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Citation: *Journals of the Convention, assembled at the city of Austin on the Fourth of July, 1845, for the purpose of framing a constitution for the State of Texas. Austin: Miner & Cruger, printers to the Convention, 1845.*

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Mr. Parker offered a resolution, allowing mileage from the city of Houston, to George Fisher, interpreter.

Mr. Young moved to amend, by inserting the names of Dr. John S. Ford, Dr. S. Peters, Edwin Morehouse, and Daniel Culp.

Which amendment was adopted.

The question was then taken on the resolution, which was rejected

Mr. Love moved to adjourn until 8 o'clock to morrow.

Lost.

Mr. Cazneau moved to adjourn until half-past 7 o'clock to-morrow.

Lost.

On motion, the Convention adjourned until 7 o'clock to-morrow morning.

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#### THURSDAY MORNING, Aug. 28, 1845.

The Convention met pursuant to adjournment—Prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Hogg, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, White, Wright, Wood and Young.

The journal of the preceding day was read and adopted.

Mr. Jewett presented the following, which was ordered to be spread upon the journals:

*Hon. THOS. J. RUSK,*

*President of the Convention:*

We, the undersigned, members of the select committee on the land titles, &c., of the Republic, not having had sufficient time,

nor sufficient data, to investigate the subject, dissent from many of the conclusions of the report made by the Hon. L. D. Evans, chairman of said committee.

JOHN HEMPHILL,  
HENRY J. JEWETT,  
GEO. W. SMYTH,  
JOHN D. ANDERSON.

August 27th, 1845.

Mr. Lipscomb offered the following resolution:

*Resolved* That Thomas Wm. Ward, Esq., Commissioner of the General Land-Office, for the faithful discharge of his duties and the prompt and satisfactory manner in which he has responded to the calls made on him, is justly entitled to the thanks of the Convention.

On motion, the rule was suspended, and the resolution adopted.

Mr. Hemphill, from the Select Enrolling Committee, made the following report:

COMMITTEE ROOM, August 28, 1845.

*To the Hon. THOS. J. RUSK,*

*President of the Convention:*

The committee appointed to superintend the enrolment of the Constitution, have examined its various provisions as they are enrolled, and, comparing the same with the engrossed copy, have found the Constitution to be correctly enrolled.

JOHN HEMPHILL, Chairman.

Which report was adopted.

Mr. Horton moved that the Convention take up the resolution of yesterday, requiring 250 copies of the debates of this Convention, to be printed.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Cunningham, Darnell, Evans, Forbes, Gage, Hogg, Horton, Holland, Jewett, Jones, Lewis, Love, Lusk, Lipscomb, Mayfield, McGowan, Navarro, Parker, Ochiltree, Stewart and White—30.

Noes—Messrs. Burroughs, Bagby, Clark, Cuney, Hicks, Hunter, Latimer of L., Latimer of R. R., McNeill, Miller, Rains, Scott, Smyth, Standefer and Young—15.

So the resolution was taken up, read and adopted.

On motion of Mr. Latimer of R. R., the delegates to the Convention proceeded to sign the Constitution.

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Mr. Lewis offered the following resolution :

*Resolved*, That the thanks of this Convention is, hereby, tendered to James M. Long, for the admirable manner in which he has executed the enrolment of the Constitution of the State of Texas; and that he be paid the sum of one hundred dollars for the same.

Rule suspended, and resolution adopted.

Mr. Parker offered the following resolution :

*Resolved*, That the committee on Printing be authorized to continue the subscription to the New Era, until the publication of the journals are completed in said paper; and that the publishers forward, to the members of the Convention, the number each member is entitled to.

Rule suspended, and resolution adopted.

The question was then taken on the final passage of the Constitution, which was carried *unanimously*; which is as follows:

## CONSTITUTION OF THE STATE OF TEXAS.

WE, the people of the Republic of Texas, acknowledging, with gratitude, the grace and beneficence of God, in permitting us to make a choice of our form of government, do, in accordance with the provisions of the Joint Resolution for annexing Texas to the United States, approved March 1st, one thousand eight hundred and forty-five, ordain and establish this Constitution.

### ARTICLE FIRST.

#### BILL OF RIGHTS.

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

SECTION 1. 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.

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

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

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences: no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; no human authority ought, in any case whatever, to control or interfere with the rights of conscience, in matters of religion, and no preference shall ever be given by law, to any religious societies or mode of worship; but it shall be the duty of the Legislature to pass such laws as may be necessary, to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

SEC. 5. 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.

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

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions, from 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.

SEC. 8. In all criminal prosecutions, the accused 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; and no person shall be holden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia.

SEC. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a Judge of the Supreme or District Court, upon

the return of a writ of *habeas corpus*, returnable in the county where the offence is committed.

SEC. 10. 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.

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

SEC. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb; nor shall a person be again put upon trial for the same offence, after a verdict of not guilty: and the right of trial by jury shall remain inviolate.

SEC. 13. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State.

SEC. 14. No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made; and no person's property shall be taken, or applied to public use, without adequate compensation being made, unless by the consent of such person.

SEC. 15. No person shall ever be imprisoned for debt.

SEC. 16. 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.

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

SEC. 18. Perpetuities and 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.

SEC. 19. 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 purposes, by petition, address, or remonstrance.

SEC. 20. No power of suspending laws in this State shall be exercised, except by the Legislature or its authority.

SEC. 21. 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.

## ARTICLE SECOND.

## DIVISION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the Government of the State of Texas, shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit:—those which are Legislative, to one; those which are Executive, to another; and those which are Judicial, to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

## ARTICLE THIRD.

## LEGISLATIVE DEPARTMENT.

SECTION 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, or who is at the time of the adoption of this Constitution by the Congress of the United States, a citizen of the Republic of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer; provided, that the qualified electors shall be permitted to vote anywhere in the State for State officers, and provided, further, that no soldier, seaman or marine, in the army or navy of the United States, shall be entitled to vote at any election created by this Constitution.

SEC. 2. All free male persons over the age of twenty-one years, (Indians not taxed, Africans and descendants of Africans excepted,) who shall have resided six months in Texas, immediately preceding the acceptance of this Constitution by the Congress of the United States, shall be deemed qualified electors.

SEC. 3. Electors in all cases, shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

SEC. 4. The Legislative powers of this State shall be vested in two distinct branches: the one to be styled the Senate, and the

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other the House of Representatives, and both together the Legislature of the State of Texas. The style of all laws shall be, "Be it enacted by the Legislature of the State of Texas."

SEC. 5. The members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election; and the sessions of the Legislature shall be biennial, at such times as shall be prescribed by law.

SEC. 6. No person shall be a Representative unless he be a citizen of the United States, or at the time of the adoption of this Constitution a citizen of the Republic of Texas, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a citizen of the county, city or town for which he shall be chosen, and shall have attained the age of twenty-one years, at the time of his election.

SEC. 7. All elections by the people shall be held at such time and places, in the several counties, cities or towns, as are now, or may hereafter be designated by law.

SEC. 8. The Senators shall be chosen by the qualified electors for the term of four years; and shall be divided by lot into two classes, as nearly equal as can be. The seats of Senators of the first class, shall be vacated at the expiration of the first two years; and of the second class at the expiration of four years; so that one half thereof shall be chosen biennially thereafter.

SEC. 9. Such mode of classifying new additional Senators, shall be observed as will as nearly as possible preserve an equality of number in each class.

SEC. 10. When a Senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

SEC. 11. No person shall be a Senator unless he be a citizen of the United States, or at the time of the acceptance of this Constitution by the Congress of the United States, a citizen of the Republic of Texas; and shall have been an inhabitant of this State three years next preceding the election; and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

SEC. 12. The House of Representatives, when assembled, shall elect a Speaker and its other officers, and the Senate shall choose a President for the time being and its other officers. Each House shall judge of the qualifications and elections of its own members, but contested elections shall be determined in such manner as shall be directed by law: two-thirds of each House shall constitute a quorum to do business, but a smaller number



may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

SEC. 13. Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 14. Each House shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journals.

SEC. 15. When vacancies happen in either House, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies.

SEC. 16. Senators and Representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the Legislature is convened.

SEC. 17. Each House may punish by imprisonment during the session, any person not a member, for disrespectful or disorderly conduct, in its presence; or for obstructing any of its proceedings: provided, such imprisonment shall not at any one time, exceed forty-eight hours.

SEC. 18. The doors of each House shall be kept open.

SEC. 19. Neither House shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which they may be sitting, without the concurrence of both Houses.

SEC. 20. Bills may originate in either House, and be amended, altered, or rejected by the other; but no bill shall have the force of a law, until, on three several days it be read in each House, and free discussion be allowed thereon, unless in case of great emergency, four-fifths of the House in which the bill shall be pending, may deem it expedient to dispense with this rule: and every bill having passed both Houses, shall be signed by the Speaker and President of their respective Houses.

SEC. 21. All bills for raising revenue, shall originate in the House of Representatives, but the Senate may amend or reject them as other bills.

SEC. 22. After a bill or resolution has been rejected by either branch of the Legislature, no bill or resolution containing the

same substance, shall be passed into a law during the same session.

SEC. 23. Each member of the Legislature shall receive from the public Treasury, a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 24. No Senator or Representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State, which shall have been created, or the emoluments of which may have been increased during such term; and no member of either House of the Legislature shall, during the term for which he is elected, be eligible to any office or place, the appointment to which may be made in whole or in part, by either branch of the Legislature; nor shall the members thereof be capable of voting for a member of their own body, for any office whatever, except it be in such cases as are herein provided. The President for the time being, of the Senate, and Speaker of the House of Representatives, shall be elected from their respective bodies.

SEC. 25. No Judge of any court of law or equity, Secretary of State, Attorney General, Clerk of any court of record, Sheriff or Collector, or any person holding a lucrative office under the United States, or this State, or any foreign government, shall be eligible to the Legislature, nor shall at the same time, hold or exercise any two offices, agencies or appointments of trust or profit under this State: provided, that offices of the militia, to which there is attached no annual salary, or the office of Justice of the Peace, shall not be deemed lucrative.

SEC. 26. No person who at any time may have been a Collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

SEC. 27. 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 Legislature.

SEC. 28. Elections for Senators and Representatives shall be general throughout the State, and shall be regulated by law.

SEC. 29. The Legislature shall at their first meeting, and in

the year one thousand eight hundred and forty-eight, and fifty, and every eight years thereafter, cause an enumeration to be made of all the free inhabitants (Indians not taxed, Africans and descendants of Africans excepted,) of the State, designating particularly, the number of qualified electors; and the whole number of Representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the several counties, cities or towns, according to the number of free population in each; and shall not be less than forty-five, nor more than ninety.

SEC. 30. Until the first enumeration and apportionment under this Constitution, the following shall be the apportionment of Representatives amongst the several counties, viz:

The county of Montgomery shall elect four Representatives; the counties of Red River, Harrison, Nacogdoches, Harris and Washington, shall elect three Representatives each; the counties of Fannin, Lamar, Bowie, Shelby, San Augustine, Rusk, Houston, Sabine, Liberty, Robertson, Galveston, Brazoria, Fayette, Colorado, Austin, Gonzales and Bexar, two Representatives each; the counties of Jefferson, Jasper, Brazos, Milam, Bastrop, Travis, Matagorda, Jackson, Fort Bend, Victoria, Refugio, Goliad, and San Patricio, one Representative each.

SEC. 31. The whole number of Senators shall, at the next session after the several periods of making the enumeration, be fixed by the Legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen, nor more than thirty-three.

SEC. 32. Until the first enumeration, as provided for by this Constitution, the Senatorial districts shall be as follows, to wit: the counties of Fannin and Lamar, shall constitute the first district, and elect one Senator; the counties of Red River and Bowie, the second district, and elect one Senator; the counties of Fannin, Lamar, Red River and Bowie, conjointly, shall elect one Senator; the county of Harrison, the third district, shall elect one Senator; the counties of Nacogdoches, Rusk and Houston, the fourth district, shall elect two Senators; the counties of San Augustine and Shelby, the fifth district, shall elect one Senator; the counties of Sabine and Jasper, the sixth district, shall elect one Senator; the counties of Liberty and Jefferson, the seventh district, shall elect one Senator; the counties of Robertson and Brazos, the eighth district, shall elect one Senator; the county of Montgomery, the ninth district, shall elect one Senator; the county of Harris, the tenth district, shall elect one Senator; the

county of Galveston, the eleventh district, shall elect one Senator; the counties of Brazoria and Matagorda, the twelfth district, shall elect one Senator; the counties of Austin and Fort Bend, the thirteenth district, shall elect one Senator; the counties of Colorado and Fayette, the fourteenth district, shall elect one Senator; the counties of Bastrop and Travis, the fifteenth district, shall elect one Senator; the counties of Washington and Milam, the sixteenth district, shall elect one Senator; the counties of Victoria, Gonzales and Jackson, the seventeenth district, shall elect one Senator; the county of Bexar, the eighteenth district, shall elect one Senator; and the counties of Goliad, Refugio, and San Patricio, the nineteenth district, shall elect one Senator.

SEC. 33. The first session of the Legislature, after the adoption of this Constitution by the Congress of the United States, shall be held at the City of Austin, the present seat of government, and thereafter, until the year one thousand eight hundred and fifty; after which period, the seat of government shall be permanently located by the people.

SEC. 34. The members of the Legislature shall, at their first session, receive from the Treasury of the State, as their compensation, three dollars for each day they shall be in attendance on, and three dollars for every twenty-five miles travelling to and from the place of convening the Legislature.

SEC. 35. In order to settle permanently the seat of government, an election shall be holden throughout the State, at the usual places of holding elections, on the first Monday in March, one thousand eight hundred and fifty, which shall be conducted according to law; at which time, the people shall vote for such place as they may see proper, for the seat of government. The returns of said election to be transmitted to the Governor by the first Monday in June: if either place voted for shall have a majority of the whole number of votes cast, then the same shall be the permanent seat of government until the year one thousand eight hundred and seventy, unless the State shall sooner be divided. But in case neither place voted for shall have the majority of the whole number of votes given in, then the Governor shall issue his proclamation for an election to be holden in the same manner, on the first Monday in October, one thousand eight hundred and fifty, between the two places having the highest number of votes at the first election. The election shall be conducted in the same manner as at the first, and the returns made to the Governor, and the place having the highest number of votes shall be the seat of government for the time herein before provided.

## ARTICLE FOURTH.

## JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State, shall be vested in one Supreme Court, in District Courts, and in such inferior courts as the Legislature may, from time to time ordain and establish, and such jurisdiction may be vested in corporation courts, as may be deemed necessary, and be directed by law.

SEC. 2. The Supreme Court shall consist of a Chief Justice and two Associates, any two of whom shall form a quorum.

SEC. 3. The Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State; but in criminal cases, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the Legislature shall make; and the Supreme Court and Judges thereof, shall have power to issue the writ of *habeas corpus*, and under such regulations as may be prescribed by law, may issue writs of *mandamus*, and such other writs as shall be necessary to enforce its own jurisdiction; and also compel a Judge of the District Court to proceed to trial and judgment in a cause; and the Supreme Court shall hold its sessions once every year, between the months of October and June inclusive, at no more than three places in the State.

SEC. 4. The Supreme Court shall appoint its own Clerks, who shall hold their offices for four years, and be subject to removal by the said Court, for neglect of duty, misdemeanor in office, and such other causes as may be prescribed by law.

SEC. 5. The Governor shall nominate, and by and with the advice and consent of two-thirds of the Senate, shall appoint the Judges of the Supreme and District Courts, and they shall hold their offices for six years.

SEC. 6. The State shall be divided into convenient Judicial districts. For each district there shall be appointed a Judge, who shall reside in the same, and hold the Courts at one place in each county, and at least twice in each year, in such manner as may be prescribed by law.

SEC. 7. The Judges of the Supreme Court shall receive a salary not less than two thousand dollars annually, and the Judges of the District Court a salary not less than seventeen hundred and fifty dollars annually; and the salaries of the Judges shall not be increased or diminished during their continuance in office.

SEC. 8. The Judges of the Supreme and District Courts,

shall be removed by the Governor, on the address of two thirds of each House of the Legislature, for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment; provided, however, that the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each House; and provided, further, that the cause or causes shall be notified to the Judges so intended to be removed; and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases, the vote shall be taken by yeas and nays, and entered on the journals of each House respectively.

SEC. 9. All Judges of the Supreme and District Courts, shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process, shall be "The State of Texas." All prosecutions shall be carried on "in the name and by the authority of the State of Texas," and conclude "against the peace and dignity of the State."

SEC. 10. The District Court shall have original jurisdiction of all criminal cases, of all suits in behalf of the State to recover penalties, forfeitures and escheats, and of all cases of divorce, and of all suits, complaints and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said Courts, or the Judges thereof, shall have power to issue all writs necessary to enforce their own jurisdiction, and give them a general superintendence and control over inferior jurisdictions. And in the trial of all criminal cases, the jury trying the same, shall find and assess the amount of punishment to be inflicted, or fine imposed; except in capital cases, and where the punishment or fine imposed shall be specifically imposed by law.

SEC. 11. There shall be a Clerk of the District Courts for each county, who shall be elected by the qualified voters for members of the Legislature, and who shall hold his office for four years, subject to removal by information, or by presentment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District shall have the power to appoint a Clerk until a regular election can be held.

SEC. 12. The Governor shall nominate, and by and with the advice and consent of two-thirds of the Senate, appoint an Attorney General, who shall hold his office for two years; and there shall be elected by joint vote of both Houses of the Legislature, a District Attorney for each district, who shall hold his

office for two years; and the duties, salaries and perquisites of the Attorney General, and District Attorneys, shall be prescribed by law.

SEC. 13. 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 the Legislature may direct. Justices of the Peace, Sheriffs and Coroners, shall be commissioned by the Governor. The Sheriff shall not be eligible more than four years in every six.

SEC. 14. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the cause. When the Supreme Court, or any two of its members, shall be thus disqualified to hear and determine any cause or causes in said Court, or when no judgment can be rendered in any case or cases in said Court, by reason of the equal division of opinion of said Judges, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law, for the trial and determination of said case or cases. When the Judges of the District Court are thus disqualified, the parties may, by consent, appoint a proper person to try the said case; and the Judges of the said Courts may exchange districts, or hold Courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualifications of Judges of inferior tribunals, shall be remedied as may hereafter be by law prescribed.

SEC. 15. Inferior tribunals shall be established in each county for appointing guardians, granting letters testamentary, aid of administration; for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates; and the District Courts shall have original and appellate jurisdiction, and general control over the said inferior tribunals, and original jurisdiction and control over executors, administrators, guardians and minors, under such regulations as may be prescribed by law.

SEC. 16. In the trial of all causes in equity in the District Court, the plaintiff or defendant, shall, upon application made in open Court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

SEC. 17. Justices of the Peace shall have such civil and criminal jurisdiction, as shall be provided for by law.

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SEC. 18. In all causes arising out of a contract, before any inferior judicial tribunal, when the amount in controversy shall exceed ten dollars, the plaintiff or defendant shall, upon application to the presiding officer, have the right of trial by jury.

SEC. 19. In all cases where Justices of the Peace or other judicial officers of inferior tribunals shall have jurisdiction in the trial of causes where the penalty for the violation of a law is fine or imprisonment, (except in cases of contempt,) the accused shall have the right of trial by jury.

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## ARTICLE FIFTH.

### EXECUTIVE DEPARTMENT.

SECTION 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 of the State, at the time and places of elections for members of the Legislature.

SEC. 3. The returns of every election for Governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the Seat of Government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session of the Legislature, thereafter, open and publish them in the presence of both Houses of the Legislature; the person having the highest number of votes, and being constitutionally eligible, shall be declared by the Speaker, under the direction of the Legislature, to be Governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen Governor by joint vote of both Houses of the Legislature. Contested elections for Governor, shall be determined by both Houses of the Legislature.

SEC. 4. The Governor shall hold his office for the term of two years from the regular time of installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas, at the time of the adoption of this Constitution, and shall have resided in the same three years immediately preceding his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during



the term for which he shall have been elected. The first Governor shall receive an annual salary of two thousand dollars, and no more.

SEC. 6. The Governor shall be Commander-in-Chief of the army and navy of this State, and of 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 of 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 Legislature at the Seat of Government, or at a different place, if that should be in the actual possession of a public enemy; in case of disagreement between the two Houses with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the Legislature.

SEC. 9. He shall, from time to time, give to the Legislature information in writing, 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 cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures. In cases 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 Legislature.

SEC. 12. There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor, by the same persons and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieut. Governor, the electors shall distinguish for whom they vote as Governor, and for whom as Lieut. Governor. The Lieut. Governor shall, by virtue of his office, be President of the Senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the Senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the Governor to serve, or of his impeachment, or absence from the State, the Lieut. Governor shall exercise the powers and authority appertaining

to the office of Governor; until another be chosen at the periodical election and be duly qualified, or until the Governor, impeached, absent, or disabled, shall be acquitted, return, or his disability be removed.

SEC. 13. Whenever the government shall be administered by the Lieut. Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as President for the time being. And if, during the vacancy of the office of Governor, the Lieutenant Governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached, or absent from the State, the President of the Senate for the time being, shall, in like manner, administer the government until he shall be superceded by a Governor or Lieut. Governor; the Lieut. Governor shall, whilst he acts as President of the Senate, receive for his services the same compensation which shall be allowed to the Speaker of the House of Representatives, and no more; and during the time he administers the government as Governor, shall receive the same compensation which the Governor would have received had he been employed in the duties of his office, and no more. The President for the time being of the Senate, shall, during the time he administers the government, receive in like manner the same compensation which the Governor would have received, had he been employed in the duties of his office. If the Lieut. Governor shall be required to administer the government, and shall, whilst in such administration, die, resign, or be absent from the State, during the recess of the Legislature, it shall be the duty of the Secretary of State, to convene the Senate for the purpose of choosing a President for the time being.

SEC. 14. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially. The said seal shall be a star of five points, encircled by an olive and live oak branches, and the words "the State of Texas."

SEC. 15. 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. 16. There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue in office during the term of service of the Governor elect. 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 Legislature, or either House thereof,

and shall perform such other duties as may be required of him by law.

SEC. 17. Every bill which shall have passed both Houses of the Legislature, 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 re-consider it; if, after such re-consideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be re-considered; if approved by two-thirds of the members present, of 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 by 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. Every bill presented to the Governor one day previous to the adjournment of the Legislature, and not returned to the House in which it originated, before its adjournment, shall become a law, and have the same force and effect, as if signed by the Governor.

SEC. 18. Every order, resolution, or vote, to which the concurrence of both Houses of the Legislature 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 re-passed by both Houses according to the rules and limitations prescribed in the case of a bill.

SEC. 19. The Governor, by and with the advice and consent of two-thirds of the Senate, shall appoint a convenient number of Notaries Public—not exceeding six for each county—who, in addition to such duties as are prescribed by law, shall discharge such other duties as the Legislature may, from time to time, prescribe.

SEC. 20. Nominations to fill all vacancies that may have occurred during the recess, shall be made to the Senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated during the session, to fill the same office. And should the Governor fail to make nominations to fill any vacancy, during the session of the Senate, such vacancy shall not be filled by the Governor until the next meeting of the Senate.

SEC. 21. The Governor shall reside, during the session of

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the Legislature, at the place where their sessions may be held, and at all other times whenever, in their opinion, the public good may require.

SEC. 22. No person holding the office of Governor, shall hold any other office or commission, civil or military.

SEC. 23. A State Treasurer and Comptroller of public accounts, shall be biennially elected by the joint ballot of both Houses of the Legislature; and in case of vacancy in either of said offices, during the recess of the Legislature, such vacancy shall be filled by the Governor, which appointment shall continue until the close of the next session of the Legislature thereafter.

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## ARTICLE SIXTH.

### MILITIA.

SECTION 1. The Legislature shall provide by law for 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. No licensed Minister of the Gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

SEC. 4. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections and to repel invasions.

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## ARTICLE SEVENTH.

### GENERAL PROVISIONS.

SECTION 1. Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I (A. B.) do solemnly swear, (or affirm,) that I will faithfully and impartially discharge and perform all the duties incumbent on me as accord-  
ing to the best of my skill and ability, agreeably to the Consti-

tution and laws of the United States, and of this State; and I do further solemnly swear (or affirm,) that since the adoption of this Constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it; nor have I sent or accepted a challenge to fight a duel with deadly weapons; nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending—so help me God.”

SEC. 2. Treason against this State, shall consist only in levying war against it, or in adhering to its enemies—giving them aid and comfort; and no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 4. Laws shall be made, to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State, who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist, in any manner, those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections, by the people, the vote shall be by ballot, until the Legislature shall otherwise direct; and in all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. The Legislature shall provide by law, for the compensation of all officers, servants, agents, and public contractors, not provided for by this Constitution; and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim real or pretended,

where the same shall not have been provided for by pre-existing law. Provided, that nothing in this section shall be so construed as to affect the claims of persons against the Republic of Texas, heretofore existing.

SEC. 8. No money shall be drawn from the Treasury, but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made, without the concurrence of two-thirds of both Houses of the Legislature. A regular statement and account of the receipts and expenditures of all public money, shall be published annually, in such manner as shall be prescribed by law. And in no case shall the Legislature have the power to issue Treasury Warrants, Treasury Notes, or paper of any description intended to circulate as money.

SEC. 9. All civil officers shall reside within the State; and all district or county officers, within their districts or counties; and shall keep their offices at such places therein, as may be required by law.

SEC. 10. The duration of all offices not fixed by this Constitution, shall never exceed four years.

SEC. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this Constitution.

SEC. 12. The Legislature shall have power to provide for deductions from the salaries of public officers, who may neglect the performance of any duty that may be assigned them by law.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The Legislature shall provide for a change of venue in civil and criminal cases; and for the erection of a Penitentiary at as early a day as practicable.

SEC. 15. It shall be the duty of the Legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 16. Within five years after the adoption of this Constitution, the laws civil and criminal, shall be revised, digested, arranged, and published in such manner as the Legislature shall

direct; and a like revision, digest, and publication, shall be made every ten years thereafter.

SEC. 17. No Lottery shall be authorized by this State; and the buying or selling of Lottery Tickets within this State, is prohibited.

SEC. 18. No divorce shall be granted by the Legislature.

SEC. 19. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 20. The rights of property and of action which have been acquired under the Constitution and laws of the Republic of Texas, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the Constitution and laws of the Republic of Texas, be re-invested, revived or reinstated by this Constitution; but the same shall remain precisely in the situation which they were before the adoption of this Constitution.

SEC. 21. All claims, locations, surveys, grants, and titles to land, which are declared null and void by the Constitution of the Republic of Texas, are, and the same shall remain forever null and void.

SEC. 22. The Legislature shall have power to protect by law, from forced sale, a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land, (not included in a town or city, or any town or city lot or lots,) in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the Legislature may hereafter point out.

SEC. 23. The Legislature shall provide in what cases officers shall continue to perform the duties of their offices, until their successors shall be duly qualified.

SEC. 24. Every law enacted by the Legislature, shall embrace but one object, and that shall be expressed in the title.

SEC. 25. No law shall be revised or amended by reference to its title; but in such case, the act revised, or section amended, shall be re-enacted, and published at length.

SEC. 26. No person shall hold or exercise at the same time,

more than one civil office of emolument, except that of Justice of the Peace.

SEC. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; except such property as two-thirds of both Houses of the Legislature may think proper to exempt from taxation. The Legislature shall have power to lay an income tax, and to tax all persons pursuing any occupation, trade, or profession. Provided, that the term occupation, shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 28. The Legislature shall have power to provide by law for exempting from taxation two hundred and fifty dollars' worth of the household furniture, or other property belonging to each family in this State.

SEC. 29. The Assessor and Collector of taxes, shall be appointed in such manner, and under such regulations, as the Legislature may direct.

SEC. 30. No corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges.

SEC. 31. No private corporation shall be created, unless the bill creating it, shall be passed by two-thirds of both Houses of the Legislature; and two-thirds of the Legislature shall have power to revoke and repeal all private corporations, by making compensation for the franchise. And the State shall not be part owner of the stock, or property, belonging to any corporation.

SEC. 32. The Legislature shall prohibit by law, individuals from issuing bills, checks, promissory notes, or other paper, to circulate as money.

SEC. 33. The aggregate amount of debts hereafter contracted by the Legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both Houses of the Legislature.

SEC. 34. The Legislature shall at the first session thereof, and may at any subsequent session, establish new counties for the convenience of the inhabitants of such new county or counties. Provided, that no new county shall be established, which shall reduce the county or counties, or either of them, from which it shall be taken, to a less area than nine hundred square miles, (except the county of Bowie,) unless by consent of two-thirds of the Legislature; nor shall any county be laid off of less contents,



Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled by numbers, to the right of separate representation.

SEC. 35. No soldier shall, in time of peace, be quartered in the house or within the enclosure of any individual, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 36. The salaries of the Governor and Judges of the Supreme and District Courts, are hereby fixed at the minimum established in the Constitution, and shall not be increased for ten years.

#### MODE OF AMENDING THE CONSTITUTION.

SEC. 37. The Legislature, whenever two-thirds of each House shall deem it necessary, may propose amendments to this Constitution; which proposed amendments shall be duly published in the public prints of the State, at least three months before the next general election of Representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next election, which shall be thus holden, to open a poll for, and make a return to, the Secretary of State, of the names of all those voting for Representatives, who have voted on such proposed amendments; and if, thereupon, it shall appear that a majority of all the citizens of this State, voting for Representatives, have voted in favor of such proposed amendments, and two-thirds of each House of the next Legislature, shall, after such election, and before another, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes, as parts of this Constitution: Provided, that the said proposed amendments shall, at each of the said sessions, have been read on three several days in each House.

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### ARTICLE EIGHTH.

#### SLAVES.

SECTION 1. The Legislature shall have no power to pass laws for the emancipation of slaves, without the consent of their owners; nor without paying their owners, previous to such emancipation, a full equivalent in money, for the slaves so emancipated. They shall have no power to prevent emigrants to this

State, from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery, by the laws of this State: provided, that such slave be the *bona fide* property of such emigrants: provided, also, that laws shall be passed to inhibit the introduction into this State, of slaves who have committed high crimes in other states or territories. They shall have the right to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors; and preventing them from becoming a public charge. They shall have full power to pass laws, which will oblige the owners of slaves to treat them with humanity; to provide for their necessary food and clothing; to abstain from all injuries to them, extending to life or limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves taken from such owner, and sold for the benefit of such owner or owners. They may pass laws to prevent slaves from being brought into this State, as merchandize only.

SEC. 2. In the prosecution of slaves for crimes of a higher grade than petit larceny, the Legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 3. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted, in case the like offence had been committed upon a free white person, and on the like proof, except in case of insurrection of such slave.

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## ARTICLE NINTH.

### IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the House of Representatives.

SEC. 2. Impeachments of the Governor, Lieutenant-Governor, Attorney-General, Secretary of State, Treasurer, Comptroller, and of the Judges of the District Courts, shall be tried by the Senate.

SEC. 3. Impeachments of Judges of the Supreme Court, shall be tried by the Senate. When sitting as a Court of Impeachment, the Senators shall be upon oath or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the Senators present.

SEC. 4. Judgment, in cases of impeachment, shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit, under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment: the appointing power may make a provisional appointment, to fill the vacancy occasioned by the suspension of an officer, until the decision on the impeachment.

SEC. 6. The Legislature shall provide for the trial, punishment, and removal from office, of all other officers of the State, by indictment or otherwise.

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## ARTICLE TENTH.

### EDUCATION.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the Legislature of this State, to make suitable provision for the support and maintenance of public schools.

SEC. 2. The Legislature shall, as early as practicable, establish free schools throughout the State, and shall furnish means for their support, by taxation on property; and it shall be the duty of the Legislature, to set apart not less than one-tenth of the annual revenue of the State, derivable from taxation, as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made, diverting said fund to any other use; and until such time as the Legislature shall provide for the establishment of such schools, in the several districts of the State, the fund thus created shall remain as a charge against the State, passed to the credit of the free common school fund.

SEC. 3. All public lands which have been heretofore, or may hereafter be granted for public schools, to the various counties, or other political divisions in this State, shall not be alienated in fee, nor disposed of otherwise than by lease, for a term not exceeding twenty years, in such manner as the Legislature may direct.

SEC. 4. The several counties in this State, which have not received their quantum of lands for the purposes of education, shall be entitled to the same quantity heretofore appropriated by the Congress of the Republic of Texas, to other counties.

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## ARTICLE ELEVENTH.

SECTION 1. All certificates for head-right claims to lands, issued to fictitious persons, or which were forged; and all locations and surveys thereon, are, and the same were null and void from the beginning.

SEC. 2. The District Courts shall be opened until the first day of July, one thousand eight hundred and forty-seven, for the establishment of certificates for head-rights not recommended by the Commissioners appointed under the act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants; and the parties suing shall produce the like proof, and be subjected to the requisitions which were necessary, and were prescribed by law, to sustain the original application for the said certificates; and all certificates above referred to, not established or sued upon before the period limited, shall be barred; and the said certificates, and all locations and surveys thereon, shall be forever null and void; and all re-locations made on such surveys, shall not be disturbed, until the certificates are established as above directed.

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## ARTICLE TWELFTH.

### LAND-OFFICE.

SECTION 1. There shall be one General Land-Office in the State, which shall be at the Seat of Government, where all titles which have heretofore emanated, or may hereafter emanate, from Government, shall be registered; and the Legislature may establish, from time to time, such subordinate offices as they may deem requisite.

## ARTICLE THIRTEENTH.

## SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of separate National Government to a State Government, it is declared that all process which shall be issued in the name of the Republic of Texas, prior to the organization of the State government, under this Constitution, shall be as valid as if issued in the name of the State of Texas.

SEC. 2. The validity of all bonds and recognizances, executed in conformity with the Constitution and laws of the Republic of Texas, shall not be impaired by the change of government, but may be sued for, and recovered, in the name of the Governor of the State of Texas; and all criminal prosecutions, or penal actions, which shall have arisen prior to the organization of the State government, under this Constitution, in any of the courts of the Republic of Texas, shall be prosecuted to judgment and execution, in the name of said State. All suits at-law and equity, which may be depending in any of the courts of the Republic of Texas, prior to the organization of the State government under this Constitution, shall be transferred to the proper court of the State, which shall have jurisdiction of the subject matter thereof.

SEC. 3. All laws or parts of laws now in force in the Republic of Texas, which are not repugnant to the Constitution of the United States, the joint resolutions for annexing Texas to the United States, or to the provisions of this Constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation, or shall be altered or repealed by the Legislature thereof.

SEC. 4. All fines, penalties, forfeitures and escheats, which have accrued to the Republic of Texas, under the Constitution and laws, shall accrue to the State of Texas; and the Legislature shall, by law, provide a method for determining what lands may have been forfeited or escheated.

SEC. 5. Immediately after the adjournment of this Convention, the President of the Republic shall issue his proclamation, directing the Chief Justices of the several counties of this Republic, and the several Chief Justices and their associates, are hereby required to cause polls to be opened in their respective counties, at the established precincts, on the second Monday of October next, for the purpose of taking the sense of the people of Texas, in regard to the adoption or rejection of this Constitution;

and the votes of all persons entitled to vote under the existing laws, or this Constitution, shall be received. Each voter shall express his opinion by declaring by a "*viva voce*" vote for "the Constitution accepted," or "the Constitution rejected;" or some words clearly expressing the intention of the voter; and at the same time the vote shall be taken in like manner for and against annexation. The election shall be conducted in conformity with the existing laws regulating elections; and the Chief Justices of the several counties shall carefully and promptly make duplicate returns of said polls, one of which shall be transmitted to the Secretary of State of the Republic of Texas, and the other deposited in the Clerk's office of the county court.

SEC. 6. Upon the receipt of the said returns, or on the second Monday of November next, if the returns be not sooner made, it shall be the duty of the President, in presence of such officers of his cabinet as may be present, and of all persons who may choose to attend, to compare the votes given for the ratification or rejection of this Constitution; and if it should appear from the returns, that a majority of all the votes given, is for the adoption of the Constitution, then it shall be the duty of the President to make proclamation of that fact, and thenceforth this Constitution shall be ordained and established as the Constitution of the State, to go into operation and be of force and effect from and after the organization of the State government under this Constitution; and the President of this Republic is authorized and required to transmit to the President of the United States, duplicate copies of this Constitution, properly authenticated, together with certified statements of the number of votes given for the ratification thereof, and the number for rejection, one of which copies shall be transmitted by mail, and one copy by a special messenger, in sufficient time to reach the seat of government of the United States early in December next.

SEC. 7. Should this Constitution be accepted by the people of Texas, it shall be the duty of the President on or before the second Monday in November next, to issue his proclamation, directing and requiring elections to be holden in all the counties of this Republic, on the third Monday in December next, for the office of Governor, Lieutenant Governor, and members of the Senate and House of Representatives of the State Legislature, in accordance with the apportionment of representation directed by this Constitution. The returns for members of the Legislature of this State, shall be made to the Department of State of this Republic; and those for Governor and Lieutenant Governor

shall be addressed to the Speaker of the House of Representatives, endorsed "Election Returns of \_\_\_\_\_ county, for Governor," and directed to the Department of State; and should, from any cause whatever, the Chief Justices of counties fail to cause to be holden any of the polls or elections, provided for by this Constitution, at the times and places herein directed, the people of the precincts where such failure exists, are hereby authorized to choose managers, judges and other officers, to conduct said elections.

SEC. 8. Immediately on the President of this Republic receiving official information of the acceptance of this Constitution by the Congress of the United States, he shall issue his proclamation convening at an early day, the Legislature of the State of Texas, at the Seat of government established under this Constitution; and after the said Legislature shall have organized, the Speaker of the House of Representatives shall, in presence of both branches of the Legislature, open the returns of the elections for Governor and Lieutenant Governor, count and compare the votes, and declare the names of the persons who shall be elected to the offices of Governor and Lieutenant Governor, who shall forthwith be installed in their respective offices; and the Legislature shall proceed as early as practicable, to elect Senators to represent this State in the Senate of the United States; and also provide for the election of Representatives to the Congress of the United States. The Legislature shall also adopt such measures as may be required to cede to the United States, at the proper time, all public edifices, fortifications, barracks, ports, harbors, navy and navy yards, docks, magazines, arms and armaments, and all other property and means pertaining to the public defence, now belonging to the Republic of Texas; and to make the necessary preparations for transferring to the said United States all custom houses and other places for the collection of impost duties and other foreign revenues.

SEC. 9. It shall be the duty of the President of Texas, immediately after the inauguration of the Governor, to deliver to him all records, public money, documents, archives, and public property of every description whatsoever, under the control of the executive branch of the government; and the Governor shall dispose of the same in such manner as the Legislature may direct.

SEC. 10. That no inconvenience may result from the change of government, it is declared that the laws of this Republic relative to the duties of officers, both civil and military, of the same, shall remain in full force; and the duties of their several offices

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shall be performed in conformity with the existing laws, until the organization of the government of the State, under this Constitution, or until the first day of the meeting of the Legislature; that then, the offices of President, Vice-President, of the President's Cabinet, Foreign Ministers, Chargés, and agents and others repugnant to this Constitution, shall be superceded by the same; and that all others shall be holden and exercised until they expire by their own limitation, or be superceded by the authority of this Constitution, or laws made in pursuance thereof.

SEC. 11. In case of any disability on the part of the President of the Republic of Texas to act as herein required, it shall be the duty of the Secretary of State of the Republic of Texas, and in case of disability on the part of the Secretary of State, then it shall be the duty of the Attorney General of the Republic of Texas, to perform the duties assigned to the President.

SEC. 12. The first general election for Governor, Lieutenant Governor, and members of the Legislature, after the organization of the government, shall take place on the first Monday in November, one thousand eight hundred and forty-seven, and shall be held biennially thereafter, on the first Monday in November, until otherwise provided by the Legislature; and the Governor and Lieutenant Governor elected in December next, shall hold their offices until the installation in office of the Governor and Lieutenant Governor to be elected in the year one thousand eight hundred and forty-seven.

SEC. 13. The ordinance passed by the Convention on the fourth day of July, assenting to the overtures for the annexation of Texas to the United States, shall be attached to this Constitution, and form a part of the same.

Done in Convention by the Deputies of the people of Texas, at the City of Austin, this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and forty-five.

In testimony whereof, we have hereunto subscribed our names.

THOS. J. RUSK,  
President.

JOHN D. ANDERSON,  
JAS. ARMSTRONG,  
C. ARMSTRONG,  
B. C. BAGBY,  
R. E. B. BAYLOR,  
R. BACHE,  
ISAAC W. BRASHEAR,  
GEO. W. BROWN,

J. M. BURROUGHS,  
JOHN CALDWELL,  
W. L. CAZNEAU,  
EDWARD CLARK,  
A. S. CUNNINGHAM,  
PHIL. M. CUNY,  
N. H. DARNELL,  
JAMES DAVIS,



L. D. EVANS,  
 G. A. EVERTS,  
 R. M. FORBES,  
 DAVID GAGE,  
 JOHN HEMPHILL,  
 J. P. HENDERSON,  
 A. W. O. HICKS,  
 JOS. L. HOGG,  
 A. C. HORTON,  
 V. E. HOWARD,  
 S. HOLLAND,  
 WM. L. HUNTER,  
 VAN R. IRION,  
 H. J. JEWETT,  
 OLIVER JONES,  
 H. L. KINNEY,  
 A. H. LATIMER,  
 H. R. LATIMER,  
 JOHN M. LEWIS,  
 JAMES LOVE,  
 P. O. LUMPKIN,  
 SAM LUSK,

A. S. LIPSCOMB,  
 J. S. MAYFIELD,  
 ALEX. M'GOWAN,  
 A. M'NEILL,  
 J. B. MILLER,  
 FRANCIS MOORE, JR.,  
 J. A. NAVARRO,  
 W. B. OCHILTREE,  
 ISAAC PARKER,  
 JAMES POWERS,  
 EMERY RAINS,  
 H. G. RUNNELS,  
 JAMES SCOTT,  
 GEO. W. SMYTH,  
 ISRAEL STANDEFER,  
 C. B. STEWART,  
 E. H. TARRANT,  
 ISAAC VAN ZANDT,  
 FRANCIS M. WHITE,  
 GEO. T. WOOD,  
 G. W. WRIGHT,  
 WM. C. YOUNG.

Attest,

JAS. H. RAYMOND,

Secretary of the Convention.

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### AN ORDINANCE.

WHEREAS, the Congress of the United States of America has passed resolutions providing for the annexation of Texas to that Union, which resolutions were approved by the President of the United States on the first day of March, 1845; and, whereas, the President of the United States has submitted to Texas the first and second sections of the said resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and, whereas, the existing government of the Republic of Texas has assented to the proposals thus made, the terms and conditions of which are as follow :

## "JOINT RESOLUTION FOR ANNEXING TEXAS TO THE UNITED STATES.

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to, the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.*

*"2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First—Said State to be formed, subject to the adjustment by this government, of all questions of boundary that may arise with other governments; and the Constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, 1846. Second—Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy yards, docks, magazines, arms and armaments, and all other property and means pertaining to the public defence belonging to the said Republic of Texas, shall retain all the public funds, debts, taxes and dues of every kind which may belong to, or be due and owing to the said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the government of the United States. Third—New States of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution; and such states as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri Compromise Line, shall be admitted into the Union, with or without slavery, as the people*

of each State, asking admission, may desire ; and in such State or States as shall be formed out of said territory, north of said Missouri Compromise Line, slavery, or involuntary servitude (except for crime) shall be prohibited."

Now, in order to manifest the assent of the people of this Republic, as required in the above recited portions of the said resolutions, we, the deputies of the people of Texas in convention assembled, in their name, and by their authority, do ordain and declare, that we assent to, and accept, the proposals, conditions and guarantees contained in the first and second sections of the resolution of the Congress of the United States aforesaid.

Done in Convention at the City of Austin, Republic of Texas,  
July 4th, 1845.

THOMAS J. RUSK, President.

PHILIP M. CUNY,	JOHN M. LEWIS,
H. G. RUNNELS,	JAMES SCOTT,
ROBT. M. FORBES,	ARCIBALD McNEILL,
SAM LUSK,	A. C. HORTON,
JNO. CALDWELL,	ISRAEL STANDEFER,
JOSE ANTONIO NAVARRO,	JOSEPH L. HOGG,
GEO. WM. BROWN,	CHAS. S. TAYLOR,
G. A. EVERTS,	DAVID GAGE,
LEMUEL DALE EVANS,	HENRY J. JEWETT,
J. B. MILLER,	CAVITT ARMSTRONG,
R. E. B. BAYLOR,	JAMES POWER,
JAS. S. MAYFIELD,	ALBERT H. LATIMER,
R. BACHE,	WM. C. YOUNG,
JAMES LOVE,	J. PINCKNEY HENDERSON,
WM. L. HUNTER,	NICHOLAS H. DARNELL,
JNO. D. ANDERSON,	EMERY RAINS,
ISAAC PARKER,	A. W. O. HICKS,
P. O. LUMPKIN,	JAMES M. BURROUGHS,
FRANCIS MOORE, JR.,	H. L. KINNEY,
ISAAC W. BRASHEAR,	WM. L. CAZNEAU,
ALEXANDER McGOWAN,	A. S. CUNNINGHAM,
ISAAC VAN ZANDT,	ABNER S. LIPSCOMB,
S. HOLLAND,	JOHN HEMPHILL,
EDWARD CLARK,	VAN R. IRION,
GEO. W. SMYTH,	VOLNEY E. HOWARD,
JAS. ARMSTRONG,	E. H. TARRANT,

FRANCIS M. WHITE,  
JAMES DAVIS,  
GEO. T. WOOD,  
G. W. WRIGHT,  
H. R. LATIMER,

W. B. OCHILTREE,  
OLIVER JONES,  
B. C. BAGBY,  
C. BELLINGER STEWART.

Attest,

JAS. H. RAYMOND,  
Secretary of Convention.

On motion of Mr. Mayfield, the Secretary of the Convention was required to transmit a copy of the Constitution to the President of the Republic of Texas, and one copy to the President of the United States.

The President of the Convention arose, and delivered the following address:

GENTLEMEN OF THE CONVENTION:—

Before putting the motion of final adjournment, allow me to return you my most sincere thanks and acknowledgments, for the honor conferred upon me by the passage of the resolution, yesterday: coming, as it does, from such a body, I shall cherish it, gentlemen, as long as life shall last with me; and transmit it to my children as a bright inheritance, which the poor services of their father little merited. Our labors have now drawn to a close. The important duties we were called upon to discharge, on the part of the people of Texas, are discharged, and, I trust, in a manner which will be satisfactory, to all the people of Texas—satisfactory to the Congress and people of the United States, and satisfactory to the friends of republican government throughout the civilized world. We are about, after a short session, considering the immense labor performed, to adjourn. We are about, again to go and mingle among our constituents, many of us never again to take part in political strifes, or to be engaged in political action. The proceedings of this Convention, I think I may safely say, without vanity or any undue prejudice in favor of Texas, our adopted land, may well compare with those of any similar body which has met within the last hundred years. They have been marked by a degree of decorum, and a spirit of good feeling which, I trust in God, will continue to characterize the people of Texas, as long as our country shall endure. In the ardor of debate, from the difference of opinion which may have existed with

regard to some principle adopted in this Constitution, for a moment the feelings of gentlemen may have been slightly excited. I am glad to see that all this has passed away; I am glad to see that the spirit of harmony and good feeling, and the emotions of patriotism, which were manifested upon the first day of our meeting, have continued to preside over our deliberations, until this the day of our adjournment; and I trust they will continue to exist in our bosoms, and that, whether separated or together, we shall ever entertain towards each other, those kind feelings which have been manifested here. I trust that each member will carry them home to his constituents, and do all in his power to make this Constitution as acceptable as possible to the people, in order that it may appear to the Government of the United States, that we go into the Union in the proper manner, and that the vile slanders hurled against us by our enemies, that we are a band of disorganizers, is false and foul.

I trust, too, that when this Constitution shall go into operation, the angry passions attendant upon political dissensions, will be hushed; that all sectional feelings and jealousies, and the strifes of personal ambition, will cease; and that for many long years to come, it will continue the organic law of a people united as a band of brothers, animated by the best feelings of the human heart, and prompted in action by that pure and lively patriotism which has characterized Texas thus far.

In my retirement, I carry with me the best feelings for each one of you, and the warmest desires for your success, and the success of Texas.

On motion of Mr. Latimer of R. R., the Convention adjourned *sine die*.