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Hemphill, Henderson, Hogg, Howard, Hunter, Irion, Jewett, Latimer of R. R., Lewis, Love, Lipscomb, McGowan, M'Neill, Miller, Moore, Parker, Rains, Runnels, Smyth, Standefer, Tarrant, White, Wright and Young—36.

Notes—Messrs. Armstrong of R., Baylor, Brown, Caldwell, Cazneau, Clark, Darnell, Gage, Hicks, Horton, Holland, Kinney, Latimer of L., Lumpkin, Mayfield, Navarro, Power, Scott, Van Zandt and Wood—20.

Mr. Ochiltree was then invited to take his seat in the place of Mr. Taylor.

Mr. Henderson, after a few appropriate remarks, offered the following resolution:

Whereas, the members of this Convention have learned with emotions of the most profound sorrow, of the death of their distinguished fellow citizen, the Hon. KENNETH L. ANDERSON, Vice President of the Republic of Texas; be it, therefore,

Resolved, That the members of this convention will wear the usual badge of mourning for the space of thirty days, as a testimonial of their profound respect for the deceased.

Resolved, that the Secretary furnish the family of the deceased with a copy of these resolutions, signed by the President and Secretary of the Convention.

As a further testimonial of respect for the memory of the deceased, on motion of Mr. Lipscomb,

The Convention adjourned until to-morrow morning, half past 8 o'clock.

Friday morning, July 11, 1845.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

Mr. Van Zandt, from the committee on Bill of Rights and General Provisions, made the following report:

Committee Room, Austin, }
July 11th, 1845. }

To the Hon. THOMAS J. RUSK,
President of the Convention:

The committee, to whom were referred the Bill of Rights and General Provisions of the Constitution, have had the former under consideration; and have given it that investigation and deliberation which its importance seems to demand; and with the design to secure the

great and fundamental principles of liberty, have agreed to the following, which they have instructed me to report to the Convention, and recommend its adoption.

ISAAG VAN ZANDT,
Chairman of the committee.

BILL OF RIGHTS.

That the general, great and essential principles of Liberty and Free Government may be recognized and established, we declare :

ARTICLE

1st. That all political power is inherent in the people; and all free governments are founded on their authority, and instituted for their benefit; and they have, at all times, the unalienable right to alter, reform, or abolish, their form of government, in such manner as they may think expedient.

2nd. All freemen, when they form a social compact, have equal rights; and that no man, or set of men, are entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

3d. No religious test shall be required, as a qualification to any office or public trust, under this State.

4th. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious societies, or modes of worship.

5th. Every citizen shall be at liberty to speak, write, or publish, his opinions, on any subject,—being responsible for the abuse of that privilege; and no law shall ever be passed, curtailing the liberty of speech, or of the press.

6th. In all prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

7th. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue, without describing them, as near as may be; nor without probable cause, supported by oath or affirmation.

8th. Prosecutions shall be by indictment, or information. The ac-

caused shall have a speedy public trial, by an impartial jury: he shall not be compelled to give evidence against himself: he shall have the right of being heard by himself or counsel, or both: shall be confronted with the witnesses against him; and shall have compulsory process for obtaining witnesses in his favor.

9th. All prisoners shall be bailable, by sufficient surties, unless for capital offences, when the proof is evident, or the presumption great; but this provision shall not be so construed as to prohibit, after indictment found, an examination of the evidence by a judge of the supreme or district court, upon a writ of *habeas corpus*, returnable in the county where the offence is committed.

10th. The privilege of the writ of *habeas corpus* shall not be suspended—except, when in case of rebellion, or invasion, the public safety may require it.

11th. Excessive bail shall not be required, nor excessive fines imposed; or cruel or unusual punishment inflicted. All courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

12th. No person, for the same offence, shall be twice put in jeopardy of life or limb; and the right of trial by jury, shall remain inviolate.

13th. No bill of attainder, *ex post facto* law, or any law impairing the obligation of contracts, shall be made; nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

14th. No person shall ever be imprisoned for debt.

15th. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

16th. Emigration from this State, shall not be prohibited.

17th. The military shall, at all times, be subordinate to the civil authority.

18th. Those who conscientiously scruple to bear arms in the public defence, shall not be compelled to do so, but shall pay an equivalent for personal service.

19th. Perpetuities or monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments, ever be in force in this State.

20th. The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

21st. No power of suspending laws, in this State, shall be exercised, except by the General Assembly, or its authority.

22d. To guard against transgressions of the high powers herein delegated, we declare that every thing in this Bill of Rights is excepted

out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

On motion of Mr. Kunnels, 500 copies of the report were ordered to be printed.

On motion of Mr. Cuney, the Hon. Oliver Jones, one of the delegates from the county of Austin, was invited to take his seat, as a member of the Convention.

Mr. Davis, chairman of the committee on the Executive Department, made the following report:

Committee Room, July 11, 1845.

To the Hon. T. J. Rusk,

President of the Convention:

The committee, to whom was referred that portion of the Constitution which pertains to the Executive Department, have had the same under consideration, and have instructed me to make the following report.

JAMES DAVIS, Chairman.

EXECUTIVE DEPARTMENT.

Sec. 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Texas.

Sec. 2. The Governor shall be elected by the qualified electors, at the time and places when they shall respectively vote for representatives.

Sec. 3. The returns of every election for Governor shall be sealed up, and transmitted to the Seat of Government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session, open and publish them, in presence of both Houses of the General Assembly. The person having the highest number of votes shall be Governor, but if two or more shall be equal and highest in votes, one of them shall be chosen Governor by the joint vote of both Houses. Contested elections for Governor shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

Sec. 4. The Governor shall hold his office for the term of four years from the time of his installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of eight years; he shall be at least thirty years of age, shall be a native citizen of the United States, or a citizen of the State of Texas, at the time of the adoption of this Constitution.

Sec. 5. He shall, at stated times, receive a compensation for his ser-

VICES, which shall not be increased or diminished during the term for which he shall have been elected.

Sec. 6. The Governor shall be Commander-in-Chief of the army and navy of this State and the militia, except when they shall be called into the service of the United States.

Sec. 7. He may require information, in writing, from the officers in the Executive Department, on any subject relating to the duties of their respective offices.

Sec. 8. He may, by proclamation, on extraordinary occasions convene the General Assembly at the Seat of Government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; in case of disagreement between the two Houses, with respect to the adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting of the General Assembly.

Sec. 9. He shall, from time to time, give to the General Assembly, information of the state of the government, and recommend, to their consideration, such measures as he may deem expedient.

Sec. 10. He shall take care that the laws be faithfully executed.

Sec. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In case of treason, he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons, and he may, in the recess of the Senate, respite the sentence until the end of the next session of the General Assembly.

Sec. 12. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and the present seal of this Republic shall be the seal of the State, by substituting the word "State" for that of "Republic."

Sec. 13. All commissions shall be in the name, and by the authority of the State of Texas, be sealed with the State seal, signed by the Governor, and attested by the Secretary of State.

Sec. 14. There shall be a Secretary of State elected by the qualified electors of the State, who shall continue in office during the term of four years. He shall keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the General Assembly; and shall perform such other duties as may be required of him by law.

Sec. 15. Whenever a vacancy may happen in the office of Secretary of State, Treasurer, or Comptroller, the Governor shall fill such vacancy, for the time being, and should there remain six months of the unexpired term, the Governor shall issue his writ of election, giving thirty days notice to fill such vacancy; and the person so elected shall hold the office for the unexpired term.

Sec. 16. Every bill which shall have passed both Houses of the

General Assembly, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections, to the House in which it shall have originated, who shall enter the objections, at large, upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that House, it shall become a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each House respectively; if any bill shall not be returned to the Governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall not be a law.

Sec. 17. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both Houses, according to the rules and limitations prescribed in the case of a bill.

Sec. 18. In case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor, until the time pointed out by this Constitution for the election of Governor shall arrive, unless the General Assembly shall provide, by law, for the election of a Governor to fill such vacancy, or until the Governor absent or impeached shall return or be acquitted.

Sec. 19. If, during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the Speaker of the House of Representatives shall, in like manner administer the Government.

Sec. 20. The President of the Senate, and Speaker of the House of Representatives, during the time they respectively administer the Government, shall receive the same compensation which the Governor would have received, had he been employed in the duties of his office.

Sec. 21. The Governor shall always reside, during the sessions of the General Assembly, at the place where their sessions may be held, and at all other times, wherever, in their opinion, public good may require.

Sec. 22. No person shall hold the office of Governor, and any other office or commission, civil or military, either in this State, or un-

der any State or the United States, or any other power at one and the same time.

Sec. 23. A State Treasurer and Comptroller of public accounts shall be elected by the qualified electors of the general elections for members of the State Legislature, who shall hold their offices for the term of two years.

Sec. 24. A Sheriff shall be elected in each county, by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed, shall be eligible for the next two years, but he shall not serve either as principal or deputy for the next term; and should a vacancy occur six months before the expiration of his term, the Governor shall issue a writ of election to fill such vacancy for the unexpired term by giving thirty days notice, and the Coroner shall discharge the duties of the office of Sheriff until the vacancy is filled.

MILITIA.

Sec. 1. The General Assembly shall provide, by law, for the organizing and disciplining the Militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and Laws of the United States, in relation thereto.

Sec. 2. Any person who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 3. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

Sec. 4. All officers of the militia shall be elected, or appointed, in such manner as may be prescribed by law; provided, that the General Assembly shall not make any such elections or appointments, other than those of Adjutants-General and Quarter Masters-General.

Sec. 5. The Governor shall appoint his Aides-de-Camp; Major-Generals, their Aides-de-Camp, and all other division staff officers; and Colonels shall appoint their regimental staff officers.

Sec. 6. The General Assembly shall fix, by law, the method of dividing the militia into divisions, brigades, regiments, battalions, and companies; and shall fix the number and rank of all staff officers.

On motion of Mr. Davis, 500 copies of the report were ordered to be printed.

Mr. Caldwell offers the following resolution:

Resolved, That the Secretary of the Convention be authorized to employ an additional clerk, for the purpose of copying the journals of the Convention for the printer; to copy reports for the chairman of committees, &c., &c.

The rule requiring resolutions to lay on the table for one day, was suspended, and the resolution taken up.

Mr. Davis moved to amend the resolution, by giving to the Convention, the election of the additional clerk contemplated therein. Carried; and, on motion of Mr. Henderson, the resolution was ordered to lay on the table.

Mr. Hogg offered the following resolution :

Resolved, That the Hon. Charles S. Taylor is entitled to the same *per diem* and mileage pay, going and returning, as other members of the Convention, until the decision was made, between the Hon. Wm. B. Ochiltree and himself, for the seat as one of the deputies from the county of Nacogdoches :

On motion of Mr. Hogg, the rule requiring the resolution to lay on the table one day for consideration, was suspended, and the resolution adopted.

Mr. Mayfield offered the following resolution :

Resolved, That the committee on Education be instructed to enquire into the expediency of setting apart, a given portion of the annual revenue of the State, forever, for the support and maintenance of common schools, and for educational purposes; and that they report the result of their deliberations to the Convention.

Laid on the table for one day.

On motion of Mr. Parker, Mr. Ochiltree was placed on the same committee to which Mr. Taylor had been appointed.

On motion of Mr. Cuney, Mr. Jones was placed on the committee on the Legislative Department.

On motion of Mr. Baylor, Mr. Ochiltree was added to the committee on the Judiciary.

Mr. Parker introduced the following resolution :

Resolved, That the Committee on the Judiciary be, and are hereby instructed to take into consideration, the propriety of incorporating a provision in our State Constitution, (now about to be formed,) securing to the State of Texas, the right of adjudicating the land titles of the same, not subject to an appeal to the Supreme Court of the United States, and report, to this Convention, the result of their deliberations.

Mr. Parker moved a suspension of the rule. Lost.

Mr. Hogg offered the following resolution :

Resolved, That whereas, it has been decided by this Convention, that the Hon. Wm. B. Ochiltree is entitled to a seat in this body, as one of the deputies from the county of Nacogdoches; therefore, be it

Resolved, That the said Wm. B. Ochiltree is authorized, and requested, to sign the ordinance adopted by this Convention on the 4th instant, and signed by all the other members then present.

Laid on the table one day, for consideration.

On motion of Mr. Hemphill, Mr. Howard was added to the Committee on the Judiciary.

On motion of Mr. Evans, Mr. Wood was added to the Committee on the Legislative Department.

The President announced a communication from the Hon. Charles A. Wickliffe, which was ordered to be read, as follows:

"Sir:—I have this moment received your favor, enclosing to me, a copy of the resolution of the Convention of Texas, now in session, tendering to me, as one of President Tyler's Cabinet, the expression of the approbation of the Convention, therein, of the course pursued by me, upon the subject of annexation.

"The question of the annexation of Texas to the United States was, by me, and I may be permitted to say, by those with whom it was my good fortune to be associated, well considered, both in reference to Texas and the United States. The interest of both nations demanded the union; and the union will protect and perpetuate the interest of both. It was a question which involved the cause of free government in this hemisphere. How could I, the advocate of free institutions, and of the right of the people to govern themselves, better serve that cause in my recent official station, than to advocate the annexation of Texas to the Union, upon terms honorable to both nations; and thereby extend over her citizens, the protecting and conservative principles of our Federal Constitution, which their fathers aided to establish?

"I viewed the question as one purely American, with which the powers of Europe had no right to meddle; and I am proud to believe it has been so considered by the people of Texas. I congratulate you, sir, and the people of the two countries, on the consummation of this great question; and render to the Convention, my thanks for the favorable expression of their opinion of my official conduct.

"The destiny of Texas, as a member of our confederacy, is in the hands of the Convention now assembled, to form, for the people, a Constitution,

"I will not permit myself to doubt, that the representatives of the people, whose bravery and love of liberty have achieved so much for themselves, will fail to provide for their country, an organic law which will secure to them, and their posterity, the blessings of civil and religious liberty.

"For the kind manner in which you have been pleased to communicate the resolution of the Convention, and the sentiments personal to myself, I pray you to accept my profound acknowledgment.

"I am, with great respect,

"Your fellow citizen,

C. A. WICKLIFFE."

ORDERS OF THE DAY.

The resolution offered by Mr. Mayfield, on yesterday, to authorize

the appointment of a committee for certain purposes therein named, was taken up.

Mr. Henderson moved to lay the resolution on the table.

On motion of Mr. Forbes, a call of the Convention was ordered.

On motion of Mr. Armstrong, of J., the call was suspended.

The ayes and noes being called, on the motion to lay the resolution on the table, stood as follows:

Ayes—Messrs. Brashear, Brown, Clark, Cuney, Forbes, Henderson, Hicks, Hogg, Holland, Irion, Latimer, of R. R., Lewis, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Ochiltree, Van Zandt, Wood and Young—26.

Noes—Messrs. President Rusk, Anderson, Armstrong, of J., Armstrong of R., Baylor, Bache, Caldwell, Cazneau, Cunningham, Darnell, Evans, Everts, Gage, Hemphill, Horton, Howard, Hunter, Jewett, Jones, Kinney, Latimer of L., Love, Lumpkin, Mayfield, M'Neill, Standifer, Tarrant, White and Wright—29.

So the motion was lost.

The ayes and noes being called, on the adoption of the resolution, stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Caldwell, Cazneau, Cunningham, Evans, Everts, Gage, Hemphill, Horton, Howard, Hunter, Jewett, Jones, Kinney, Latimer of L., Love, Mayfield, M'Neill, Moore, Navarro, Standifer, Tarrant, White and Wright—30

Noes—Messrs. Brown, Clark, Cuney, Darnell, Forbes, Henderson, Hicks, Hogg, Holland, Irion, Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, Miller, Parker, Power, Rains, Scott, Smyth, Ochiltree, Van Zandt, Wood and Young—25.

So the resolution was adopted.

Mr. Evans, from the Committee on Privileges and Elections, to which was referred the memorial of John G Chambers, praying for a seat in this Convention, as a delegate from the county of Bowie, made the following report, counter to the majority of said committee,

Committee Room, June 10, 1845.

To the Hon. T. J. Rusk,

President of the Convention:

The undersigned, one of the Committee on Privileges and Elections, to which was referred the memorial of John G. Chambers, of Bowie county, praying for a seat in the Convention, as a delegate from said county, dissenting from the positions assumed by a majority of said committee, in the report of their chairman, begs to make the following counter report:

That as early as the year 184—, by an act of Congress, a portion of the territory of the county of Bowie was detached and added to a portion

of the territory of Red River county, lying south of the Sulphur Fork of Red River, and erected into the judicial county of Paschal; and the citizens of the said judicial county were required to vote with Red River county. Subsequently, a decision of the Supreme Court of the Republic of Texas, declared counties established merely for judicial purposes, unconstitutional. By an act of Congress of 1841, the territory comprising the county of Paschal reverted, respectively, to the counties of Red River and Bowie. At the session of 1842-'43, by an act entitled, "an act to provide for the holding of the district court in two places in Red River," the territory formerly comprising the county of Paschal was made, in all respects, subject to the jurisdiction of the county of Red River; this act of the Congress was declared unconstitutional by a decision of the Supreme Court. This decision left the citizens of this unfortunate territory, whose rights had been the subject of so many legislative enactments and judicial dicta, in doubt whether the decision of the Supreme Court extended so far, as to declare unconstitutional the whole act, creating the southern division of Red River, or only so much of it as allowed the holding of the district court in two places in said county; and so far did this uncertainty obtain, that at the holding of the last annual election, at several of the precincts, no poll was opened. An election was, however, held, at a number of the precincts within the disputed territory, which polled 165 votes—which, added to 189 votes polled in the remainder of Bowie county, would make 354 votes, and clearly entitle said county of Bowie to two delegates, without disturbing the right of Red River county to three delegates. The last annual Congress, by an act, re-established the original lines of boundary between the counties of Bowie and Red River. At the election for Sheriff, in the month of February last, the county of Bowie polled 435 votes; and the votes of two boxes were not counted, which would have increased the number to near 500.

This district of country comprises, within its limits, over 30 miles square, containing over 300 voters; which fact was overlooked by the President, when he issued his proclamation, recommending the call of a Convention, and apportioning the delegation to the same.

The undersigned is unable to discover the delegation of any right, to any department of the government, to disfranchise a large and respectable portion of the people; much less can he sanction such a procedure, when it emanates from a high stretch of unauthorized power, and is even then the result of error or mistake.

The undersigned would, therefore, recommend the passage of the following resolutions.

L. D. EVANS.

Resolved. That the territory comprised within the present limits of the county of Bowie voted, at the last annual elections, over 300 votes, and is entitled to two deputies in the Convention.

Be it further resolved, That John G. Chambers, having received the second highest number of votes polled in said county, for deputies, is entitled to a seat in this Convention.

Which report and resolutions, together with the report of the majority of the committee, were taken up.

Mr. Parker moved to refer them to the Committee on the Judiciary. Lost.

On motion of Mr. Van Zandt, the House went into committee of the whole—Mr. Baylor in the chair. After a short time spent therein, the committee rose, reported progress, and asked to be discharged from further consideration of the subject. Adopted.

The question being the adoption of the counter report,

On motion of Mr. Forbes, a call of the House was ordered.

On motion of Mr. Van Zandt, the call was suspended.

Mr. Gage offered the following amendment to the resolution offered by Mr. Evans.

Be it further resolved, That the county of Rusk be allowed two deputies in this Convention—one in addition to the one now occupying a seat in this body. Rejected.

The Ayes and noes being called on the adoption of the report and resolutions of Mr. Evans, stood as follows:

Ayes—Messrs. Anderson, Armstrong of R., Brown, Cazneau, Clark, Evans, Everts, Hemphill, Holland, Jewett, Latimer of L., Latimer of R., R., Mayfield, Standifer, Tarrant, Van Zandt, Wright and Young—18.

Noes—Messrs. President, Armstrong of J., Baylor, Bache, Bashgar, Caldwell, Cuney, Darnell, Forbes, Gage, Henderson, Hogg, Harton, Howard, Hunter, Irion, Jones, Kinney, Love, Lumpkin, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Smyth, Ochiltree, White and Wood—33.

So the report and resolutions were rejected.

On motion of Mr. Mayfield, the report of the majority of the committee was laid on the table.

On motion of Mr. Kinney, the Convention adjourned until to-morrow morning, 9 o'clock.

Saturday, July 12th, 1845.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

The President announced the select committee contemplated by the resolution of Mr. Mayfield, of Thursday last, enquiring into the expediency of ceding to the United States certain lands on the western and