties of his office, he shall take and subscribe the following oath or affirmation: I, A B, President of the Republic of Texas, do solemnly and sincerely swear [or affirm, as the case may be] that I will faithfully execute the duties of my office, and to the best of my ability preserve, protect, and defend the Constitution of the Republic.

Sec. 4. He shall be commander-in-chief of the army and navy of the Republic, and the militia thereof, but he shall not command in person without the authority of a resolution of Congress. He shall have power to remit fines and forfeitures, to grant reprieves and pardons, except in cases of impeachment.

Sec. 5. He shall, with the advice and consent of two-thirds of the Senate, make treaties; and with the consent of the Senate, appoint ministers and consuls, and all officers whose offices

are established by this Constitution, not herein otherwise provided for.

Sec. 6. The President shall have power to fill all vacancies that may happen during the recess of the Senate; but he shall report the same to the Senate within ten days after the next Congress shall convene; and should the Senate reject the same the President shall not re-nominate the same individual to the same office.

Sec. 7. He shall from time to time give Congress information of the state of the Republic, and recommend for their consideration such measures as he may deem necessary. He may, upon extraordinary occasions, convene both Houses, or either of them. In the event of a disagreement as to the time of adjournment, he may adjourn them to such time as he may think proper. He shall receive all foreign ministers. He shall see that the laws be faithfully executed, and shall commission all the officers of the Republic.

Sec. 8. There shall be a seal of the Republic, which shall be kept by the President and used by him officially; it shall be called the great seal of the Republic of Texas.

Sec. 9. All grants and commissions shall be in the name and by the authority of the Republic of Texas, shall be sealed with the great seal, and signed by the President.

Sec. 10. The President shall have power, by and with the advice and consent of the Senate, to appoint a Secretary of State and such other heads of Executive departments as may be established by law, who shall remain in office during the term of service of the President, unless sooner removed by the President with the advice and consent of the Senate.

Sec. 11. Every citizen of the Republic who has attained the age of twenty-one years, and shall have resided six months within the district or county where the election is held, shall be entitled to vote for members of the General Congress.

Sec. 12. All elections shall be by ballot, unless Congress shall otherwise direct.

Sec. 13. All elections by joint vote of both Houses of Congress shall be viva voce, shall be entered on the journals, and majority of all the votes shall be necessary to a choice.

Sec. 14. A Vice President shall be chosen at every election for President, in the same manner, continue in office for the same time, and shall possess the same qualifications of the President. In voting for President and Vice President, the electors shall distinguish for whom they vote as President, and for whom as Vice President.

Sec. 15. In cases of impeachment, removal from office, death, resignation, or absence of the President from the Republic, the Vice President shall exercise the powers and discharge the duties of the President until a successor be duly qualified, or until the President, who may be absent or impeached, shall return or be acquitted.

Sec. 16. The President, Vice President, and all civil officers of the Republic, shall be removable from office by impeachment for, and on conviction of, treason, bribery, and other high crimes and misdemeanors.

SCHEDULE.

Sec. 1. That no inconvenience may arise from the adoption of this Constitution, it is declared by this Convention that all laws now in force in Texas, and not inconsistent with this Constitution, shall remain in full force until declared void, repealed, altered, or expire by their own limitation.

Sec. 2. All fines, penalties, and forfeitures, and escheats, which have heretofore accrued to Coahuila and Texas, or Texas, shall accrue to this Republic.

Sec. 3. Every male citizen who is by this Constitution a citizen, and shall be otherwise qualified, shall be entitled to hold any office or place of honor, trust, or profit, under the Republic, any thing in this Constitution to the contrary notwithstanding.

Sec. 4. The first President and Vice President that shall be appointed after the adoption of this Constitution, shall be chosen by this Convention, and shall immediately enter on the duties of their offices, and shall hold said offices until their successors be elected and qualified, as prescribed in this Constitution, and shall have the same qualifications, be invested with the same powers, and perform the same duties which are required and conferred on the Executive head of the Republic by this Constitution.

Sec. 5. The President shall issue writs of election directed to the officers authorized to hold elections of the several counties, requiring them to cause an election to be held for President, Vice President, Representatives and Senators to Congress, at the time and mode prescribed by this Constitution, which election shall be conducted in the manner that elections have been heretofore conducted. The President, Vice President, and members of Congress, when duly elected, shall continue to discharge the duties of their respective offices for the time and manner prescribed by this Constitution, until their successors be duly qualified.

Sec. 6. Until the first enumeration shall be made, as directed by this Constitution, the precinct of Austin shall be entitled to one representative; the precinct of Brazoria two representatives; the precinct of Bexar two representatives; the precinct of Colorado one representative; Sabine one; Gonzales one; Goliad one; Harrisburg one; Jasper one; Jefferson one; Liberty one; Matagorda one; Mina two; Nacogdoches two; Red river three; Victoria one; San Augustine two; Shelby two; Refugio one; San Patricio one; Washington two; Milam one and Jackson one representative.

Sec. 7. Until the first enumeration shall be made, as described by the Constitution, the Senatorial districts shall be composed of the following precincts: Bexar shall be entitled to one Senator San Patricio, Refugio, and Goliad, one; Brazoria one; Milam and Gonzales one; Nacogdoches one; Red river one; Shelby, and Sabine one; Washington one; Matagorda, Jackson, and Victoria, one; Austin and Colorado one; San Augustine one; Milam one; Jasper and Jefferson one; and Liberty and Harrisburg one Senator.

Sec. 8. All judges, sheriffs, commissioners, and other civil officers shall remain in office, and in the discharge of the powers and duties of their respective offices, until there shall be otherwise appointed or elected under the Constitution.

GENERAL PROVISIONS.

Sec. 1. Laws shall be made to exclude from office, from the right of suffrage, and from serving on juries, those who shall hereafter be convicted of bribery, perjury, or other high crimes and misdemeanors.

Sec. 2. Returns of all elections for officers who are to be commissioned by the President, shall be made to the Secretary of State of this Republic.

Sec. 3. The President and heads of Departments shall keep their offices at the seat of Government, unless removed by the permission of Congress, or unless, in cases of emergency in time of war, the public interest may require their removal.

Sec. 4. The President shall make use of his private seal until a seal of the Republic shall be provided.

Sec. 5. It shall be the duty of Congress, as soon as circumstances will permit, to provide, by law, a general system of education.

Sec. 6. All free white persons who shall emigrate to this Republic, and who shall, after a residence of six months, make oath before some competent authority that he intends to reside

permanently in the same, and shall swear to support this Constitution, and that he will bear true allegiance to the Republic of Texas, shall be entitled to all the privileges of citizenship.

Sec. 7. So soon as convenience will permit, there shall be a penal code formed on principles of reformation, and not of vindictive justice; and the civil and criminal laws shall be revised, digested, and arranged under different heads; and all laws relating to land titles shall be translated, revised, and promulgated.

Sec. 8. All persons who shall leave the country for the purpose of evading a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit all rights of citizenship and such lands as they may hold in the Republic.

Sec. 9. All persons of color who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude, provided the said slave shall be the bona fide property of the person so holding said slave as aforesaid. Congress shall pass no laws to prohibit emigrants from the United States of America from bringing their slaves into the Republic with them, and holding them by the same tenure by which such slaves were held in the United States; nor shall Congress have power to emancipate slaves; nor shall any slave-holder be allowed to emancipate his or her slave or slaves, without the consent of Congress, unless he or she shall send his or her slave or slaves without the limits of the Republic. No free person of African descent, either in whole or in part, shall be permitted to reside permanently in the Republic, without the consent of Congress, and the importation or admission of Africans or negroes into this Republic, excepting from the United States of America, is forever prohibited, and declared to be piracy.

Sec. 10. All persons, (Africans, the descendants of Africans, and Indians excepted,) who were residing in Texas on the day of the Declaration of Independence, shall be considered citizens of the Republic, and entitled to all the privileges of such. All citizens now living in Texas, who have not received their portion of land, in like manner as colonists, shall be entitled to their land in the following proportion and manner: Every head of a family shall be entitled to one league and "labour" of land, and every single man of the age of seventeen and upwards, shall be entitled to the third part of one league of land. All citizens who may have, previously to the adoption of this Constitution, received their league of land as heads of families, and their quarter of a league of land as single persons, shall receive such additional quantity as will make the quantity of land received by them

equal to one league and "bour" and one-third of a league, unless by bargain, sale, or exchange, they have transferred, or may henceforth transfer their right to said land, or a portion thereof to some other citizen of the Republic; and in such case the person to whom such right shall have been transferred, shall be entitled to the same, as fully and amply as the person making the transfer might or could have been. No alien shall hold land in Texas, except by titles emanating directly from the Government of this Republic. But if any citizen of this Republic should die intestate or otherwise, his children or heirs shall inherit his estate, and aliens shall have a reasonable time to take possession of and dispose of the same, in a manner hereafter to be pointed out by law. Orphan children, whose parents were entitled to land under the colonization law of Mexico, and who now reside in the Republic, shall be entitled to all the rights which their parents were possessed at the time of their death. The citizens of the Republic shall not be compelled to reside on the land, but shall have their lines plainly marked.

All orders of survey legally obtained by any citizen of the Republic, from any legally authorized commissioner, prior to the act of the late consultation closing the land offices, shall be valid. In all cases the actual settler and occupant of the soil shall be entitled, in locating his land, to include his improvement, in preference to all other claims not acquired previous to his settlement, according to the law of the land and this Constitution. *Provided*, That nothing herein contained shall prejudice the rights of any citizen from whom a settler may hold land by rent or lease.

And whereas the protection of the public domain from unjust and fraudulent claims, and quieting the People in the enjoyment of their lands, is one of the great duties of this Convention and whereas the Legislature of the State of Coahuila and Texas having passed an act in the year eighteen hundred and thirty-four, in behalf of General John T. Mason, of New York, another on the fourteenth day of March, eighteen hundred and thirty-five, under which the enormous amount of eleven hundred leagues of land has been claimed by sundry individuals, some of whom reside in foreign countries, and are not citizens of the Republic, which said acts are contrary to articles fourth, twelfth and fifteenth of the laws of eighteen hundred and twenty-four of the General Congress of Mexico, and one of said acts, for that cause has, by the said General Congress of Mexico, been declared null and void: It is hereby declared that the said act of eighteen hundred and thirty-four, in favor of John T. Mason and of the fourteenth of March, eighteen hundred and thirty

five, of the said Legislature of Coahuila and Texas, and each and every grant founded thereon, is, and was from the beginning, null and void; and all surveys made under pretence of authority derived from said acts are hereby declared to be null and void; and all eleven-league claims, located within twenty leagues of the boundary line between Texas and the United States of America, which have been located contrary to the laws of Mexico, are hereby declared to be null and void: and whereas many surveys and titles to land have been made whilst most of the People of Texas were absent from home, serving in the campaign against Bejar, it is hereby declared that all the surveys and locations of land made since the act of the late consultation closing the land offices, and all titles to land made since that time, are and shall be null and void.

And whereas the present unsettled state of the country and the general welfare of the People demand that the operations of the land offices and the whole land system shall be suspended until persons serving in the army can have a fair and equal chance with those remaining at home to select and locate their lands, it is hereby declared that no survey or title which may hereafter be made shall be valid, unless such survey or title shall be authorized by this Convention or some future Congress of the Republic. And with a view to the simplification of the land system, and protection of the People and the Government from litigation and fraud, a general land office shall be established, where all the land titles of the Republic shall be registered, and the whole territory of the Republic shall be sectionized, and in a manner hereafter to be prescribed by law, which shall enable the officers of the Government or any citizen to ascertain with certainty the lands that are vacant, and those lands which may be covered by valid titles.

Sec. 11. Any amendment or amendments to this Constitution may be proposed in the House of Representatives or Senate, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on the journals, with the yeas and nays thereon, and referred to the Congress then next to be chosen, and shall be published for three months previous to the election; and if the Congress next chosen as aforesaid, shall pass said amendment or amendments by a vote of two-thirds of all the members elected to each House, then it shall be the duty of said Congress to submit such proposed amendment or amendments to the People, in such manner and at such times as the Congress shall prescribe; and if the People shall approve and ratify such amendment or amendments by a majority of the

electors qualified to vote for members of Congress voting thereon, such amendment or amendments shall become a part of the Constitution: *Provided, however,* that no amendment or amendments be referred to the People oftener than once in three years.

DECLARATION OF RIGHTS.

This Declaration of Rights is declared to be a part of this Constitution, and shall never be violated on any pretence whatever. And in order to guard against the transgression of the powers which we have delegated, we declare that every thing in this bill of rights contained, and every other right not here delegated, is reserved to the People.

First. All men, when they form a social compact, have equal rights, and no man or set of men are entitled to exclusive privileges or emoluments from the community.

Second. All political power is inherent in the People, and free Governments are founded on their authority, and instituted for their benefit; and they have at all times an inalienable right to alter their government in such manner as they may think proper.

Third. No preference shall be given by law to any religious denomination or mode of worship over another, but every person shall be permitted to worship God according to the dictates of his own conscience.

Fourth. Every citizen shall be at liberty to speak, write, publish his opinions on any subject, being responsible for the abuse of that privilege. No law shall ever be passed to curtail the liberty of speech or of the press; and in all prosecutions for libels, the truth may be given in evidence, and the jury shall have the right to determine the law and fact, under the direction of the court.

Fifth. The People shall be secure in their persons, houses, papers, and possessions, from all unreasonable searches or seizures, and no warrant shall issue to search any place or seize any person or thing, without describing the place to be searched or the person or thing to be seized, without probable cause, supported by oath or affirmation.

Sixth. In all criminal prosecutions the accused shall have the right of being heard, by himself, or council, or both; he shall have the right to demand the nature and cause of the accusation, shall be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his favor. And in all prosecutions by presentment or indictment, he shall have the

I do hereby certify that I have carefully compared the foregoing Constitution, and find it to be a true copy from the original filed in the archives of the Convention.
Given under my hand, this 17th day of March, 1836.

Attest :

H. S. KIMBLE,
Secretary of the Convention.