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Citation: "Declaration of the People of Texas in General Convention Assembled;" "Plan and Powers of the Provisional Government of Texas." *Ordinances and Decrees of the Consultation, Provisional Government of Texas, and the Convention: which Assembled at Washington, March 1, 1836*. Houston: National Banner Office, 1838, pp. 3-13. Streeter 246.

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G. R. Freeman

ORDINANCES AND DECREES

OF THE

CONSULTATION,

PROVISIONAL GOVERNMENT OF TEXAS

AND THE

CONVENTION,

WHICH ASSEMBLED AT WASHINGTON MARCH 1, 1836.

BY ORDER OF THE SECRETARY OF STATE.

HOUSTON:

NATIONAL BANNER OFFICE—NILES & CO. PRINTERS.
1838.

34329

DECLARATION

*Of the People of Texas in General Convention
assembled.*

WHEREAS, General Antonio Lopez de Santa Anna and other Military Chieftains have, by force of arms, overthrown the Federal Institutions of Mexico, and dissolved the Social Compact which existed between Texas and the other Members of the Mexican Confederacy—Now, the good People of Texas, availing themselves of their natural rights,

SOLEMNLY DECLARE—

1st. That they have taken up arms in defence of their Rights and Liberties, which were threatened by the encroachments of military despots, and in defence of the Republican Principles of the Federal Constitution of Mexico of eighteen hundred and twenty-four.

2d. That Texas is no longer, morally or civilly, bound by the Compact of Union; yet, stimulated by the generosity and sympathy common to a free people, they offer their support and assistance to such of the Members of the Mexican Confederacy as will take up arms against military despotism.

3d. That they do not acknowledge, that the present authorities of the nominal Mexican Republic have the right to govern within the limits of Texas.

4th. That they will not cease to carry on war against the said authorities, whilst their troops are within the limits of Texas.

5th. That they hold it to be their right, during the disorganization of the Federal System and the reign of despotism, to withdraw from the Union, to establish an

independent Government, or to adopt such measures as they may deem best calculated to protect their rights and liberties; but that they will continue faithful to the Mexican Government so long as that nation is governed by the Constitution and Laws that were formed for the government of the Political Association.

6th. That Texas is responsible for the expenses of her Armies now in the field.

7th. That the public faith of Texas is pledged for the payment of any debts contracted by her Agents.

8th. That she will reward by donations in Land, all who volunteer their services in her present struggle, and receive them as Citizens.

These DECLARATIONS we solemnly avow to the world, and call GOD to witness their truth and sincerity; and invoke defeat and disgrace upon our heads, should we prove guilty of duplicity.

Plan and Powers of the Provisional Government of Texas.

ARTICLE I.

That there shall be, and there is hereby created, a Provisional Government for Texas, which shall consist of a Governor, a Lieutenant-Governor, and a General Council, to be elected from this body, one member from each Municipality, by the majority of each separate Delegation present; and the Governor and Lieutenant-Governor shall be elected by this body.

ARTICLE II.

The Lieutenant-Governor shall be President of the Council, and perform the duties of Governor in case of death, absence, or from other inability of the Governor, during which time a President "pro tem." shall be appointed to perform the duties of the Lieutenant-Governor in Council.

ARTICLE III.

The duties of the General Council shall be, to devise ways and means, to advise and assist the Governor in the discharge of his functions: they shall pass no laws

except such as, in their opinion, the emergency of the country requires—ever keeping in view the Army in the field, and the means necessary for its comfort and support: they shall pursue the most effective and energetic measures to rid the country of her enemies, and place her in the best possible state of defence: two-thirds of the members elect of the General Council shall form a quorum to do business; and in order that no vacancy shall happen in the Council, if any member, from death or other casualty, shall be incapacitated to act, the Governor shall immediately, on information thereof, notify the member elected to fill the place; and on his default, any member who has been elected to this body from the same jurisdiction. The Governor and Council shall be authorized to contract for loans, not to exceed one million of Dollars, and to hypothecate the Public Lands and pledge the faith of the Country for the security of the payment: that they have power to impose and regulate Impost and Tonnage Duties, and provide for their collection under such regulations as may be most expedient. They shall have power, and it is hereby made the duty of the Governor and Council, to treat with the several tribes of Indians concerning their Land Claims, and if possible, to secure their friendship.

They shall establish Post-Offices and Post-Roads and regulate the rates of postage, and appoint a Postmaster-General, who shall have competent power for conducting this Department of the Provisional Government, under such rules and regulations as the Governor and Council may prescribe: they shall have power to grant pardons, remit fines, and to hear and judge all cases usual in high Courts of Admiralty, agreeably to the Law of Nations.

They shall have power to appoint their own Secretary and other officers of their own body; also, that they have the power to create and fill such offices as they may deem proper: *provided, nevertheless*, that this power does not extend to officers heretofore rejected by this House.

That the Governor and Council have power to organize, reduce, or increase the regular forces, as they may deem the emergencies of the Country require.

ARTICLE IV.

The Governor, for the time being, and during the ex-

istence of the Provisional Government, shall be clothed with full and ample executive powers, and shall be Commander-in-Chief of the Army and Navy, and of all the military forces of Texas, by sea and land; and he shall have full power by himself, by and with the consent of the Council, and by his proper commander or other officer or officers, from time to time, to train, instruct, exercise and govern the Militia and Navy; and for the special defence and safety of the country, to assemble in martial array, and put in warlike attitude the inhabitants thereof; and to lead and conduct them by his proper officers, and with them to encounter, repel, resist and pursue by force of arms, as well by sea and by land, within or without the limits of Texas; and, also, to destroy, if necessary, and conquer by all proper means and enterprizes whatsoever, all and every such person or persons as shall, at any time, in a hostile manner, attempt or enterprize the destruction of our liberties, or the invasion, detriment, or annoyance of the country; and by his proper officers, use and exercise over the Army and Navy, and the Militia in actual service, the Law Martial in time of war, invasion or rebellion; and to take and surprise by all honorable ways and means consistent with the Law of Nations, all and every such person or persons, with their ships, arms, ammunition and goods as shall, in a hostile manner, invade or attempt the invading or annoying our adopted country; and that the Governor be clothed with all these and all other powers which may be thought necessary by the Permanent Council, calculated to aid and protect the country from her enemies.

ARTICLE V.

There shall be constituted a Provisional Judiciary in each jurisdiction represented, or which may hereafter be represented in this House, to consist of two judges, a first and second, the latter to act only in the absence or inability of the first, and be nominated by the Council and commissioned by the Governor.

ARTICLE VI.

Every Judge, so nominated and commissioned, shall have jurisdiction over all crimes and misdemeanors re-

cognized and known to the common law of England: he shall have power to grant writs of "habeas corpus" in all cases known and practised, to and under the same laws; he shall have power to grant writs of sequestration, attachment, or arrest, in all cases established by the "Civil Code" and "Code of Practice" of the State of Louisiana, to be regulated by the forms thereof; shall possess full testamentary powers in all cases; and shall also be made a Court of Records for conveyances which may be made in English, and not on stamped paper; and that the use of stamped paper be, in all cases, dispensed with; and shall be the "Notary Public" for their respective Municipalities: all office fees shall be regulated by the Governor and Council. All other civil proceedings at law shall be suspended until the Governor and General Council shall otherwise direct. Each Municipality shall continue to elect a sheriff, alcalde and other officers of Ayuntamientos.

ARTICLE VII.

All trials shall be by jury, and in criminal cases the proceedings shall be regulated and conducted upon the principles of the common law of England; and the penalties prescribed by said law, in case of conviction, shall be inflicted, unless the offender shall be pardoned, or fine remitted; for which purpose a reasonable time shall be allowed to every convict to make application to the Governor and Council.

ARTICLE VIII.

The officers of the Provisional Government, except such as are elected by this House, or the people, shall be appointed by the General Council, and all officers shall be commissioned by the Governor.

ARTICLE IX.

All Commissions to officers shall be, "in the name of the People, free and sovereign," and signed by the Governor and Secretary; and all pardons and remissions of fines granted, shall be signed in the same manner.

ARTICLE X.

Every officer and member of the Provisional Govern-

ment, before entering upon the duties of his office, shall take and subscribe the following oath of office: "I, A. B., do solemnly swear, (or affirm) that I will support the republican principles of the Constitution of Mexico of 1824, and obey the Declarations and Ordinances of the Consultation of the chosen Delegates of all Texas in General Convention assembled, and the Ordinances and Decrees of the Provisional Government; and I will faithfully perform and execute the duties of my office agreeably to law, and to the best of my abilities, so help me God."

ARTICLE XI.

On charges and specifications being made against any officer of the Provisional Government for malfeasance or misconduct in office, and presented to the Governor and Council, a fair and impartial trial shall be granted, to be conducted before the General Council; and if, in the opinion of two-thirds of the members, cause sufficient be shown, he shall be dismissed from office by the Governor.

ARTICLE XII.

The Governor and Council shall organize and enter upon their duties immediately after the adjournment of this House, and hold their sessions at such times and places as, in their opinion, will give the most energy and effect to the objects of the people, and to the performance of the duties assigned to them.

ARTICLE XIII.

The General Council shall appoint a Treasurer, whose duties shall be clearly defined by them, and who shall give approved security for their faithful performance.

ARTICLE XIV.

That all Land Commissions, Empressarios, Surveyors, or persons in anywise concerned in the location of Land, be ordered, forthwith, to cease their operations during the agitated and unsettled state of the country, and continue to desist from further locations until the Land Offices can be properly systematized by the competent authorities which may be hereafter established; that fit and

suitable persons be appointed to take charge of all the archives belonging to the different Land Offices, and deposit the same in safe places, secure from the ravages of fire or devastations of enemies; and that the persons so appointed be fully authorized to carry the same into effect, and be required to take and sign triplicate schedules of all the books, papers and documents found in the several Land Offices, one of which shall be given to the Governor and Council, one left in the hands of the officers of the Land Office, the other to be retained by the said persons: and they are enjoined to hold the said papers and documents in safe custody, subject only to the orders of the Provisional Government, or such competent authority as may hereafter be created. And the said persons shall be three from each Department as Commissioners to be forthwith appointed by this House, to carry this Resolution into full effect, and report thereof to the Governor and Council; that the political chiefs immediately cease their functions. The different Archives of the different primary Judges, Alcaldes and other municipal officers of the various jurisdictions shall be handed over to their successors in office, immediately after their election and appointment; and the archives of the several Political Chiefs of Nacogdoches, Brazos, and Bexar shall be transmitted forthwith to the Governor and Council, for their disposition.

ARTICLE XV.

All persons, now in Texas, and performing the duties of citizens, who have not acquired their quantum of land, shall be entitled to the benefit of the Laws on Colonization under which they emigrated; and all persons who may emigrate to Texas during her conflict for Constitutional Liberty, and perform the duties of Citizens, shall also receive the benefits of the Law under which they emigrated.

ARTICLE XVI.

The Governor and Council shall continue to exist as a Provisional Government until the re-assembling of this Consultation, or until other Delegates are elected by the people and another Government established.

ARTICLE XVII.

This Convention, when it may think proper to adjourn, may stand adjourned, to meet at the town of Washington on the first day of March next, unless sooner called by the Executive and Council.

ARTICLE XVIII.

All grants, sales and conveyances of lands, illegally or fraudulently made by the legislature of the State of Coahuila and Texas, located, or to be located, within the limits of Texas, are hereby solemnly declared null, void and of no effect.

ARTICLE XIX.

All persons who leave the country in its present crisis, with a view to avoid a participation in its present struggle, without permission from the Alcalde, or Judge of their Municipality, shall forfeit all or any lands they may hold, or may have a claim to, for the benefit of this Government: *provided*, nevertheless, that widows and minors are not included in this provision.

ARTICLE XX.

All monies now due or that may hereafter become due, on lands lying within the limits of Texas, and all public funds or revenues, shall be at the disposal of the Governor and General Council, and the receipt of the Treasurer shall be a sufficient voucher for any and all persons who may pay monies into the Treasury; and the Governor and Council shall have power to adopt a system of Revenue to meet the exigencies of the country.

ARTICLE XXI.

Ample powers and authority shall be delegated, and are hereby given and delegated to the Governor and General Council of the Provisional Government of all Texas, to carry into full effect the provisions and resolutions adopted by "the Consultation of the chosen Delegates of all Texas in General Convention assembled," for the creation, establishment and regulation of said Provisional Government.

OF THE MILITARY.

ARTICLE I.

There shall be a Regular Army created for the protection of Texas during the present war.

ARTICLE II.

The Regular Army of Texas shall consist of one Major-General, who shall be Commander-in-Chief of all the forces called into public service during the war.

ARTICLE III.

The Commander-in-Chief of the Regular Army of Texas shall be appointed by the Convention, and commissioned by the Governor.

ARTICLE IV.

He shall be subject to the orders of the Governor and Council.

ARTICLE V.

His Staff shall consist of one Adjutant-General, one Inspector-General, one Quarter-Master-General, one Pay-Master-General, one Surgeon-General, and four Aids-de-Camp with their respective ranks, as in the United States Army in time of war, to be appointed by the Major-General and commissioned by the Governor.

ARTICLE VI.

The regular Army of Texas shall consist of men enlisted for two years, and volunteers for and during the continuance of war.

ARTICLE VII.

The regular Army of Texas, while in the service, shall be governed by the rules, regulations and discipline, in all respects applicable to the regular Army of the United States of America, in time of war, so far as applicable to our condition and circumstances.

ARTICLE VIII.

The regular Army of Texas shall consist of eleven hundred and twenty men rank and file.

ARTICLE IX.

There shall be a corps of Rangers under the command of a Major, to consist of one hundred and fifty men, to be divided into three or more detachments, and which shall compose a batallion, under the Commander-in-Chief when in the field.

ARTICLE X.

The Militia of Texas shall be organized as follows : all able bodied men over sixteen, and under fifty years of age, shall be subject to Militia duty.

ARTICLE XI.

Every inhabitant of Texas, coming within purview of the preceding article shall, on the the third Monday of December next, or as soon thereafter as practicable, assemble at each precinct of their municipality and proceed to elect one captain, one first lieutenant, and one second lieutenant to every fifty-six men.

ARTICLE XII.

When said election shall have taken place, the judges shall certify to the Governor, forthwith the names of the respective officers elected, who shall, as soon as practicable, make out and sign, and transmit commissions for the same ; that if there shall be found to exist any municipality, more than three Companies, the captain, or commandants on giving due notice thereof shall call together the subalterns of said Companies, and proceed to elect one Major ; if of four Companies, one Lieutenant Colonel ; if of five or more Companies, one Colonel, for the command of said Companies, which shall constitute a regiment of said municipality ; that if there shall be found to exist more than one regiment in said municipality, the whole number of field and Company officers, shall on due notice proceed to elect a Brigadier-General, out of their number who shall command the whole Militia in said municipality.

BRANCH TANNER ARCHER,

President.

Municipality of Austin.

Wyly Martin,
R. Jones,
Jesse Burnham,
William Menifec.

Municipality of San Augustine.

A. Houston,
William N. Sigler,
A. E. C. Johnson,
A. Horton,
A. G. Kellogg.

Municipality of Gonzales.

Wm. S. Fisher,
J. D. Clements,
Geo. W. Davis,
James Hodges,
Wm. W. Arrington,
Benjamin Fuqua.

Municipality of Columbia.

Henry Smith,
John A. Wharton,
Edwin Waller,
John S. D. Byrom.

Municipality of Washington.

Philip Coe,
E. Collard,
Jesse Grimes,
Asa Mitchell,
Asa Hoxey.

Municipality of Viesca.

Sam. T. Allen,
A. G. Perry,
A. G. W. Pierson,
Alexander Thompson,
Jas. W. Parker.

Municipality of Nacogdoches.

Samuel Houston,
James W. Robinson,
William Whitaker,
Daniel Parker,
William N. Sigler.

Municipality of Mina.

D. C. Barrett,
J. S. Lester,
R. M. Williamson.

Municipality of Liberty.

Henry Millard,
B. Woods,
A. B. Hardin.

Municipality of Harrisburg.

Lorenzo De Zavalla,
C. C. Dyer,
John W. Moore,
M. W. Smith,
David B. Macomb,
Geo. M. Patrick.

Municipality of Bevil.

S. H. Everitt,
John Bevil,
Wyatt Hanks.

Municipality of Jefferson.

Claiborne West.

Municipality of Matagorda.

R. R. Royal,
Charles Willson.

Municipality of Tenehaw.

Martin Parmer.

P. B. DEXTER, Secretary.