

L A W S

OF THE

REPUBLIC OF TEXAS

IN TWO VOLUMES,

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PRINTED BY ORDER OF THE SECRETARY OF STATE.

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VOLUME I.

HOUSTON.  
1838



THE  
DECLARATION OF INDEPENDENCE  
MADE BY THE  
DELEGATES OF THE PEOPLE OF TEXAS  
IN  
GENERAL CONVENTION, AT WASHINGTON,  
ON MARCH 2ND, 1836.

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When a government has ceased to protect the lives, liberty and property of the people, from whom its legitimate powers are derived, and for the advancement of whose happiness it was instituted; and so far from being a guarantee for their inestimable and inalienable rights, becomes an instrument in the hands of evil rulers for their oppression. When the federal republican constitution of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their government has been forcibly changed, without their consent, from a restricted federative republic, composed of sovereign states, to a consolidated central military despotism, in which every interest is disregarded but that of the army and the priesthood, both the eternal enemies of civil liberty, the ever ready minions of power, and the usual instruments of tyrants. When, long after the spirit of the constitution has departed, moderation is at length so far lost by those in power, that even the semblance of freedom is removed, and the forms themselves of the constitution discontinued, and so far from their petitions and remonstrances

being regarded, the agents who bear them are thrown into dungeons, and mercenary armies sent forth to enforce a new government upon them at the point of the bayonet.

When, in consequence of such acts of malfeasance and abduction on the part of the government, anarchy prevails, and civil society is dissolved into its original elements, in such a crisis, the first law of nature, the right of self-preservation, the inherent and inalienable right of the people to appeal to first principles, and take their political affairs into their own hands in extreme cases, enjoins it as a right towards themselves, and a sacred obligation to their posterity, to abolish such government, and create another in its stead, calculated to rescue them from impending dangers, and to secure their welfare and happiness.

Nations, as well as individuals, are amenable for their acts to the public opinion of mankind. A statement of a part of our grievances is therefore submitted to an impartial world, in justification of the hazardous but unavoidable step now taken, of severing our political connection with the Mexican people, and assuming an independent attitude among the nations of the earth.

The Mexican government, by its colonization laws, invited and induced the Anglo American population of Texas to colonize its wilderness under the pledged faith of a written constitution, that they should continue to enjoy that constitutional liberty and republican government to which they had been habituated in the land of their birth, the United States of America.

In this expectation they have been cruelly disappointed, inasmuch as the Mexican nation has acquiesced to the late changes made in the government by General Antonio Lopez de Santa Anna, who, having overturned the constitution of his country, now offers, as the cruel alternative, either to abandon our homes, acquired by so many privations, or submit to the most intolerable of all tyranny, the combined despotism of the sword and the priesthood.

It hath sacrificed our welfare to the state of Coahuila, by which our interests have been continually depressed through a jealous and partial course of legislation, carried on at a far distant seat of government, by a hostile majority, in an unknown tongue, and this too, notwithstanding we have petitioned in the humblest terms for the establishment of a separate state government, and have, in accordance with the provisions of the national constitution, presented to the general congress a republican constitution, which was, without a just cause, contemptuously rejected.

It incarcerated in a dungeon, for a long time, one of our citizens, for no other cause but a zealous endeavour to procure the acceptance of our constitution, and the establishment of a state government.

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

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

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

It has dissolved, by force of arms, the state congress of Coahuila and Texas, and obliged our representatives to fly for their lives from the seat of government, thus depriving us of the fundamental political right of representation.

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

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

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

It has demanded us to deliver up our arms, which are essential to our defence—the rightful property of freemen—and formidable only to tyrannical governments.

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

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

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

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

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

We, therefore, the delegates, with plenary powers, of the people of Texas, in solemn convention assembled, appealing to a candid world for the necessities of our condition, do hereby resolve and declare, that our political connection with the Mexican nation has forever ended, and that the people of Texas do now constitute a free, sovereign, and independent republic, and are fully invested with all the rights and attributes which properly belong to independent nations; and, conscious of the rectitude of our intentions, we fearlessly and confidently commit the issue to the supreme Arbiter of the destinies of nations.

In witness whereof we have hereunto subscribed our names.

RICHARD ELLIS,

President and Delegate from Red River.

ALBERT H. S. KIMBLE, Secretary.

C. B. Stewart,  
James Collinsworth,  
Edwin Waller,  
A. Brigham,  
John S. D. Byrom,  
Francis Ruis,  
J. Antonio Navarro,  
William D. Lacy,  
William Meniffee,  
John Fisher,  
Matthew Caldwell,

John S. Roberts,  
Robert Hamilton,  
Collin McKinney,  
A. H. Latimore,  
James Power,  
Sam. Houston,  
Edward Conrad,  
Martin Palmer,  
James Gaines,  
William Clark, jun.,  
Sydney O. Pennington,

William Motley,  
Lorenzo de Zavala,  
George W. Smyth,  
Stephen H. Everett,  
Elijah Stepp,  
Claiborne West,  
William B. Leates,  
M. B. Menard,  
A. B. Hardin,  
John W. Bunton,  
Thomas J. Gazley,  
R. M. Coleman,  
Sterling C. Robertson,  
George C. Childress,  
Baily Hardiman,  
Robert Potter,  
Charles Taylor,

Samuel P. Carson,  
Thomas J. Rusk,  
William C. Crawford,  
John Turner,  
Benjamin Briggs Goodrich,  
James G. Swisher,  
George W. Barnet,  
Jesse Grimes,  
F. O. Legrand,  
David Thomas,  
S. Rhoads Fisher,  
John W. Bower,  
J. B. Woods,  
Andrew Briscoe,  
Thomas Barnett,  
Jesse B. Badgett,  
Stephen W. Blount.

I do hereby certify that I have carefully compared the foregoing Declaration, and find it to be a true copy from the original filed in the archives of the Convention.

Given under my hand this 17th day of March, 1836.

Attest,

H. S. KIMBLE,  
Secretary of the Convention.



# CONSTITUTION

## OF THE

# REPUBLIC OF TEXAS.

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We, the people of Texas, in order to form a government, establish justice, ensure domestic tranquility, provide for the common defence and general welfare; and to secure the blessings of liberty to ourselves, and our posterity, do ordain and establish this constitution.

### ARTICLE I.

SECTION 1. The powers of this government shall be divided into three departments, viz: legislative, executive and judicial, which shall remain forever separate and distinct.

SEC. 2. The legislative power shall be vested in a senate and house of representatives, to be styled the congress of the republic of Texas.

SEC. 3. The members of the house of representatives shall be chosen annually, on the first Monday of September each year, until congress shall otherwise provide by law, and shall hold their offices one year from the date of their election.

SEC. 4. No person shall be eligible to a seat in the house of representatives until he shall have attained the age of twenty-five years, shall be a citizen of the republic, and shall have resided in the county or district six months next preceding his election.

SEC. 5. The house of representatives shall not consist of less than twenty-four, nor more than forty members, until the population shall amount to one hundred thousand souls, after which time the whole number of representatives shall not be less than forty, nor more than one hundred: Provided, however, that each county shall be entitled to at least one representative.

SEC. 6. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 7. The senators shall be chosen by districts, as nearly equal in free population (free negroes and Indians excepted,) as practicable; and the number of senators shall never be less than one third nor more than one half the number of representatives, and each district shall be entitled to one member and no more.

SEC. 8. The senators shall be chosen for the term of three years, on the first Monday in September; shall be citizens of the republic, reside in the district for which they are respectively chosen at least one year before the election; and shall have attained the age of thirty years.

SEC. 9. At the first session of congress after the adoption of this constitution, the senators shall be divided by lot into three classes, as nearly equal as practicable; the seats of the senators of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; the third class, at the end of the third year, in such a manner that one-third shall be chosen each year thereafter.

SEC. 10. The vice president of the republic shall be president of the senate, but shall not vote on any question, unless the senate be equally divided.

SEC. 11. The senate shall choose all other officers of their body, and a president pro tempore, in the absence of the vice president, or whenever he shall exercise the office of president; shall have the sole power to try impeachments, and when sitting as a court of impeachment, shall be under oath; but no conviction shall take place without the concurrence of two thirds of all the members present.

SEC. 12. Judgment in cases of impeachment shall only extend to removal from office, and disqualification to hold any office of honor, trust or profit under this government; but the party shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 13. Each house shall be the judge of the elections, qualifications and returns of its own members. Two thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members.

SEC. 14. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and with

the concurrence of two thirds, may expel a member, but not a second time for the same offence.

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

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

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

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

SEC. 19. When vacancies happen in either house, the executive shall issue writs of election to fill such vacancies.

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

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

SEC. 22. The style of the laws of the republic shall be, "Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled."

SEC. 23. No person holding an office of profit under the government shall be eligible to a seat in either house of congress, nor shall any member of either house be eligible to any office which may created, or the profits of which shall be increased during his term of service.

SEC. 24. No holder of public monies or collector thereof, shall be eligible to a seat in either house of congress, until he

shall have fully acquitted himself of all responsibility, and shall produce the proper officer's receipt thereof. Members of either house may protest against any act or resolution, and may have such protest entered on the journals of their respective houses.

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

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

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

## ARTICLE II.

SEC. 1. Congress shall have power to levy and collect taxes and imposts, excise and tonage duties; to borrow money on the faith, credit, and property of the government, to pay the debts and to provide for the common defence and general welfare of the republic.

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

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

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

SEC. 5. To provide and maintain an army and navy, and to make all laws and regulations necessary for their government.

SEC. 6. To call out the militia to execute the law, to suppress insurrections, and repel invasion.

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

### ARTICLE III.

SEC. 1. The executive authority of the government shall be vested in a chief magistrate, who shall be styled the president of the republic of Texas.

SEC. 2. The first president elected by the people shall hold his office for the term of two years, and shall be ineligible during the next succeeding term; and all subsequent presidents shall be elected for three years, and be alike ineligible; and in the event of a tie, the house of representatives shall determine between the two highest candidates by a *vive voce* vote.

SEC. 3. The returns of the elections for president and vice president shall be sealed up and transmitted to the speaker of the house of representatives, by the holders of elections of each county; and the speaker of the house of representatives shall open and publish the returns in presence of a majority of each house of congress.

### ARTICLE IV.

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

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

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

SEC. 4. The judges, by virtue of their offices, shall be conservators of the peace, throughout the republic. The style of all process shall be, "the republic of Texas;" and all prosecutions shall be carried on in the name and by the authority of the same, and conclude, "against the peace and dignity of the republic."

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

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

SEC. 7. The supreme court shall consist of a chief justice and associate judges; the district judges shall compose the associate judges, a majority of whom, with the chief justice, shall constitute a quorum.

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

SEC. 9. The judges of the supreme and district courts shall be elected by joint ballot of both houses of congress.

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

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

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

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

ARTICLE V.

SEC. 1. Ministers of the gospel being, by their profession, dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions: therefore, no minister of the gospel or priest of any denomination whatever, shall be eligible to the office of the executive of the republic, nor to a seat in either branch of the congress of the same.

SEC. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath to support the constitution, as follows;

"I, A. B., do solemnly swear [or affirm, as the case may be] that, as a member of this general congress, I will support the constitution of the republic, and that I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people."

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

ARTICLE VI.

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

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

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

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

SEC. 5. He shall, with the advice and consent of two-thirds of the senate, make treaties; and with the consent of the senate, appoint ministers and consuls, and all officers whose offices are established by this constitution, not herein otherwise provided for.

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

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

SEC. 8. There shall be a seal of the republic, which shall be kept by the president, and used by him officially; it shall be called the great seal of the republic of Texas.

SEC. 9. All grants and commissions shall be in the name, and by the authority of the republic of Texas, shall be sealed with the great seal, and signed by the president.

SEC. 10. The president shall have power, by and with the advice and consent of the senate, to appoint a secretary of state and such other heads of executive departments as may be established by law, who shall remain in office during the term of service of the president, unless sooner removed by the president, with the advice and consent of the senate.

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

SEC. 12. All elections shall be by ballot, unless congress shall otherwise direct.

SEC. 13. All elections by joint vote of both houses of congress shall be viva voce, shall be entered on the journals, and a majority of the votes shall be necessary to a choice.

SEC. 14. A vice president shall be chosen at every election for president, in the same manner, continue in office for the

same time, and shall possess the same qualifications of the president. In voting for president and vice president, the electors shall distinguish for whom they vote as president, and for whom as vice president.

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

SEC. 16. The president, vice president, and all civil officers of the republic, shall be removable from office by impeachment for, and on conviction of, treason, bribery, and other high crimes and misdemeanors.

#### SCHEDULE.

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

SEC. 2. All fines, penalties, forfeitures and escheats, which have accrued to Coahuila and Texas, or Texas, shall accrue to this republic.

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

SEC. 4. The first president and vice president that shall be appointed after the adoption of this constitution, shall be chosen by this convention, and shall immediately enter on the duties of their offices, and shall hold said offices until their successors be elected and qualified, as prescribed in this constitution, and shall have the same qualifications, be invested with the same powers, and perform the same duties which are required and conferred on the executive head of the republic by this constitution.

SEC. 5. The president shall issue writs of election directed to the officers authorized to hold elections of the several counties, requiring them to cause an election to be held for president, vice president, representatives, and senators to congress, at the time and mode prescribed by this constitution, which election shall be conducted in the manner that elections have been heretofore conducted. The president, vice president, and members

of congress, when duly elected, shall continue to discharge the duties of their respective offices for the time and manner prescribed by this constitution, until their successors be duly qualified.

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

SEC. 7. Until the first enumeration can be made, as described by this constitution, the senatorial districts shall be composed of the following precincts: Bexar shall be entitled to one senator; San Patricio, Refugio and Goliad one; Brazoria one; Mina and Gonzales one; Nacogdoches one; Red River one; Shelby and Sabine one; Washington one; Matagorda, Jackson and Victoria one; Austin and Colorado one; San Augustine one; Milam one; Jasper and Jefferson one; and Liberty and Harrisburg one senator.

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

#### GENERAL PROVISIONS.

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

SEC. 2. Returns of all elections for officers who are to be commissioned by the president, shall be made to the secretary of state of this republic.

SEC. 3. The presidents and heads of departments shall keep their offices at the seat of government, unless removed by the permission of congress, or unless in cases of emergency in time of war, the public interest may require their removal.

SEC. 4. The president shall make use of his private seal until a seal of the republic shall be provided.

SEC. 5. It shall be the duty of congress, as soon as cir-

cumstances will permit, to provide by law, a general system of education.

SEC. 6. All free white persons who shall emigrate to this republic, and who shall, after a residence of six months, make oath, before some competent authority that he intends to reside permanently in the same, and shall swear to support this constitution, and that he will bear true allegiance to the republic of Texas, shall be entitled to all the privileges of citizenship.

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

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

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

SEC. 10. All persons (Africans, the descendants of Africans, and Indians excepted,) who were residing in Texas on the day of the declaration of independence, shall be considered citizens of the republic, and entitled to all the privileges of such. All citizens now living in Texas, who have not received their portion of land, in like manner as colonists, shall be entitled to their land in the following proportion and manner: Every head of a family shall be entitled to one league and labor of land; and

every single man of the age of seventeen and upwards, shall be entitled to the third part of one league of land. All citizens who may have previously to the adoption of this constitution, received their league of land as heads of families, and their quarter of a league of land as single persons, shall receive such additional quantity as will make the quantity of land received by them equal to one league and labor, and one third of a league, unless by bargain, sale, or exchange, they have transferred or may henceforth transfer their right to said land, or a portion thereof, to some other citizen of the republic: and in such case, the person to whom such right shall have been transferred shall be entitled to the same, as fully and amply as the person making the transfer might or could have been.—No alien shall hold land in Texas, except by titles emanating directly from the government of this republic. But if any citizen of this republic should die intestate or otherwise, his children or heirs shall inherit his estate, and aliens shall have a reasonable time to take possession of and dispose of the same, in a manner hereafter to be pointed out by law. Orphan children whose parents were entitled to land under the colonization laws of Mexico, and who now reside in the republic, shall be entitled to all the rights of which their parents were possessed at the time of their death. The citizens of the republic shall not be compelled to reside on the land, but shall have their lines plainly marked.

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

And whereas, the protection of the public domain from unjust and fraudulent claims, and quieting the people in the enjoyment of their lands, is one of the great duties of this convention; and whereas the legislature of Coahuila and Texas having passed an act in the year 1834, in behalf of general John T. Mason of New York, and another on the 14th day of March, 1835, under which the enormous amount of eleven hundred leagues of land has been claimed by sundry individuals, some of whom reside in foreign countries, and are not citizens of the republic,—

which said acts are contrary to articles fourth, twelfth, and fifteenth of the laws of 1824 of the general congress of Mexico, and one of said acts, for that cause has, by said general congress of Mexico, been declared null and void: It is hereby declared that the said act of 1834, in favor of John T. Mason, and of the 14th of March, 1835, of the said legislature of Coahuila and Texas, and each and every grant founded thereon, is, and was from the beginning, null and void; and all surveys made under pretence of authority derived from said acts, are hereby declared to be null and void: and all eleven league claims, located within twenty leagues of the boundary line between Texas and the United States of America, which have been located contrary to the laws of Mexico, are hereby declared to be null and void. And whereas many surveys and titles to lands have been made whilst most of the people of Texas were absent from home, serving in the campaign against Bexar, it is hereby declared that all the surveys and locations of land made since the act of the late consultation closing the land offices, and all titles to land made since that time, are, and shall be null and void.

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

SEC. 11. Any amendment or amendments to this constitution, may be proposed in the house of representatives or senate, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on the journals, with the yeas and nays thereon, and referred to the congress then next to be chosen, and shall be published for three months previous to the elec-

tion; and if the congress next chosen as aforesaid, shall pass said amendment or amendments by a vote of two-thirds of all the members elected to each house, then it shall be the duty of said congress to submit said proposed amendment or amendments to the people, in such manner and at such times as the congress shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of congress voting thereon, such amendment or amendments shall become a part of this constitution: Provided, however, that no amendment or amendments be referred to the people oftener than once in three years.

### DECLARATION OF RIGHTS.

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

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

Second. 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 an inalienable right to alter their government in such manner as they may think proper.

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

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

Fifth. The people shall be secure in their persons, houses, papers, and possessions, from all unreasonable searches and seizures, and no warrant shall issue to search any place or seize any person or thing, without describing the place to be searched or

the person or thing to be seized, without probable cause, supported by oath or affirmation.

Sixth. In all criminal prosecutions the accused shall have the right of being heard, by himself, or council, or both; he shall have the right to demand the nature and cause of the accusation, shall be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his favor. And in all prosecutions by presentment or indictment, he shall have the right to a speedy and public trial, by an impartial jury; he shall not be compelled to give evidence against himself, or be deprived of life, liberty, or property, but by due course of law. And no freeman shall be holden to answer for any criminal charge, but on presentment or indictment by a grand jury, except in the land and naval forces, or in the militia when in actual service in time of war or public danger, or in cases of impeachment.

Seventh. No citizen shall be deprived of privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Eighth. No title of nobility, hereditary privileges or honors, shall ever be granted or conferred in this republic. No person holding any office of profit or trust shall, without the consent of congress, receive from any foreign state any present, office, or emolument of any kind.

Ninth. No person, for the same offence, shall be twice put in jeopardy of life or limbs. And the right of trial by jury shall remain inviolate.

Tenth. All persons shall be bailable by sufficient security, unless for capital crimes, when the proof is evident or presumption strong; and the privilege of the writ of "habeas corpus" shall not be suspended, except in case of rebellion or invasion the public safety may require it.

Eleventh. 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 any injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

Twelfth. No person shall be imprisoned for debt in consequence of inability to pay.

Thirteenth. No person's particular services shall be demanded, nor property taken or applied to public use, unless by the consent of himself or his representative, without just compensation being made therefor according to law.

Fourteenth. Every citizen shall have the right to bear arms in defence of himself and the republic. The military shall at all times and in all cases be subordinate to the civil power.

Fifteenth. The sure and certain defence of a free people is a well regulated militia; and it shall be the duty of the legislature to enact such laws as may be necessary for the organizing of the militia of this republic.

Sixteenth. Treason against this republic shall consist only in levying war against it, or adhering to its enemies, giving them aid and support. No retrospective or ex-post facto law, or laws impairing the obligation of contracts, shall be made.

Seventeenth. Perpetuities or monopolies are contrary to the genius of a free government, and shall not be allowed; nor shall the law of primogeniture or entailments ever be in force in this republic.

The foregoing constitution was unanimously adopted by the delegates of Texas, in convention assembled, at the town of Washington, on the seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, and of the Independence of the Republic, the first year.

In witness whereof, we have hereunto subscribed our names.

RICHARD ELLIS,

President and Delegate from Red River.

ALBERT H. S. KIMBLE, Secretary,

C. B. Stewart,  
James Collinsworth,  
Edwin Waller,  
A. Brigham,  
John S. D. Byrom,  
Francis Ruis,  
J. Antonio Navarro,  
William D. Lacy,  
William Menifee,  
John Fisher,  
Matthew Caldwell,  
William Motley,  
Lorenzo de Zavala,  
George W. Smyth,  
Stephen H. Everett,  
Elijah Stepp,  
Claiborne West,

John S. Roberts,  
Robert Hamilton,  
Collin McKinney,  
A. H. Latimore,  
James Power,  
Sam. Houston,  
Edward Conrad,  
Martin Palmer,  
James Gaines,  
William Clark, jun.,  
Sydney O. Pennington,  
Samuel P. Carson,  
Thomas J. Rusk,  
William C. Crawford,  
John Turner,  
Benjamin Briggs Goodrich,  
James G. Swisher,

William B. Leates,  
M. B. Menard,  
A. B. Hardin,  
John W. Bunton,  
Thomas J. Gazley,  
R. M. Coleman,  
Sterling G. Robertson,  
George C. Childress,  
Baily Hardiman,  
Robert Potter,  
Charles Taylor,

Georges W. Barnet,  
Jesse Grimes,  
E. O. Legrand,  
David Thomas,  
S. Rhoads Fisher,  
John W. Bower,  
J. B. Woods,  
Andrew Briscoe,  
Thomas Barnett,  
Jesse B. Badgett,  
Stephen W. Blount.

I do hereby certify that I have carefully compared the foregoing Constitution, and find it to be a true copy from the original filed in the archives of the Convention.

Given under my hand, this 17th day of March, 1836.

Attest,

H. S. KIMBLE,  
Secretary of the Convention.



# L A W S

OF THE

## REPUBLIC OF TEXAS.

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### AN ACT

Authorizing the President of the Republic to appoint his cabinet officers.

Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized to appoint, by and with the advice and consent of the senate, in addition to the secretary of state, a secretary each of the treasury, war, and navy departments; also, an attorney general; which officers, when so appointed, shall constitute the president's cabinet.

SEC. 2. Be it further enacted, That the president be, and he is hereby authorized to fill any vacancies in said offices, which may occur during the recess of the senate, either by death or resignation.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved Oct. 25, 1836.

SAM. HOUSTON.

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### JOINT RESOLUTION.

Recognizing the orders of General T. J. Rusk, relative to certain mail routes and carriers.

Resolved by the senate and house of representatives of the republic of Texas, in congress assembled, That the orders of General

T. J. Rusk, establishing certain mail routes, and employing carriers, be recognised; and that the paymaster be instructed to audit the accounts.

IRA INGRAM,  
Speaker of the house of representatives.  
RICHARD ELLIS,  
President pro tem. of the senate.

Approved, Nov. 3, 1836.

SAM. HOUSTON.

### JOINT RESOLUTION.

Confirming the Contract of Major General Memican Hunt.

Be it resolved by the senate and house of representatives of the republic of Texas, in congress assembled, That the contract entered into by the government ad interim with Memican Hunt, on the 11th of June last, be, and the same is hereby recognised and reconfirmed by the existing government of this republic; and that the president be authorized and instructed forthwith to inform said Hunt of the same.

IRA INGRAM,  
Speaker of the house of representatives.  
MIRABEAU B. LAMAR,  
President of the senate.

Approved, Nov. 7, 1836.

SAM. HOUSTON.

### AN ACT

For the relief of Erastus Smith.

Whereas, it is both just and wise in a government to reward bravery, gallant daring, and exalted patriotism in her citizens; and whereas Erastus Smith, usually known and called "Deaf Smith," unites these qualities in an exalted degree, together with his heavy losses, constant services, and self sacrifices in the cause of Texas and liberty; therefore,

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That there shall be, and is hereby granted to Erastus Smith, his heirs or assigns forever, any house and lot in the city of Bexar, which may be con-

fiscated to the public use, under the provisions and by authority of any law or laws of this republic.

SEC. 2. And be it further enacted, That it shall be lawful for said Erastus Smith, his heirs or assigns, to avail himself of the benefit of this act at as early a period as he may desire, from and after said confiscated property shall be lawfully ascertained.

SEC. 3. And be it further enacted, That in further consideration of what is justly due to said Erastus Smith, his heirs or assigns for ever, he shall be, and is hereby granted one league and one labor of public land, to be by him, his heirs or assigns, selected of any of the public domain of Texas, so soon as the land offices are opened for entry and location: provided, that no public property, such as forts, court houses, calibooses, churches, public squares, &c. shall be granted to said Erastus Smith.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 11, 1836.

SAM. HOUSTON.

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### JOINT RESOLUTION.

For sending a Minister to the United States of America.

Whereas, the good people of Texas, in accordance with a proclamation of his Excellency David G. Burnet, president ad interim of the republic, did, on the first Monday of September last past, at an election held for president, vice president, senators, and representatives of congress, vote to be annexed to the United States of America, with an unanimity unparalleled in the annals of the elective franchise, only ninety-three of the whole population voting against it:

Be it therefore resolved by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized and requested to despatch forthwith to the government of the United States of America, a minister, vested with ample and plenary powers to enter into negotiations and treaties with the United States government for the recognition of the independence of Texas, and for an immediate annexation to the United States; a measure

required by the almost unanimous voice of the people of Texas, and fully concurred in by the present congress.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 16, 1836.

SAM. HOUSTON.

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### AN ACT

Providing for an increase of the Navy.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the present naval force of the Republic shall be, as soon as practicable, increased by the building or purchase of the following number and description of vessels, viz: One sloop of war, mounting twenty-four guns, and of such a draft of water as will enable her to enter the port of Galveston; also two armed steam vessels, drawing, when loaded, not exceeding six feet water, built upon the most approved plan, and capable of transporting seven hundred and fifty men and provisions each: and two schooners mounting eleven guns each, carrying two topsails, and not to draw over eight feet and a-half water.

SEC. 2. And be it further enacted, That the president shall forthwith, by and with the consent of the senate, appoint some proper person, or persons, whose duty it shall be to proceed immediately to the United States of America, and purchase or contract for and superintend the building of the above named number and description of vessels.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 18, 1836.

SAM. HOUSTON.

AN ACT

Providing rations, and other comforts, for soldiers, and widows of soldiers, at the town of Columbia.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the president of the republic of Texas shall be, and he is hereby authorised and empowered to appoint one quarter master, and such number of commissaries as he may deem requisite to discharge the duties herein prescribed.

SEC. 2. And be it further enacted, That the quarter master shall provide tents and rations for all soldiers that may be here at the town of Columbia, and detained on business with this government; it shall also be his duty to provide for the sick, and also for widows and their families.

SEC. 3. And be it further enacted, That the president be, and is hereby further authorised and empowered to order the quarter master to make use of any or all the public cattle, recently driven to this place for the purposes specified in the second section of this act.

SEC. 4. And be it further enacted, That it shall be the duty of the quarter master to make out a clear, concise, and full report of all disbursements and expenditures, the names of each and every individual, the length of time that they have been furnished, and the amount furnished to each one, at least once in every month.

SEC. 5. And be it further enacted, That the president of the Republic shall be, and is hereby fully authorised and empowered, to cause to be defrayed by this government, all expenses that may be incurred under the provisions of the foregoing act.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 18, 1836.

SAM. HOUSTON,

## AN ACT

To authorise the President to negotiate a loan on the bonds of the government not exceeding five millions of dollars.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the president of this republic be, and he is hereby fully authorised to issue bonds of this republic, for the sum of one thousand dollars each, not exceeding five millions of dollars; which bonds shall be signed by the president and secretary of state, and countersigned by the secretary of the treasury; shall be negotiable by simple endorsement, and shall bear an interest on the face thereof, at a rate not exceeding ten per cent. per annum, to be paid to the holders thereof at such times and place as may be stipulated in said bonds. Said bonds to be prepared as soon as practicable under the direction of the president, and made redeemable in thirty years from the day of date.

SEC. 2. Be it further enacted, That the president, by and with the advice and consent of the senate, shall appoint two commissioners into whose hands said bonds shall be delivered by the president, who shall immediately proceed to the United States of America, for the purpose of negotiating said bonds; but if said commissioners should not be able to negotiate the sale of said bonds in the United States of America, then, in that case, they are authorised and hereby required to proceed to Europe for the purpose of effecting said negotiations.

SEC. 3. Be it further enacted, That in case of the death or resignation of said commissioners, or either of them during the recess of congress, the president is hereby fully empowered to fill such vacancy, or vacancies, until the meeting of the next congress.

SEC. 4. Be it further enacted, That said commissioners are hereby required to correspond with the secretary of the treasury, of this republic, informing him of the progress of their negotiations; and that said commissioners be, and are hereby required to pay over to said secretary of the treasury all monies which they may receive from the sale of said bonds, or any portion thereof.

SEC. 5. Be it further enacted, That it shall be the duty of the secretary of the treasury to lay before each and every congress, early in every session, a full statement of all such sale or sales of said bonds, as may have been effected, showing the terms and conditions of said sale or sales, the expenses accruing

thereon, and what dispositions have been made of the proceeds of the same.

SEC. 6. Be it further enacted, That said commissioners are hereby authorised to negotiate two millions of dollars of said bonds redeemable in a less time than thirty, but not for a shorter period than five years.

SEC. 7. Be it further enacted, That if any bank or banks shall become the purchaser, or purchasers, of any portion of said bonds, then and in that case, said commissioners are hereby authorised to stipulate that the notes of said bank or banks shall be received at par, in payment of all public dues of this republic, to the amount of their loan or purchase of said bonds, so long as said bank or banks continue solvent and specie paying; and if any bank or banks become the purchaser or purchasers of any portion of said bonds, the said commissioners shall specify on the face of said bond or bonds, that they are redeemable and payable in the notes of said bank or banks.

SEC. 8. Be it further enacted, That if any bank or banks which may purchase said bond or bonds, or any portion of them shall fail, stop payment, or refuse to redeem its or their notes with specie, then and in that case the government of Texas shall have the privilege of terminating the loan with said bank at any time, by a payment of the principal and interest of the same.

SEC. 9. Be it further enacted, That said commissioners are hereby authorised to give to the purchasers of said bonds the privilege of at any time taking the amount of their loans or purchases in land, at the minimum government price; or if the public lands are sold at auction, that said lenders or purchasers shall be allowed to bid, and pay the amount of their bids with any of such bonds as they may have purchased.

SEC. 10. And be it further enacted, That for the punctual payment of the interest, and final redemption of said bonds, the public faith is hereby solemnly pledged; and also all the proceeds of the sales of the public domain; and also all the taxes on lands which may accrue to this government after the year 1838, are hereby reserved and appropriated for that special purpose.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 18, 1836.

SAM. HOUSTON.

## JOINT RESOLUTION.

Explaining the different acts in relation to the services of Volunteers, and extending the acts relating to bounty lands.

SEC. 1. Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the pay of volunteers from the United States and elsewhere shall commence from the time of their embodying and leaving home, provided said time shall not exceed sixty days prior to their being mustered into service of the republic of Texas, at which time their term of service will commence.

SEC. 2. Be it further resolved, That the provisions of the ordinance granting the lands to volunteers from the United States and elsewhere, be so construed as to extend to all who have rendered service as volunteers in the army of the republic of Texas.

SEC. 3. And be it further resolved, That all volunteers who have entered the service of the republic of Texas since the first day of July last, shall be entitled to the same pay and bounties of land as those who entered the service prior to that time.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Vetoed by the president, and passed by a constitutional majority of the house of representatives, November 23, 1836.

IRA INGRAM,

Speaker of the house of representatives.

This act was vetoed by the president, and passed by a constitutional majority of the senate, November 24, 1836.

RICHARD ELLIS,

President pro tem. of the senate.

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AN ACT

For establishing Rules and Articles for the government of the Armies of the Republic of Texas.

Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That from and after the passing of this act, the following shall be the rules and regulations by which the armies of said republic of Texas shall be governed.

ART. 1. Any officer or soldier, who shall use contemptuous or disrespectful language towards the president of the republic, against the vice president or congress thereof, if a commissioned officer, shall be cashiered or otherwise punished, as a court martial shall direct; if a non-commissioned officer, or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a court martial.

ART. 2. Any officer or soldier, who shall behave himself with contempt or disrespect towards his commanding officer, shall be punished, according to the nature of his offence, by the judgment of a court martial.

ART. 3. Any officer or soldier, who shall begin, cause, excite, or join in any meeting or sedition in any troop or company, in the service of the republic, or in any party, post, detachment, or guard, shall suffer death, or such punishment as by a court martial shall be inflicted.

ART. 4. Any officer, non-commissioned officer, or soldier, who, being present at any mutiny, or sedition, and does not use his utmost endeavors to suppress the same, or coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding officer, shall be punished by the sentence of a court martial with death, or otherwise, according to the nature of his offence.

ART. 5. Any officer, or soldier, who shall strike his superior officer, or lift any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court martial.

ART. 6. Every non-commissioned officer, or soldier, who shall enlist himself in the regular service of this republic, shall, at the time of his enlisting, or within six days afterwards, have the articles for the government of the armies of the republic read to him, and shall, by the officer who enlisted him, or by the commanding officer of the troop or company in which he was enlisted, be taken before the next civil or chief magistrate of any city or town corporate, not being an officer of the army; or where recourse cannot be had to the civil magistrate, before the judge advocate; and in his presence shall take the following oath or affirmation: "I,

do solemnly swear or affirm, (as the case may be,) that I will bear true allegiance to the republic of Texas,

and that I will serve her honestly and faithfully against all her enemies, or opposers whatsoever, and observe and obey the orders of the president of the republic, and the officers appointed over me, according to the rules and articles for the government of the armies of the republic." Which justice, magistrate, or judge advocate, is to give the officer a certificate, stating that the man enlisted did take the oath or affirmation.

ART. 7. After a non-commissioned officer or soldier shall have been duly enlisted and sworn, he shall not be dismissed the service without a discharge in writing; and no discharge granted to him shall be sufficient which is not signed by the field officer of the regiment to which he belongs; or commanding officer, when no field officer of the regiment is present; and no discharge shall be given to a non-commissioned officer, or soldier, before his term of service shall have expired, but by order of the president, the secretary of war, the commanding officer of a department, or the sentence of a general court martial; nor shall a commissioned officer be discharged but by order of the president of the republic, or by order of a general court martial.

ART. 8. Every colonel or officer commanding a regiment, troop, or company, and actually quartered with it, may give furloughs to non-commissioned officers and soldiers in such numbers, and for such a length of time, as he shall judge to be most consistent with the good of the service; and a captain or other inferior officer, commanding a troop or company, or in any garrison, fort, or barrack of the republic, (his field officer being absent,) may give furloughs to non-commissioned officers or soldiers, for a term not exceeding twenty days in six months; but not to more than two persons to be absent at the same time, excepting some extraordinary occasion should require it.

ART. 9. At every muster the commanding officer of each regiment, troop, or company, there present, shall give to the inspector general, or other officer, who musters said regiment, troop, or company, certificates, signed by himself, signifying how long such officers as shall not appear at said muster have been absent, and the reason of their absence. In like manner every commanding officer of every troop or company, shall give certificates, signifying the reasons of the absence of the non-commissioned officers, and private soldiers, which reasons and time of absence shall be inserted in the muster rolls, opposite the respective names of the absent officers and soldiers. The certificates shall, together with the muster rolls, be transmitted by the inspec-

tor general, or other officer mustering, to the secretary of war, as speedily as the distance of the place will admit.

ART. 10. Every officer, who shall be convicted before a general court martial, of having signed a false certificate, relating to the absence of either officer or private soldier, or relative to his or their pay, shall be cashiered.

ART. 11. Every officer who shall make, knowingly, a false muster roll of man or horse, and every officer or inspector general who shall willingly sign, direct, or allow the signing of muster rolls, wherein such false muster is contained, shall, upon proof made by two witnesses, before a general court martial, be cashiered; and shall be thereby utterly disabled to have or hold any office or employment in the service of the republic.

ART. 12. Any officer who shall presume to muster a person as a soldier, who is not a soldier, shall be deemed guilty of having made a false muster, and shall suffer accordingly.

ART. 13. Any officer who shall, knowingly, make a false return to the department of war, or to any of his superior officers, authorised to call for such returns of the state of the regiment, troop, company, or garrison, under his command, or of the arms, ammunition, and clothing or other stores thereunto belonging, shall, on conviction thereof before a court martial, be cashiered.

ART. 14. The commanding officer of every regiment, troop, or independent company, or garrison of the republic, shall, in the beginning of every month, remit, through the proper channels, to the department of war, an exact return of the regiment, troop, independent company, or garrison, under his command, specifying the names of the officers then absent from their posts, with the reasons for, and the time of their absence. And any officer who shall be convicted of having, through neglect or design, omitted sending such returns, shall be punished according to the nature of the offence, by the sentence of a general court martial.

ART. 15. All officers and soldiers who have received pay, or have been duly enlisted in the service of the republic, and shall be convicted of having deserted the same, shall suffer death, or other punishment, as by sentence of a court martial shall be decreed.

ART. 16. Any non-commissioned officer, or soldier, who shall, without leave from his commanding officer, absent himself from his troop, company, or detachment, shall, upon being convicted thereof, be punished according to the nature of his offence,

at the discretion of a court martial. No non-commissioned officer, or soldier, shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company in which he last served, on the penalty of of being reputed a deserter, and suffering accordingly; and in case any officer shall, knowingly, receive or entertain such non-commissioned officer, or soldier, or who shall not, after his being discovered to be a deserter, confine him, and give notice thereof to the corps in which he has served, the said officer shall, by a court martial, be cashiered.

ART. 17. Any officer, or soldier, who shall be convicted of having advised or persuaded any other officer or soldier to desert the service of the republic, shall suffer death, or such other punishment as shall be inflicted upon him by the sentence of a court martial.

ART. 18. No officer or soldier shall use any reproachful language or gesture to another; if an officer, upon pain of being put under arrest; if a soldier, confined; and shall ask pardon of the party offended in the presence of the commanding officer.

ART. 19. No officer or soldier shall send a challenge to another officer or soldier to fight a duel, or accept a challenge if sent, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporeal punishment, at the discretion of a court martial.

ART. 20. If any commissioned or non-commissioned officer of a guard shall, knowingly or willingly, suffer any person whatever to go forth to fight a duel, he shall be punished as a challenger; and all seconds, promoters, and carriers of challenges, in order to fight a duel, shall be deemed as principals, and punished accordingly. And it shall be the duty of every officer commanding an army, regiment, post, or detachment, who is knowing to a challenge being given to, or accepted by any officer, non-commissioned officer, or soldier under his command, or has reason to believe the same to be the case, immediately to bring to trial such offenders.

ART. 21. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, though the person concerned shall belong to another regiment, troop, or company, and either to order officers into arrest, non-commissioned officers and soldiers into confinement, until their proper superior officers shall be acquainted therewith; and whoever shall refuse to obey such officer, (though of inferior rank,) or

shall draw his sword upon him, shall be punished at the discretion of a general court martial.

ART. 22. Any officer, or soldier, who shall upbraid another for refusing a challenge, shall himself be punished as a challenger; and all officers and soldiers are hereby discharged from any imputation of dishonor or disgrace, which might arise from their having refused to accept of challenges, as they will only have acted in obedience to the laws, and done their duties as good soldiers, who subject themselves to discipline.

ART. 23. All officers, commanding in the field, forts, barracks, or garrisons of the republic, are hereby required to see that all the persons permitted to settle, shall supply the soldiers with good and wholesome provisions, or other articles, at a reasonable price, as they shall be answerable for their neglect.

ART. 24. No person commanding in any of the forts, garrisons, or barracks of the republic, shall exact exorbitant prices for houses, stalls let out to settlers, or connive at the like exactions in others, or by his own authority, or for his private advantage, lay any duty or imposition, or be interested in the sale of any victuals, liquors, or other necessities of life brought into the forts, garrisons, and barracks, for the use of the soldiers, on the penalty of being discharged from the service.

ART. 25. Every officer commanding in quarters, garrison, or on the march, shall keep good order, and to the utmost of his ability, redress all abuses or disorders, which may be committed by any officer or soldier under his command, if upon complaint made to him, of officers or soldiers beating, or otherwise ill treating any person; of disturbing fairs and markets, or of committing any kind of riot, to the disquiet of the citizens of this republic, he, the said commander, who shall refuse or omit to see justice done to the offender or offenders, and reparation made to the party or persons injured, as far as part of the offender's pay shall enable him or them, shall, upon proof thereof, be cashiered, or otherwise punished as a general court martial shall direct.

ART. 26. When any commissioned officer or soldier shall be accused of a capital crime, or of having used violence, or committed any offence against the person or property of any citizen of the republic, such as is punishable by the known laws of the land, the commanding officer and officers of every regiment, troop, or company, to which the person or persons so accused shall belong, are hereby required, upon application duly made, by or in behalf of the party or parties so injured, to use their utmost endeavors to deliver over such accused person or

persons to the civil magistrate, and likewise to be aiding and assisting to the officers of justice, in apprehending and securing the person or persons so accused, in order to bring him or them to trial. If any commanding officer or officers, shall wilfully neglect or refuse, upon the application aforesaid, to deliver over such accused person or persons to the civil magistrates, or to be aiding and assisting to the officers of justice, in apprehending such person or persons, the officer or officers so offending, shall be cashiered.

ART. 27. If any officer shall think himself wronged by his colonel, or the commanding officer, and shall, upon due application being made to him, be refused redress, he may complain to the general commanding in the division or brigade to which his regiment is attached, in order to obtain justice; who is hereby required to examine into the said complaint, and to take proper measures for redressing the wrongs complained of, and transmit as soon as possible to the department of war a true statement of said complaint, with the proceedings had thereon.

ART. 28. If any inferior officer or soldier shall think himself wronged by his captain or other officer, he is to complain thereof to the commanding officer of the regiment, who is hereby required to summon a regimental court martial for doing justice to the complainant: from which regimental court martial either party may, if he thinks himself still aggrieved, appeal to a general court martial; but if, upon a second hearing, the appeal shall appear vexatious and groundless, the person so appealing shall be punished at the discretion of the said court martial.

ART. 29. Any commissioned officer, store keeper, or commissary, who shall be convicted, at a general court martial, of having sold, without proper order for that purpose, embezzled, misapplied, or wilfully or through neglect, suffer any of the provisions, arms, forage, clothing, or other military stores, belonging to the republic, to be spoiled or damaged, shall at his own expense make good the damages; and shall, moreover, forfeit all his pay and be dismissed from the service.

ART. 30. Any non-commissioned officer or soldier, who shall be convicted at a general court martial, of having sold, lost, or spoiled, through neglect, his horse, arms, clothes or accoutrements, shall undergo such weekly stoppages (not exceeding half of his pay,) as such court martial shall judge sufficient for repairing the loss or damage, and shall suffer confinement or such corporeal punishment as his crime shall deserve.

ART. 31. Any non-commissioned officer or soldier who

shall be convicted at a regimental court martial, of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him, to be employed in the service of the republic, shall be punished at the discretion of such court.

ART. 32. Every officer who shall be convicted, before a court martial, of having embezzled or misapplied any money with which he may have been entrusted, for the payment of the men under his command, or for enlisting men into the service, or for other purposes, if a commissioned officer, shall be cashiered, and compelled to refund the money; if a non-commissioned officer, shall be reduced to the ranks, be put under stoppages until the money be made good, and suffer such corporeal punishment as such court martial shall direct.

ART. 33. Every captain of a company is charged with the arms and accoutrements, ammunition, clothing, or other warlike stores, belonging to the troop or company under his command, which he is to be accountable for to his colonel, in case of their being lost, spoiled and damaged, not by unavoidable accidents, or on actual service.

ART. 34. No officer or soldier shall be out of his quarters, garrison, or camp, without leave from the superior officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

ART. 35. Every non-commissioned officer and soldier shall retire to his quarters or tent at the beating of retreat, in default of which he shall be punished according to the nature of his offence, by the sentence of a court martial.

ART. 36. No officer, non-commissioned officer, or soldier, shall fail in repairing to the place of parade, of exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness or some other evident necessity, or shall go from the said place of rendezvous without leave from his commanding officer, before he shall be regularly relieved or dismissed, on the penalty of being punished according to the nature of his offence, by the sentence of a court martial.

ART. 37. Any commissioned officer who shall be found drunk on his post, shall be cashiered. Any non-commissioned officer or soldier so offending, shall suffer such corporeal punishment as shall be inflicted by the sentence of a court martial.

ART. 38. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by the sentence of a court martial.

ART. 39. No soldier belonging to any regiment, troop, or company, shall hire another to do his duty for him, or be excused from duty, but in case of sickness, disability, or leave of absence; and every soldier found guilty of hiring his duty, as also the party so hired to do another's duty, shall be punished at the discretion of a regimental court martial.

ART. 40. And every non-commissioned officer conniving at such hiring of duty aforesaid shall be reduced; and every commissioned officer knowing and allowing such ill practices in the service, shall be punished by the sentence of a general court martial.

ART. 41. Any officer belonging to the service of the republic, who, by firing of arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

ART. 42. Any officer or soldier who shall, without urgent necessity, or without the leave of his superior officers, quit his guard, platoon, or division, shall be punished according to the nature of his offence, by the sentence of a court martial.

ART. 43. No officer or soldier shall do violence to any person, who brings provisions or other necessities to the camp, garrison, or quarters of the forces of the republic, employed in any part of the republic, upon pain of death or such other punishment as a court martial shall direct.

ART. 44. Any officer or soldier who shall misbehave himself before the enemy, runaway, or shamefully abandon any fort, post, or guard, which he or they may be commanded to defend, or speak words inducing others to do the same, or shall cast away his arms and ammunition, or who shall quit his post, or colors, to plunder and pillage; every such offender, being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

ART. 45. Any person belonging to the armies of the republic, who shall make known the watchword to any person who is not entitled to receive it, according to the rules and discipline of war, or shall presume to give a parole or watchword different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

ART. 46. All officers and soldiers are to behave themselves orderly in quarters and upon the march; and whoever

shall commit any waste or spoil, either in walks of trees, parks, warrens, fish ponds, houses and gardens, enclosures, cornfields, &c., or shall maliciously destroy any property whatsoever, belonging to the public, unless by command of the commander-in-chief the armies of the said republic, shall (besides such penalties as they are subject to by law) be punished according to the nature and degree of the offence, by the judgment of a general or regimental court martial.

Whosoever employed in the armies of the republic in foreign parts, shall force a safeguard, shall suffer death.

ART. 47. Whosoever shall relieve the enemy with money, victuals, or ammunition, or who shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

ART. 48. Whosoever shall be convicted of holding a correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

ART. 49. All public stores taken in the enemy's camp, towns, ports, or magazines, whether of artillery, ammunition, clothing, forage, or provisions, shall be secured for the service of the republic, for the neglect of which the commanding officer is to be answerable.

ART. 50. If any commander of any garrison, fortress, or post, shall be compelled, by the officers and soldiers under his command, to give up to the enemy, or abandon it, the commissioned officers or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a court martial.

ART. 51. All sutlers and retainers to the camp, and persons whatsoever, serving with the armies of the republic in the field, though not enlisted soldiers, are to be subject to orders, according to the rules and discipline of war.

ART. 52. Officers having commissions of a prior date to those of the regiment in which they serve, may take place in courts martial and on detachments, when composed of different corps according to the rank given them in their former commissions; but in the regiment, troop, or company, to which such officers belong, they shall do duty and take rank, both in courts martial, and on detachments, which will be composed only of their own corps, according to the commissions by which they are mustered in said company.

ART. 53. The functions of the engineers being generally

confined to the most elevated branch of military science, they are not to assume, nor are they subject to be ordered on any duty beyond the line of their profession, except by the special order of the president of the republic, but they are to receive every mark of respect to which their rank in the army may entitle them respectively, and are liable to be transferred at the pleasure of the president, from one corps to another, regard being had to rank.

ART. 54. General courts martial may consist of any number of commissioned officers, from five to thirteen, inclusive, but they shall not consist of less than thirteen, when that number can be convened without manifest injury to the service.

ART. 55. Any general officer commanding an army, or colonel commanding a separate department, may appoint general courts martial whenever necessary. But no sentence of a court martial shall be carried into execution until after the whole proceedings shall have been laid before the officers ordering the same, or the officer commanding the troops for the time being: neither shall any sentence of a general court martial in time of peace, extending to the loss of life, dismissal of a commissioned officer, or which in a time of peace or war, respecting a general officer, be carried into execution until after the whole proceedings shall have been transmitted to the secretary of war, to be laid before the president of the republic for his confirmation or disapproval; and orders in the case of all other sentences may be confirmed and executed by the officer ordering the court to assemble, or the commanding officer for the time being, as the case may be.

ART. 56. Whenever a general officer commanding an army, or a colonel commanding a separate detachment, shall be the prosecutor or accuser of any officer in the army of the republic, under his command, the general court martial for the trial of such officer shall be appointed by the president of the republic.

ART. 57. The proceedings and sentence of said court shall be sent directly to the secretary of war, to be by him laid before the president for his confirmation or approval, or orders in the case.

ART. 58. Every officer commanding a regiment or corps may appoint courts martial, to consist of three commissioned officers for the trial and punishment of offences not capital, and decide upon their sentences. For the same purposes, all officers commanding any garrisons, forts, barracks, and other places,

when the troops consist of different corps, and in cases wherein there is but one corps, and the commanding officer, not authorized to order a regimental court martial, may assemble courts martial to consist of three commissioned officers, and decide upon their sentences.

ART. 59. No garrison or regimental court martial shall have power to try capital cases or commissioned officers, neither shall they inflict a fine exceeding one month's pay, nor imprison nor put to hard labor, any non-commissioned officer or soldier for a longer time than one month.

ART. 60. The judge advocate, or some other person deputed by him, or by the general, or officer commanding the army, detachment, or garrison, shall prosecute in the name of the republic, but shall so far consider himself as counsel for the prisoner, after the said prisoner shall have made his plea, as to object to any leading question, to any of the witnesses, or to the prisoner, the answer to which might tend to criminate himself; and administer to each member of the court, before they proceed to any trial, the following oath, which shall also be taken by all members of the garrison and regimental courts martial: "You do solemnly swear that you will well and truly try, and determine according to evidence, the matter now before you, between the republic of Texas and the prisoner to be tried, and that you will truly administer justice according to an act establishing rules and articles for the government of the armies of the republic of Texas, without favor, partiality, or affection; and if any doubts shall arise, not explained by said articles according to your conscience, the best of your understanding, and the custom of war in like cases: and you do further swear, that you will not divulge the sentence of the court martial, until it shall be published by the proper authority; neither will you discover or disclose the vote or the opinion of any particular members of this court martial, unless required to give evidence thereof, as a witness, by a court of justice, in due course of law, so help you God."

And so soon as the said oath shall have been administered to the respective members, the president of the court shall administer to the judge advocate, or person officiating as such, an oath in the following words: "You do solemnly swear that you will not disclose or discover the vote or opinion of any member of the court martial, unless required to give evidence thereof as a witness by a court of justice, in the course of law, nor divulge the sentence of the court, to any but the proper

authority, until it shall be duly disclosed by the same; so help you God."

ART. 61. When a prisoner, arraigned before a general court martial, shall, from obstinacy and deliberate design, stand mute, or answer foreign to the purpose, the court may proceed to trial and judgment, as if the prisoner had regularly pleaded not guilty.

ART. 62. When a member shall be challenged by a prisoner, he must state his cause of challenge of which the court shall, after due deliberation, determine the validity or relevancy, and decide accordingly; and no challenge to more than one member at a time, shall be received by the court.

ART. 63. All members of a court martial are to behave with decency and calmness, and in giving their votes shall begin with the youngest in commission.

ART. 64. All persons who give evidence before a court martial are to be examined on oath or affirmation, in the following form: "You swear or affirm (as the case may be,) the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth, so help me God."

ART. 65. On the trials of cases, not capital, before courts martial, the deposition of witnesses, not in line or staff of the army, may be taken before some justice of the peace, and read in evidence, provided the prosecutor and person accused are present on taking the same, or are duly notified thereof.

ART. 66. No officer shall be tried by a general court martial, nor by officers of an inferior rank, if it can be avoided; nor shall any proceedings or trials be carried on, excepting between the hours of eight in the morning and three in the afternoon, excepting in cases which, in the opinion of the officers appointed, the court martial required immediate example.

ART. 67. No person whatsoever shall use any name, any gestures, or sign in presence of a court martial, or shall cause any disorder or riot, or disturb their proceedings, in the penalty of being punished at the discretion of said court martial.

ART. 68. No officer shall be tried but by a general court martial, or shall cause any disorder or riot, or disturb their proceedings, on the penalty of being punished at the discretion of a court martial.

ART. 69. Whenever any officer shall be charged with a crime, he shall be confined to his barracks, quarters, or tent, and deprived of his sword, by the commanding officer; and any offi-

cer who shall leave his confinement before he shall be set at liberty by his commanding officer, or by a superior officer, shall be cashiered. Non-commissioned officers and privates charged with crimes, shall be confined and tried by a court martial, or released by a proper authority.

ART. 70. No officer or soldier who shall be put in arrest shall continue in confinement more than eight days, or such time as a court martial can be assembled.

ART. 71. No officer commanding any guard, or provost martial shall refuse to receive or keep any prisoners committed to his charge by any officer belonging to the forces of the republic, provided the officer at the same time deliver an account in writing, signed by himself, of the crime with which the said prisoner is charged.

ART. 72. No officer commanding a guard, or provost martial shall presume to release any person committed to his charge without authority for so doing, nor shall he suffer any person to escape in the penalty of being punished for it by a court martial.

ART. 73. Every officer or provost martial, to whose charge prisoners shall be committed, shall, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commanding officer of their names, their crimes, and the names of the officers who committed them, on penalty of being punished for disobedience or neglect, at the discretion of a court martial.

ART. 74. Any commissioned officer convicted before a general court martial, of conduct unbecoming an officer and a gentlemen, shall be dismissed the service.

ART. 75. In cases when a court martial may think it proper to sentence a commissioned officer to be suspended from command, they shall have power also to suspend his pay and emoluments for the same time, according to the nature and heinousness of the offence.

ART. 76. In all cases, when a commissioned officer is cashiered for cowardice or fraud, it shall be added in the sentence, that the crime, name and place of abode, and punishment of the delinquent, be published in the newspapers, in and about the camp, or where he usually resides, after which it shall be deemed scandalous for an officer to associate with him.

ART. 77. The commanding officer of any post or detachment, in which there shall not be a number of officers adequate to form a general court martial, shall, in cases which require the

cognizance of such a court, report to the commanding officer of the department, who shall order a court to be assembled at the nearest post or detachment, and the party accused, with the necessary witnesses, to be transported to the place where the court shall be assembled.

ART. 78. No person shall be sentenced to suffer death but by the concurrence of two-thirds of the members of a general court martial, nor except in cases herein expressly mentioned; nor shall more than fifty lashes be inflicted on any offender at the discretion of a court martial; and no officer, non-commissioned officer or soldier, or follower of the army, shall be tried a second time for the same offence.

ART. 79. No person shall be liable to be tried and punished by a general court martial for any offence that shall appear to have been committed more than two years before the issuing of the order for such trial, unless the person, by reason of having absented himself, or some other manifest impediment, shall not have been amenable to justice within that period.

ART. 80. Every officer authorized to order a general court martial, shall have power to pardon or mitigate any punishment ordered by such court, except the sentence of death, or of cashiering an officer, which in the cases he has authority (by article 65) to carry them into execution, he may suspend, until the pleasure of the president of the republic of Texas can be known; which suspension, together with copies of the proceedings of the court martial, the said officer shall immediately transmit to the president for his determination; and the colonel or commanding officer of the regiment or garrison, where any regimental or garrison court martial shall be held, may pardon or mitigate any punishment ordered by such court to be inflicted.

ART. 81. Every judge advocate, or person officiating as such, at any general court martial, shall transmit, with as much expedition as the opportunity of time and distance of place can admit, the original proceedings and sentence of such court martial, to the secretary of war; which said original proceedings and sentence, shall be carefully kept, and preserved in the office of said secretary, and that the persons entitled thereto, may be enabled, upon application to the said office, to obtain copies thereof.

ART. 82. The party tried by any general court martial, shall, upon demand thereof, made by himself, or by any person or persons in his behalf, be entitled to a copy of the sentence and proceedings of such court martial.

ART. 83. In cases when the general or commanding officer may order a court of inquiry to examine into the nature of any transaction, accusation or imputation against any officer or soldier, the said court shall consist of one or more officers not exceeding three, and a judge advocate or other suitable person, as recorder, to reduce the proceedings and evidence to writing, all of whom shall be sworn to the faithful performance of their duty. This court shall have the same power to summon witnesses for a court martial, and to examine them on oath; but they shall not give their opinion on the merits of the case, excepting they shall be thereto specially required. The parties accused shall also be permitted to cross examine and interrogate the witnesses, so as to investigate fully the circumstances in the question.

ART. 84. The proceedings of a court of inquiry must be authenticated by the signatures of the recorder and the president, and delivered to the commanding officer; and the said proceedings may be admitted as evidence by a court martial, in cases not capital, or extending to the dismissal of an officer, provided that the circumstances are such that real testimony cannot be obtained. But as courts of inquiry may be perverted to dishonorable purposes, and may be considered as engines of destruction to military merit, in the hands of weak and envious commandants, they are hereby prohibited, unless directed by the president of the republic, or demanded by the accused.

ART. 85. The judge advocate or recorder shall administer to the members the following oath: "You shall well and truly examine and enquire, according to your evidence, into the matter now before you, without favour, partiality, affection, prejudice, or hope of reward, so help you God."

ART. 86. After which the president shall administer to the judge advocate or recorder the following oath: "You do solemnly swear that you will, according to your best abilities, accurately and impartially record the proceedings and the evidence to be given in the case in hearing, so help you God." The witnesses shall take the same oath as witnesses sworn before a court martial.

ART. 87. When any commissioned officer shall die, or be killed in the service of the republic, the major of the regiment, or the officer doing the major's duty in his absence, or in post or garrison, the second officer in command, or the assistant military agent, shall immediately secure all his effects or equipage then in camp or quarters, and shall make an inventory thereof, and forthwith transmit the same to the officer of the department of

war, to the end that his executors or administrators may receive the same.

ART. 88. When any non-commissioned officer or soldier shall die, or be killed in the service of the republic, the then commanding officer of the troops or company shall, in the presence of two other commissioned officers, take an account of what effects he died possessed of, above his arms and accoutrements, and transmit the same to the department of war; which said effects are to be accounted for, and paid to the representatives of such deceased non-commissioned officer or soldier; and in case any of the officers so authorized to take care of the effects of deceased officers and soldiers, should, before they have accounted to the representatives of the same, have occasion to leave the regiment or post, by preferment or otherwise, they shall, before they be permitted to quit the same, deposit in the hands of the commanding officer, or of the assistant military agent, all the effects of such deceased non-commissioned officers and soldiers, in order that the same may be secured and paid to their respective representatives.

ART. 89. All officers, conductors, gunners, matrosses, drivers, or other persons whatsoever, receiving pay or hire in the corps of artillery, or engineers of the republic, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts martial, in like manner with the officers and soldiers of the other troops in the service of the republic.

ART. 90. The officers and soldiers of any troops, whether militia or others, being mustered and in pay of the republic, shall at all times and in all places, when joined or acting in conjunction with the regular forces of the republic, be governed by such rules and articles of war, and shall be subject to be tried by a court martial, in like manner with the officers and soldiers of the regular forces, save only that such courts martial shall be composed entirely of militia officers.

ART. 91. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles of war, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

ART. 92. The president of the republic shall have power to prescribe the uniform of the army.

ART. 93. The foregoing are to be read and published once in every two months, to every garrison, regiment, troop, or

company, mustered or to be mustered into the service of the republic, and are to be duly observed and obeyed by all officers and soldiers, who are or shall be in said service.

ART. 94. And be it further enacted, That in time of war, all persons not being citizens of, or owing allegiance to the republic, who shall be found lurking as spies in or about the fortifications or encampments of the republic, or any of them, shall suffer death, according to the law and usage of nations, by sentence of a court martial.

ART. 95. If any non-commissioned officer, musician, or private, shall desert the service of the republic, he shall, in addition to the penalties mentioned in the rules and articles of war, be liable to serve for and during such a period as shall, and may be tried by a court martial, and punished, although the terms of his enlistment may have elapsed previous to his being apprehended or tried.

ART. 96. Whenever a general court martial shall be ordered, the president of the republic may appoint some fit person to act as judge advocate; and in cases where the president shall not have made such appointment, the brigadier general, or the president of the court may make the same.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Nov. 21, 1836.

SAM. HOUSTON.

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### JOINT RESOLUTION

For the relief of J. M. Wolf.

Resolved, by the senate and house of representatives of the republic of Texas, in congress assembled, That the secretary of the treasury is hereby authorized to pay (out of any money in the treasury not otherwise appropriated) the sum of fourteen hundred and two dollars and sixty-two cents, to Mr. J. M. Wolf, or to his legal representatives.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Nov. 30, 1836.

SAM. HOUSTON.

## JOINT RESOLUTION,

Prescribing oaths of office.

Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the following oaths of office, in addition to the oath prescribed by the constitution, be taken by the secretary of state, treasury, war, and navy, and chief clerks of the several departments, which several oaths shall be administered by the speaker of the house of representatives.

"I do solemnly swear (or affirm) that I will truly, honestly, and faithfully discharge the duties of \_\_\_\_\_, without favor or partiality, to the best of my skill and ability. So help me God."

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, November 30, 1836.

SAM. HOUSTON.

## JOINT RESOLUTION,

Authorizing the president to reorganize the army.

SEC. 1. Resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the president of this republic be, and is hereby authorized to reorganize the army of Texas, in conformity with the regulations adopted by this government, and when such regulations are silent, in conformity with the military regulations of the United States of America.

SEC. 2. Be it further resolved, That all contingent military commissions heretofore granted to gentlemen, now in the United States, for the purpose of bringing men into our service, shall be confirmed in proportion to the respective number they may introduce by the tenth of January next, either for the term of two years or for during the war, to wit: for a second lieutenant twenty men, for a first lieutenant thirty men, for a captain fifty-six men, for a major two hundred and eighty men, for a lieutenant-colonel four hundred men, for a colonel five hundred and

sixty men, and for a brigadier general eleven hundred and twenty men.

IRA INGRAM,  
Speaker of the house of representatives.

RICHARD ELLIS,  
President pro tem. of the senate.

Approved, Nov. 30, 1836.

SAM. HOUSTON.

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AN ACT,

To protect the Frontier.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby required to raise, with as little delay as possible, a battalion of mounted riflemen, to consist of two hundred and eighty men, for the protection of the frontier, to be officered in like maner as the balance of the army.

SEC. 2. Be it further enacted, That the term of service of said corps shall be for twelve months or upwards, and each man shall be bound to furnish himself with a suitable, serviceable horse, a good rifle, and one brace of pistols, if they can be procured: and no one shall be allowed to enter said corps without first submitting his horse, arms, and equipments, to the inspection of an officer specially appointed by the inspector general of the army, who shall certify that such man, horse, and equipments are fit for the service.

SEC. 3. Be it further enacted, That the pay, emoluments, and bounty of said corps shall be the same as that provided for other corps of the army, with this addition, that the sum of fifteen dollars per month be allowed for the furnishing of the horses and arms.

SEC. 4. Be it further enacted, That the president be, and he is hereby authorized to order out, for the protection of the frontier, such number of the militia as the exigencies of the case may require.

SEC. 5. Be it further enacted, That it shall be the duty of the president to cause to be erected such block houses, forts, and trading houses, as in his judgment may be necessary to prevent Indian depredations.

SEC. 6. Be it further enacted, That the president have full power, when in his opinion the exigencies of the country may

require it, to order said corps to any other point than the frontier, or to the main army.

SEC. 7. Be it further enacted, That it shall be the duty of the president to enter into such negotiations and treaties as in his opinion may secure peace to the frontiers; and that he have power to appoint agents to reside amongst the Indians, and that he be authorized to distribute amongst the different tribes such presents as he may deem necessary, not to exceed in amount twenty thousand dollars.

SEC. 8. Be it further enacted, That the said corps shall be under the same rules, regulations, and restrictions of the regular army of this republic; and should any officer or soldier be found guilty of a wilful neglect of duty or disobedience of the orders of his superiors, he shall be subject to the usual pains and penalties inflicted on officers and soldiers in the regular army for like offences.

SEC. 9. Be it further enacted, That should a larger force be necessary, the president shall be authorized to extend the number so as not to exceed one regiment, of five hundred and sixty men, rank and file.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 5, 1836.

SAM. HOUSTON.

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### AN ACT,

To provide for the national defence by organizing the Militia.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That every free able bodied male citizen of this republic, resident therein, who is or shall be of the age of seventeen years, and under the age of fifty years, (except as hereinafter excepted,) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizens shall reside, and that within twenty days after receiving this act, with his commission and instructions. And it shall hereafter be the duty of such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and all those who shall from time to time arrive at the age of seventeen

years, or being of the age of seventeen years and under the age of fifty years, (except as before excepted,) shall come to reside within his bounds; and shall within ten days notify such citizen of said enrollment, by a proper non-commissioned officer of said company, by whom such notice may be proved. That every citizen so enrolled and notified, shall within ten days thereafter provide himself with a good musket, a sufficient bayonet and belt, six flints, knapsack and cartridge box, with twenty-four suitable ball cartridges; or with a good rifle, jauger, or shot gun, knapsack, shot pouch, powder horn, fifty balls suitable to the calibre of his gun, and half a pound of powder, and shall appear so armed, accoutred and provided, when called out to exercise, or in service; and that said arms, ammunition, and accoutrements, belonging to a citizen so enrolled, shall be exempt from all suits, seizures, or sales.

SEC. 2. Be it further enacted, That the vice president of this republic, the officers, judicial and executive; the members of both houses of congress, and their officers; all custom house officers, with their clerks; all post masters, and those employed in carrying the mail; all ferrymen employed at any ferry on the public road; all pilots; all mariners actually employed in the sea service; and all persons who are now or may be hereafter exempted by law, shall be and are hereby exempted from militia duty.

SEC. 3. Be it further enacted, That the enrolled militia shall be laid off in divisions, brigades, regiments, battalions, and companies. The divisions, brigades, and regiments shall be laid off by the president, and subject to such changes as he may from time to time deem expedient. Each division shall consist of two brigades, each brigade of two regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four men rank and file; and that said divisions, brigades, and regiments be numbered at the formation thereof, and a record made of such numbers in the adjutant general's office; and when in the field or in the service of the republic, each division, brigade, and regiment, shall respectively take rank according to their numbers, reckoning the first in number highest in rank.

SEC. 4. Be it further enacted, That the said militia shall be officered as follows: To each division, one major general, to be elected by the field officers of his own division; and two aids-de-camp, with rank of major, to be appointed by the said major general. To each brigade, one brigadier general, to be elected

by the commissioned officers of his brigade; with one brigade inspector, to serve also as brigade major, with the rank of major; one aid-de-camp, with the rank of captain, to be appointed by said brigadier general. To each regiment, one colonel, one lieutenant colonel, and one major, to be elected by the members of said regiment; and to each company, one captain, two lieutenants, four sergeants, four corporals, one drummer, and one fifer or bugler; that the captains and lieutenants of each company shall be elected by the members of their respective companies; and that the non-commissioned officers and musicians be appointed by the captains of their respective companies. That there shall be for each regiment, a regimental staff, to consist of one adjutant and one quarter master, to rank as lieutenants; one pay master, one surgeon and assistant surgeon, one serjeant major, one drum major, and one fife major, to be appointed by the colonel of the same.

SEC. 5. Be it further enacted, That it shall be the duty of each major general, upon good cause shown, to order a division court martial for the trial of general staff and field officers; and when the trial is complete, he shall approve or disapprove of the proceedings thereof. He shall receive copies of returns from the majors of brigades, of their annual reports made to the adjutant general; and shall receive from the adjutant general copies of requisitions of men, made by government upon his division. He shall, upon notice of invasion or insurrection, embody as many militia as he may think adequate to the emergency, notifying in the speediest manner to the president, whose directions and orders he shall obey. Whenever the major general may choose, he may attend at any muster or review whatsoever, and give any orders for disciplining the troops that he may deem expedient.

SEC. 6. Be it further enacted, That it shall be the duty of the brigadier general to appoint the time of regimental and battalion musters, for the year in which they are to fall; a written notice of which shall be delivered to the commanding officers of regiments, on or before the first day of March in every year. He shall give orders to summon brigade courts martial, and appoint the time and place for their sitting. He shall receive the proceedings of the said courts, and approve or disapprove of the sentence thereof. It is his especial duty to receive and sign the annual returns made by his brigade major; to visit each regiment in his brigade, at least once in a year, on their regimental muster days, and review them; and whenever he may be present

at any muster in his brigade, to order the training and exercise thereof, if the occasion, in his opinion, shall require it.

SEC. 7. Be it further enacted, That the commandants of regiments shall receive the written orders of his general of brigade, for the times of holding regimental and battalion musters for the whole year, and shall give a notice in writing thereof to the commandants of battalions, on or before the first day of March in the year in which they are to fall. It shall be his duty to attend the regimental and battalion musters and reviews; to exercise his regiment himself on all review days; to superintend and correct the exercise of the battalion musters, and the company musters when he may choose so to do. It shall be his duty, at least once in a year, to receive the returns of commandants of battalions, and after examining and comparing them with the returns of the preceding year, and noting any casualties that may have occurred, he shall sign them in his official capacity, and return them to the major of brigade. Upon his receiving notice of invasion and insurrection, it shall be his duty immediately to embody such force as he may deem competent for the emergency, and give the earliest information thereof to the general of division or brigade. And it shall be his duty to convene the members of his regiment, to elect proper persons to fill vacancies therein; and he may receive the resignation of any subordinate officer in his regiment, and shall appoint regimental courts martial for the trial of officers within their cognizance, of which the commandant of the regiment shall approve or disapprove.

SEC. 8. Be it further enacted, It shall be the duty of commandants of battalions to receive the written orders of the commandants of regiments, for the days on which the regimental and battalion musters shall be appointed for the year, and give a written notice thereof to the commandants of companies, within their respective battalions, on or before the last day of March in every year. They shall exercise their battalions on their respective days of muster, and when they may be present at a company muster, they may superintend their exercise if they think proper. They shall receive, examine, and sign officially, the returns from the commanding officers of companies, which they shall comprise in a return of their battalion, and noting any difference that may have occurred, return them to the adjutant of the regiment, in conformity to their orders. They shall strictly examine the arms, ammunition, and accoutrements of the corps of companies composing their battalions, at their several

musters, and shall see that their enrolments and classifications are correct and according to law.

SEC. 9. Be it further enacted, That the commanding officers of battalions shall give to those commanding companies, a written notice of the days on which the regimental and battalion musters shall fall during that year; to which the said commandants of companies shall add the days appointed for the muster of their companies for the same year; and he shall deliver within five days afterwards, to wit, by the fifth day of April in every year, a certificate of the musters so ordered, to the sergeant, whose duty it shall be to deliver it, or leave it at the abode of each corporal, musician, and private in the company to which he belongs, a like written notice, on or before the fifth day of April in each year. Each commandant of a company shall lay off his men into ten classes, for an equal routine of duty, and when called upon, he shall begin with the first. He shall be observant in enrolling all the men within his bounds, comprising all who may, from time to time, settle or inhabit therein, for the space of ten days. It shall be the duty of the commandant to exercise his company at each of the musters thereof, agreeably to the rules prescribed by congress; to inspect their arms, &c., and to make an annual return thereof, agreeably to the form he may receive, which shall be officially. In every case the commandants of companies shall receive and execute the orders of his superior officers, and conform himself to such military regulations as the service may require.

SEC. 10. Be it further enacted, That all lieutenants, and other subordinate officers of companies, shall be obedient to and execute the official orders of their commandant. They are, in particular, to assist in the exercise and organization of their companies, and report every defalcation or disobedience in the government and exercise thereof.

SEC. 11. Be it further enacted, That so much of this law as relates to regimental and battalion musters, shall not require the militia to attend musters without the counties in which they live; but where counties shall not compose a regiment, a battalion muster only shall be required; and where a county shall not compose a battalion, a company muster shall only be required; provided that these musters shall be in the stead of the regimental musters, and additional to the usual company musters.

SEC. 12. Be it further enacted, That it shall be the duty of the president, forthwith to appoint one captain and two lieuten-

ants for each county; and that it shall be the duty of the captain and lieutenants so appointed, within thirty days after their reception of their commissions, and a copy of this act, to enrol all the citizens subject to militia duty within their counties, and to report a list of their names to the adjutant general and the president, accompanied with such remarks and suggestions in regard to the proper boundaries of the different regiments, battalions, companies, &c., and such other remarks as they may think calculated to promote the objects of this act; and that said captains and lieutenants, while so engaged in enrolling the citizens of their respective counties, shall receive three dollars per diem; and in case of their refusal to accept their commissions, or perform the duties assigned them, they shall incur the penalty of a fine of one hundred dollars for each and every offence so committed.

SEC. 13. Be it further enacted, That an adjutant general shall be appointed, with the rank of colonel, as other field officers; his office shall be kept at the seat of government. Aids-de-camp shall be commissioned by the president; their duty shall be to carry and execute the orders of the major or brigadier general to whom they are attached. The brigade inspector shall be commissioned by the president. An adjutant and quartermaster shall be commissioned by the president; it shall be their duty to obey the orders of the commandants of regiments. The regimental surgeon and assistant surgeon, the paymaster, the sergeants, drum and fife majors are to conform to, and implicitly obey the orders they receive from commandants of regiments. Judge advocates shall be appointed to the several courts martial hereafter ordered by said court. It shall be the duty of the judge advocate to take and keep safely a true statement of all proceedings, whether pleas, evidence or defence made before a court martial, a fair copy of which he shall make out and deliver to the president, or officer ordering such court within twenty days after their adjournment, and to prosecute for the government.

SEC. 14. Be it further enacted, That courts martial shall be appointed for the trial of all offences arising from neglect of duty, disobedience of orders, or disorderly and ungentlemanly behavior. The president shall order general courts martial when he may think necessary, where a major general shall preside, and be composed of eight additional members, two of whom shall be brigadiers, and the other six field officers. The proceedings of this court shall be approved by the president.

from whose decision there can be no appeal. Division courts martial may be appointed at the discretion of the major general, where a brigadier shall preside, who, with six field officers, shall compose the court, whose proceedings shall be approved or disapproved, and whose sentence shall be affirmed or reversed by the major general who ordered such court, subject however (upon an appeal to the president,) to his final affirmance or reversal. Brigade courts martial may be appointed at the discretion of the brigadiers general, where a colonel shall preside, who, with six additional officers, to wit, two field officers and four captains at least, shall compose such court, whose proceedings shall be approved by the brigadier general ordering it; subject, however, (upon an appeal to the president,) to his final affirmance or reversal. Regimental courts martial shall be appointed by commandants of regiments, where a field officer shall preside, who, with six other regimental commissioned officers, two of whom at least shall be captains, shall compose a court for the trial of all officers below the grade of a field officer and the regimental staff, whose proceedings shall be approved or disapproved of by the commanding officer of the regiment; subject, however, to an appeal to the commandant of the brigade, for a final decision. In the general court martial, none shall be tried below the grade of a general officer or the general staff—in the division court martial, none shall be tried below the grade of a field officer—and in the brigade court martial, the field officers and brigade staff may be tried, or a captain, for good cause shown. Upon the convening of either of the courts herein directed, the president thereof shall administer to the judge advocate the following oath or affirmation: "I — do solemnly swear (or affirm as the case may be) that I will truly and faithfully execute the office of judge advocate to this court, so long as I remain in office, to the best of my abilities and the laws of this republic; and that I will not disclose, or discover the opinion of any particular member of this court martial I act with, unless required to give evidence in a court of justice;" which oath shall be deemed a competent qualification to such judge advocate while he continues to act; and the judge advocate shall proceed to qualify the members, by administering the following oath: "You and each of you, do swear (or affirm) that you will well and truly try and determine, according to evidence, agreeably to justice, the best of your understanding, and the laws governing the case, between the republic of Texas and the prisoner to be tried; and you will not disclose the opinions of this court martial, where secrecy

may be required, until made public by the proper officer; nor will you, at any time, disclose the vote or opinion of any particular member of this court martial, unless called upon by a court of justice to give evidence." Whereupon the court shall proceed to the business laid before them, and adjourn from day to day, until it is finished; of all of which a complete record shall be made, and signed by the president and judge advocate or recorder, and the court shall be dissolved. Upon the disclosure of the opinions or sentence of any court martial, any person may, according to this act, appeal therefrom, by filing a written notice with the officer to whom the appeal is made, within thirty days after the sentence is published; whose duty it shall be, to order up before him, the proceedings of such court for a final decision. Any officer, who shall have cause of complaint against his superior officer, shall file with the president, major general, brigadier general, or commandant of a regiment, the charges, certified in form, upon which an inquiry, or arrest, at discretion of such superior officer, may be awarded: provided, that from the commencement of an arrest, a court martial shall be ordered to meet within thirty days, of the time and place of which the officer arrested shall have at least twenty days notice. And provided also, that if, upon the meeting of such court, it shall appear that from the absence of witnesses, inability or sickness of the parties, or for any good cause shown, a fair and impartial trial could not then be had, they may adjourn the court to a future day, not exceeding six months. A court for assessment of fines, and receiving the returns of delinquents, shall be held on the last Monday of November in every year; a field officer of the regiment for which they are held shall preside; who, with four captains, four subalterns, the regimental judge advocate, and an orderly sergeant, may proceed to business; but every commissioned officer in the regiment shall be considered a member of the court ex-officio. This court is to examine all returns laid before them; to have the delinquents called, to show cause why judgment should not be awarded against them, and to deliver the opinions of the court, in every case, to the judge advocate, who is hereby directed to make a fair record thereof. This court shall also have the power of excusing from military duty, aged and disabled persons during their disability, and to hear evidence, and to determine the same. This court shall have power to adjourn from day to day, to compel the attendance of absent members, and when their business is completed, the president and judge advocate shall sign the record of their proceed-

ings, and the court for that year shall be dissolved: provided, that previous to their proceeding to do any business whatever, the members and judge advocate composing the said court, take the following oath or affirmation, to wit: "We, and each of us, do swear (or affirm) that we will truly and diligently enquire into and decide upon the several delinquencies reported to us, and decide according to law and the best of our skill and understanding, without favor or the hope of reward." It shall be the duty of any officer resigning or removing, to deliver the list of public arms and laws that may be in his possession, to the commandant of the regiment at the time of his resignation or removal, who shall deliver the same to the successor of such officer.

SEC. 15. Be it further enacted, That there shall be, in the months of October or November in every year, regimental musters, at such places as the commandants may direct, where every field, staff, and regimental commissioned and non-commissioned officer, every private and musician shall attend. There shall be a battalion muster in every battalion, at such places as the commandants may direct, in the months of May and October in each year; each lieutenant colonel shall be commandant of the first battalion of his regiment, and the major of the second: where every officer, non-commissioned officer, and private shall attend. There shall be at least two company musters in each year, which shall be appointed at the discretion, as to time and place, of the commandants of companies, between the last day of May and the last day of November, where the commissioned, non-commissioned officers, musicians and privates of each company shall attend, armed and equipped according to law. At the several musters herein directed to be held, the troops shall be exercised at least three hours in each day, and no person present shall be exempt therefrom, except from sickness, or some sufficient cause; the rolls shall be called at each muster or review; and the delinquents particularly noted by the captains of companies, both as to absence, arms, accoutrements, and as to a failure and refusal to perform the duty required when present. Once in every year, on such days as the commanding officers of regiments shall appoint, the whole of the commissioned officers, non-commissioned officers, staff, and music belonging to a regiment, shall meet at the place for holding the musters and review thereof, equipped and armed in such manner as the commandant may direct, to be drilled and exercised by him, or under his direction, which exercise and drilling shall continue for three days in succession; at this muster the roll shall be called by the command-

ant, and the delinquents noted and returned as in other musters. At all musters and reviews, and attendance on courts martial, no persons are to give impediments or disturbance. Every officer and private shall be free from arrest (except for breaches of the peace or felony) whilst going to or returning from any review, muster, or court martial; and any person or persons, other than those performing military duty, who will wilfully impede, or disturb any, corps or court in their exercise or other duty, shall be apprehended by the commanding officer, kept under guard for three days, and fined not less than five dollars, nor more than one hundred dollars; the said sum to be paid over to the regimental paymaster. Returns shall be made by all officers commanding companies, to those commanding battalions, one every year at least, in which shall be expressed the strength of each company, and the number and kind of every sort of arms and equipments therein; whose duty it shall be to countersign them digested into battalion returns, and deliver them to the officer commanding the regiment, who shall cause a like regimental return to be made out and signed by himself, delivered to the brigadier general: the brigadier general shall cause the brigade inspector to digest the whole regimental into one general brigade return; which shall be signed by the brigadier or officer commanding the brigade, and transmitted to the adjutant general, whose duty it shall be to have all such returns recorded in a book to be kept for that purpose. The general of brigade shall, without delay, have a copy of such return made out by the brigade inspector, and sent to the major general or officer commanding the division. The brigade inspectors, adjutants of regiments, and commanding officers of companies, shall keep books, in which all returns shall be duly recorded, and the casual occurrences noted. On or before the fifteenth day of July in each year, the adjutants of regiments shall receive from the commanding officers, the returns of delinquents for that year, who shall record, and deliver them to the regimental judge advocates at least five days before the sitting of the court for the assessment of fines, in order that he may lay them before that body for adjudication. After the sitting of every court of assessment, the judge advocate shall make out two fair copies of their proceedings, one of which he shall deliver to the regimental paymasters, and the other to the brigade general; both of whom shall cause the same to be recorded. The regimental paymaster shall, on or before the first day of February in each year, deliver to the high sheriff in each county, who shall, under the

penalty of fifty dollars, to be recovered by the paymaster in any court having competent jurisdiction thereof, receive and receipt for all lists and copies of judgments against all delinquents and defaulters, as adjudged by the said court of assessment, and take his receipt therefor; who shall thereupon apply for and receive the same, and levy therefor, as in other cases, if payment is withheld; for which the said sheriff shall receive the same fees and per centum as are allowed by law for the collection of the public revenue. On or before the first day of September in every year, the said sheriff shall settle with and pay over to the regimental paymaster, all sums collected by him as aforesaid, and return upon oath an account of all insolvents and delinquents; recovering his commission as aforesaid, taking the said paymaster's receipt therefor; an attested copy of which he shall, within thirty days thereafter, transmit to the general of brigade, and also have recorded in the court for the county in which he is sheriff; but in the case the said sheriff fail or refuse to pay and settle with the paymaster as aforesaid, the said paymaster may immediately proceed to recover the monies due from the said sheriff and his securities, in the same manner that monies are recovered by the counties against their public collector.—Any person aggrieved by any decision of any court of assessment, may make affidavit thereof, and lodge the same with the judge advocate before the first day of February in each year, who thereupon shall present the same at the succeeding annual term: whereupon such grievance shall be reheard and decided upon; and if the former judgment shall be affirmed, such applicant shall be charged with fifty per cent. thereon, all of which the judge advocate shall record. The regimental paymaster shall, before he acts as such, enter into bond with sufficient security, in the county court, to the president and his successors in office, in the sum of one thousand dollars, conditioned for the just fulfilment of all the duties herein required of him, which bond shall not be void on the first recovery, and he shall also take the following oath: "I do swear, that I will, as paymaster to the regiment of militia, truly and honestly perform the said duty, and render a just account to the best of my knowledge, when called upon by the law or the proper authority." And it shall be the duty of the field officers of every regiment, to call upon and settle with the paymaster annually; and they shall record a return of such settlement in the court of their county, signed by themselves, at the next court after the close of such settlements.

and the clerk shall perform such service *ex-officio*, and shall also sign a duplicate thereof, which shall be transmitted to the brigadier general commanding the brigade, who shall cause the same to be entered of record by the brigade inspector. The monies collected and funded with the regimental paymaster shall be subject to orders drawn by the commandant of the regiment, for regimental purposes, and to the orders of the major or brigadier general for any purpose immediately affecting the interest of the regiment or corps from whose paymaster the sum is drawn; all which orders shall be regularly filed and preserved by the paymaster, as vouchers in his annual settlement, for all and every duty herein specified. The said paymaster shall receive and be entitled to ten per cent. per annum, on all sums actually received and paid away. It shall be the duty of the adjutant general to call for any returns judged necessary by the president; and to furnish to each brigade forms thereof: and in like manner every commandant of division, brigade, or corps, are to be implicitly obeyed, when they may think it necessary to call for returns of their respective commands. Every division, brigade, and regiment shall be kept fully officered; and rosters in each shall be prepared by the proper officer, by which the detail of duty shall be regulated.

SEC. 16. And be it further enacted, That the president for the time being, when he deems it necessary, shall call forth into the service of this republic, such a number of militia as he shall deem expedient; a tour of duty shall be estimated at three months; and, when employed in the service of the republic, no militia shall be compelled to serve more than two tours without discharge. The militia, when in service, shall be governed by the articles of war, and the rules and regulations adopted for the army of the republic, and receive the same pay and rations as said army. Whenever a new regiment shall be ordered by the president, the field officers composing it shall meet and lay off the district into bounds for the companies; but at no time shall a company consist of less than thirty-two privates, and if at any time a company shall be reduced to a less number, it shall be incorporated with the adjoining companies, while such disabilities exist. Every officer commissioned (under this law) by president shall be implicitly obeyed as such, and shall continue to hold his commission for the space of two years from the date of his commission, unless he removes from the district in which his command operates. All courts martial, and of assessment, shall issue summons for witnesses, who shall attend; the process

may be served by any constable or sheriff, and if such witnesses shall not attend, without a good excuse, he shall be fined. The president or any field officer may subpoena witnesses previous to the sitting of the court, and it is hereby directed that the several courts possess competent powers to carry into execution the regulations granted or analogous to their institution. In all courts martial, any person to be tried may make objections to any member or members composing the said court (not exceeding three) peremptorily, and assign his reasons for objections to others; if they are such as to evince their propriety, another or other members shall be summoned; otherwise the court shall be deemed competent except the peremptory challenge. Parents and guardians shall be accountable for fines of their children, wares, &c., who are under twenty-one years of age: and it is hereby declared to every officer, non-commissioned officer, musician, and private, that the duties herein directed, are to be specifically and positively performed; and that each and every delinquent, upon a failure therein, may be charged with disobedience of orders, neglect of duty, or disorderly and ungentlemanly behavior.

That courts martial at the discretion of those directed, or whose duty it is to make inquiry, be ordered to sit on such charges; whose duty it shall be to cashier, dismiss from service, reprimand, or acquit those accused, and also to assess any fine herein imposed, either in addition to, or abstracted from any other punishment. The pay and reward, to the commissioned and staff officers, for duties arising under this act, shall be as follows:—

To the brigade inspector, for his services, to be certified by the brigadiers general, and paid by warrants on the treasury, four dollars per day. To every division judge advocate, to be paid by the paymaster of the regiments composing the division, by order of the major general, four dollars per day. To the brigade judge advocate, to be paid by the paymaster of the regiment composing the brigade, by order of the brigadier general, two dollars per day. To the regimental judge advocate, to be paid by the regimental paymaster, by order of the commandant, two dollars per day. To the orderly sergeants attending any of the above courts to be paid in the same manner as the judge advocates are, two dollars per day. To the adjutants of regiments, to be paid by the regimental paymaster, by orders drawn by the commandants of regiments, four dollars per day. To each drum and fife major, to be paid by the paymaster of the regiment, by order of the commandant, four dollars per day. To all expresses

despatched on military service, to be paid by warrants on the treasury, by certificate from a major general, brigadier general, or commandants of regiments, four dollars per day. The fines implicated under this act shall be, on every major general, who shall not perform the duty or duties required, shall pay a fine of two hundred and fifty dollars. For failing to perform a tour of duty when called on, one thousand dollars. Every brigadier general, for neglect of his duty, shall pay, for not appointing the musters in the manner herein directed, two hundred dollars; for failing to perform a tour of duty when called on, seven hundred and fifty dollars; for failing to make annual returns, one hundred dollars; for failing to review his brigade, for each regiment, fifty dollars. Every commandant of a regiment, for not appointing the mustering place of his regiment, fifty dollars; for failing to perform a tour of duty when called on, five hundred dollars; for not giving notice of musters, one hundred and fifty dollars; for not attending a regimental muster, fifty dollars; for not attending drill musters, per day, twenty-five dollars; for not attending courts martial, twenty-five dollars. Every commandant of battalion, for neglect of duty shall pay, for failing to perform a tour of duty when called on, four hundred dollars; for not giving notice of musters, one hundred dollars; for not attending and exercising their battalions on their days of muster, fifty dollars; for not making annual returns, twenty dollars; for not attending courts martial, or assessment, twenty dollars; for not attending drill musters, per day, fifteen dollars. Every commandant of a company shall pay, for failing to enrol the militia within his bounds, two hundred dollars; for failing to perform a tour of duty when called on, three hundred dollars; for not giving due notice of the musters, twenty-five dollars; for not classing his company for duty fifty dollars; for not attending and exercising his company at the several musters, for each failure, twenty-five dollars; for not making his annual returns, fifty dollars; for not making a return of delinquents, fifty dollars; for not attending court martial and assessment, twenty-five dollars. The adjutant general shall pay, for every neglect of duty enjoined by law, the sum of one hundred dollars. Aids de camp shall be fined for any neglect of their duty, for each offence, one hundred dollars. The regimental adjutant, quartermaster, surgeon, assistant surgeon, and paymaster, shall forfeit and pay, for every neglect of duty assigned by law, twenty-five dollars. Each sergeant, drum, and fife major shall pay, for not attending each muster, ten dollars. Each sergeant shall pay, for not attending each muster,

the sum of seven dollars and fifty cents; for not giving notice of musters and courts martial, twenty dollars. Every private who fails to appear at any muster shall, for each offence, pay five dollars. Any officer, who shall appear at any parade, and refuses to do the duty required of him, shall pay a fine of fifty dollars. Any non-commissioned officer, musician, or private, who attends any parade, and refuses to do the duty required of him, shall pay double the fine for non-attendance. Every non-commissioned officer or private, who attends the parade at any muster, and does not bring arms and accoutrements, shall be fined five dollars, unless it shall appear to the court of assessment that such private is unable to provide such arms. For failing to perform a tour of duty when called on, one hundred dollars.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 6, 1836.

SAM. HOUSTON.

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### JOINT RESOLUTION.

For the relief of William Bryan.

SEC. 1. Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the secretary of the treasury, under the direction of the president, be, and he is hereby authorized to pay, out of the first available means which may be at the disposal of this government, all the debts and lawful demands against this government, now owned by William Bryan, Esq., of New Orleans, or for which the said Bryan is in any way liable, to any individual or individuals, for or on account of this government.

SEC. 2. Be it further resolved, That the president be, and he is hereby authorized to place in the hands of said William Bryan, Esq., and authorize him to sell a sufficient quantity of Land Scrip to pay all the demands named in the foregoing resolution, and that he instruct him to apply the proceeds of the sale of said scrip to that special purpose: provided, that said scrip shall not be sold at a less price than fifty cents per acre; and

that the said Bryan be required to file, in the office of the secretary of the treasury, proper vouchers for all said debts.

IRA INGRAM,

Speaker of the house of representatives.

MIRABEAU B. LAMAR,

President of the senate.

Approved, Dec. 6, 1836.

SAM. HOUSTON.

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AN ACT,

Compensating officers of the civil list.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That the following shall be the compensation allowed to the officers of the civil list:—

President, with house furnished, ten thousand dollars.

Vice President, three thousand dollars.

Secretary of State, three thousand five hundred dollars.

Secretary of Treasury, three thousand five hundred dollars.

Secretary of War, three thousand five hundred dollars.

Secretary of Navy, three thousand five hundred dollars.

Attorney General, three thousand dollars.

Post Master General, two thousand dollars.

Commissioner General of the Land Office, three thousand dollars.

Chief Clerks of departments, one thousand five hundred dollars.

Treasurer, two thousand five hundred dollars.

Auditor, two thousand five hundred dollars.

Chief Justice, five thousand dollars.

Associate or District Judges, three thousand dollars.

Members of Congress, per diem, five dollars.

Speaker of the House of Representatives, per diem, seven dollars.

President pro tem. of the Senate, while acting as such, per diem, seven dollars.

Milage for members of congress, for every twenty-five miles going and coming, five dollars.

The members and officers of the Consultation that sat at San Felipe in October and November of the last year, shall re-

ceive the same compensation and milage as the members and officers of the present congress.

Chief Clerks of both houses, per diem, six dollars.

Foreign Ministers, four thousand five hundred dollars outfit; five thousand dollars salary per annum.

Consuls, perquisites.

Secretary of Legation, two thousand dollars.

Assistant Clerks, per diem, six dollars.

Reporter, per diem, eight dollars.

Sergeant-at-Arms, per diem, five dollars.

Translator for Congress, per diem, five dollars.

Door Keeper, per diem, five dollars.

SEC. 2. Be it further enacted, That the heads of departments be furnished with offices, stationery, fuel, lights, &c., at the expense of government.

SEC. 3. Be it further enacted, That no portion of the above salaries, or pay of members of congress, shall be allowed except in equal ratio with the payments made the officers and soldiers of the army and navy. Provided, however, that this section shall not extend to the reporters and clerks of either house of congress, or to the clerks of any of the departments of the government, or the translator and interpreter, the sergeant-at-arms, and the door keepers of either house of congress.

SEC. 4. And be it further enacted, That all secretaries of legation be excluded from the operation of the third section of this act.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 9, 1836.

SAM. HOUSTON.

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### AN ACT,

Relinquishing one league and labor of Land to Michael B. Menard and others, on the east end of Galveston Island.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That all the right, title, and claim which the government of Texas has to one league and one labor of land, lying and situate on, and including the east end of Galveston Island, be, and the same is hereby re-

linquished in favor of Michael B. Menard, and such associates as he may hereafter include, and all the right, title, and interest which the government of Texas now has in, and to said land, is hereby vested in the said Michael B. Menard, and such associates as he may hereafter include: Provided, that nothing herein contained shall affect the vested rights of third persons.

SEC. 2. Be it further enacted, That the president shall issue to the said Michael B. Menard, and such associates as he may include, a quitclaim title to said land, in the name of the republic of Texas.

SEC. 3. Be it further enacted, That no quitclaim title shall be issued by the president, until the receipt of some authorized agent of Texas shall be deposited in the office of the secretary of the treasury, acknowledging the receipt, from the said Michael B. Menard, of fifty thousand dollars in cash, or approved acceptances in New Orleans.

SEC. 4. Be it further enacted, That should the said Menard not pay, or cause to be paid, to some authorized agent of Texas in New Orleans or Mobile, the sum of thirty thousand dollars in cash, or approved acceptances, by the first day of February next, in the city of New Orleans, then and in that case, this act shall be considered a dead letter, and no such right or title shall vest in the said Menard or his associates, except at the option of the government, which shall be manifested by the acceptance or rejection of said thirty thousand dollars, as aforesaid, after that time; and a special pledge is retained on the property for the faithful payment of the further sum of twenty thousand dollars, and which if not paid within two months after the first payment of thirty thousand dollars, the government shall have the right to pay back the thirty thousand dollars, and declare this act a dead letter.

SEC. 5. Be it further enacted, That the government of Texas reserves to itself, all that tract of land from the extreme east end of the Island of Galveston running west on the north side of the Island until it strikes a Bayou a short distance above the present fort, thence up said Bayou to its source, thence in a straight line across the Island to the Gulf, containing fifteen acres more or less; also one block of lots in a suitable part of the town for a Custom House and other public uses, to be selected by an agent to be appointed by the president for that purpose; to be selected on or before the first day of public sale of lots at that place.

SEC. 6. Be it further enacted, That if the said M. B. Me-

nard and his associates should fail to comply with the requisitions of this act, they shall forfeit and pay to the government of Texas ten thousand dollars, recoverable in any court having cognizance over the same.

SEC. 7. And be it further enacted, That David White of the city of Mobile be, and is hereby appointed a special agent to carry into effect the provisions contained in the fourth section of this act.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 9, 1836.

SAM. HOUSTON.

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## AN ACT

Adopting a National Seal and Standard for the Republic of Texas.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That for the future the national seal of this republic shall consist of a single star, with the letters "Republic of Texas," circular on said seal, which said seal shall also be circular.

SEC. 2. Be it further enacted, That for the future there shall be a national flag, to be denominated the "National Standard of Texas," the conformation of which shall be an azure ground, with a large golden star central.

SEC. 5. Be it further enacted, That the national flag for the naval service for the Republic of Texas as adopted by the president at Harrisburg on the ninth day of April, eighteen hundred and thirty-six, the conformation of which is union blue, star central, thirteen stripes prolonged, alternate red and white, be, and the same is hereby ratified and confirmed, and adopted as the future national flag for the naval service for the Republic of Texas.

SEC. 4. And be it further enacted, That this act shall take effect and be in force from and after its passage.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM. HOUSTON.

AN ACT

Establishing an Agency in the city of Mobile.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That from and after the passage of this act, that there shall be, and is hereby established, an agency in the city of Mobile, in the state of Alabama, United States of America.

SEC. 2. Be it further enacted, That David White, of the city of Mobile, is hereby made the agent of the government of Texas. The said agent be and is hereby fully authorized to dispose of land scrip, at not less than fifty cents per acre; the proceeds of which shall be applied exclusively to the benefit of this government.

SEC. 3. Be it further enacted, That the president of this republic be, and is hereby required to deliver over to the said agent, scrip to the amount of one hundred thousand dollars, in due form; and the said agent shall be responsible to this government for the nett proceeds of the sale of all scrip which he may receive; and it shall be his duty to report monthly to the president of this republic, all his transactions in any manner touching his agency.

SEC. 4. Be it further enacted, That the said agent shall receive, as a compensation for his services, five per cent. on all monies received, and disbursements two and one half per cent.

SEC. 5. And be it further enacted, That if, in the opinion of the president of this republic, our commissioners should succeed in making a negotiation, or negotiations to a sufficient amount of money to defray the expenditures of this government, then, and in that case, the president of this republic is authorized and required forthwith to stop the sale of said scrip by said agent.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM. HOUSTON.

## AN ACT

Defining the pay of Mounted Riflemen, now and hereafter in the ranging service on the Frontier.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That each and every mounted rifleman, who has entered the ranging service, and not otherwise provided for, be, and is hereby entitled to twenty-five dollars per month as pay, and the same bounty of land as other volunteers in the field.

SEC. 2. Be it further enacted, That the pay of officers in the above service shall be as follows: a captain shall be entitled to receive seventy-five dollars per month, a first lieutenant shall receive sixty dollars per month, a second lieutenant, fifty dollars per month, and the orderly sergeant, forty dollars per month; the said officers shall also be entitled to the same bounties of land as officers of the same grade and rank in the volunteer army.

SEC. 3. And be it further enacted, That all officers and soldiers, who have been actually engaged in the ranging service since July 1835, shall be included in this act, and shall receive pay for the time he is in service.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM. HOUSTON.

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JOINT RESOLUTION

For the relief of certain Persons.

Resolved, by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be authorized and required to take such measures as in his judgment will effect the release or redemption of our unfortunate prisoners, captured by and in the possession of hostile Indians, said to be on the waters of Red River, either by calling for and send-

ing volunteers against said Indians, or by purchase, treaty, or otherwise.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM HOUSTON.

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### JOINT RESOLUTION.

For the relief of Messrs. M'Kinney and Williams.

SEC. 1. Resolved, by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized and required to appoint a commissioner for the purpose contemplated in the 10th article of the charter of the Bank of Agriculture and Commerce, granted to Samuel M. Williams, by the legislature of the state of Coahuila and Texas, in April, 1835, in order that the parties may exercise and enjoy their privileges under said act.

SEC. 2. Be it further resolved, That the secretary of the treasury be, and he is hereby authorized and empowered to negotiate a loan from any bank or banks that may be established in this republic, of sufficient amount for the payment of all just claims held by Messrs. M'Kinney and Williams against this government; and that should the secretary succeed in negotiating said loan, then he shall give notice to Messrs. M'Kinney and Williams, to produce their accounts properly authenticated for settlement; and if, on inspection, said accounts be properly authenticated, then the secretary of the treasury shall forthwith proceed to discharge said account: provided, that if the secretary of the treasury should effect such loan, that he stipulate in the face of the bond or bonds which he may execute to said bank, on this government, that the notes of said bank shall be recoverable in discharge of said bond or bonds.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM HOUSTON.

## JOINT RESOLUTIONS

Authorizing the President to negotiate a Loan for twenty thousand dollars.

SEC. 1. Resolved, by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized and empowered to borrow twenty thousand dollars, for the purpose of purchasing ammunition and munitions of war; and that he be authorized to stipulate for such an amount of interest, payable at such time, as he may be best able to contract for; and that the principal shall be redeemed at such time as may be agreed on.

SEC. 2. Be it further resolved, That the president is hereby authorized to sell sufficient land scrip to raise the said sum of twenty thousand dollars, provided, that in procuring said twenty thousand dollars, no lands shall be sold for less than fifty cents per acre.

SEC. 3. And be it further resolved, That all islands belonging to this republic shall be, and are hereby reserved for the government use, except the president be authorized specially by congress to sell them.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM HOUSTON.

## JOINT RESOLUTIONS,

Authorizing the President to issue Scrip to the amount of five hundred thousand Acres of Land.

SEC. 1. Resolved, by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized and required to sign land scrip to the amount of five hundred thousand acres, and transmit the same to Thomas Toby of New Orleans, for the purpose of being sold: provided, that said scrip shall not be sold for a less sum than fifty cents an acre: and further provided, that should the bonds of this government, to the amount of five hundred thousand dollars, be previously sold, then, and in that case it shall

be the duty of the president to recall said script, and forbid the further selling of the same.

SEC. 2. And be it further resolved, That the said Toby, with the proceeds arising from the sale of said scrip be, and is hereby authorized and required to fulfil all legal obligations into which he may have entered as agent of this government, on the faith of the authority given him by the president "ad interim," for the selling of land scrip; and that he be authorized and required to pay all legal debts contracted on the faith of the same.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 10, 1836.

SAM. HOUSTON.

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### JOINT RESOLUTION,

Defining the duties of the heads of departments of the government.

Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That it shall be, and is hereby made the duty of the heads of departments, composing the president's cabinet, to wit: the secretaries of state, of war, of the navy, of the treasury, and of the attorney general of the republic, to reside permanently at the seat of government of the same, unless absent on leave of the president, and in conformity with the constitution and the laws; to conform to and execute the instructions of the president, whether general or particular; and to give respectively and collectively, such needful aid and counsel whenever required so to do by the chief magistrate of the republic, as may be requisite to a firm, wholesome and harmonious administration of the government.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 13, 1836.

SAM. HOUSTON.

## AN ACT,

For the relief of Mrs. Mary Millsaps.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That any of the quartermasters or commissaries to whom Mrs. Mary Millsaps may apply, shall be, and are hereby authorized to furnish said Mary Millsaps and family with all the provisions and clothing necessary to their comfort; and if the quartermasters or commissaries to whom said Mary Millsaps shall apply, have not such necessaries in possession, he or they shall be, and is hereby authorized to purchase them on the account of the government, and render an account of the same to the secretary of the treasury.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 13, 1836.

SAM. HOUSTON.

## AN ACT,

Locating temporarily the seat of government.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That from and after the first day of April next, the seat of government for the republic of Texas shall be established at the town of Houston, on Buffalo Bayou, until the end of the session of congress which shall assemble in the year one thousand eight hundred and forty.

SEC. 2. Be it further enacted, That the president be, and is hereby authorized to cause to be erected a building suitable for the temporary accommodation of the congress of the republic, and such other buildings as may be necessary for the accommodation of the different departments of the government, at the said seat of government: provided, the sum or sums so expended shall not exceed fifteen thousand dollars.

SEC. 3. And be it further enacted, That the seat of govern-

ment as aforesaid, shall be located during the present session of congress, by joint vote of both houses.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President of the senate pro tem.

Approved, Dec. 15, 1836.

SAM. HOUSTON.

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AN ACT,

To establish and organize the Supreme Court, and to define the powers and jurisdiction thereof.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled, That there shall be established in this republic a court, to be styled the Supreme Court of the Republic of Texas, which court shall consist of one supreme judge, to be styled the Chief Justice; to be elected by joint vote of both houses of congress, and such judges as shall be elected judges of the districts courts, who shall continue in office during the time prescribed by the constitution. The chief justice shall receive a salary of five thousand dollars per annum, payable semi-annually at the treasury of the republic.

SEC. 2. The supreme court shall be held annually at the seat of government, on the first Monday in December, and a majority of all the judges shall be necessary to constitute such court.

SEC. 3. The said supreme court shall have jurisdiction over, and shall hear and determine all manner of pleas, complaints, motions, causes, and controversies, civil and criminal, which may be brought before it from any court in this republic, either by appeal or other legal process, and which shall be cognizable in said supreme court according to the constitution and laws of this republic: provided, that no appeal shall be granted, nor shall any cause be removed into the supreme court in any manner whatever until after final judgment or decree in the court below, except in cases particularly provided for by law.

SEC. 4. When by appeal, or in any other manner permitted by law, the judgment, sentence or decree of the court below shall be reversed, the supreme court shall proceed to render such judgment, or pronounce such sentence or decree as the court below should have rendered or pronounced, except it be necessary,

in consequence of the decision of the supreme court, that some matter of fact be ascertained, or damages be assessed by a jury, or when the matter to be decreed is uncertain, in either of which cases the suit, action, or prosecution, as the case may be, shall be remanded to the court from which it was brought for a more definite decision.

SEC. 5. When a final judgment or decree shall be rendered or pronounced in any case brought before the supreme court by appeal or otherwise, it shall be the duty of the clerk of said court to certify the final judgment or decree to the clerk of the court from which such cause was brought, within twenty days after the adjournment of the supreme court at which such final judgment or decree was rendered or pronounced, together with a bill of all costs which shall have accrued, and damages, if any assessed in the said supreme court, and it shall be the duty of every clerk of the court from which such cause was removed, on receiving such certificate, to issue executions on such final judgment for the purpose of having it carried into effect, in the same manner as though it had been rendered in the court below.

SEC. 6. The sentence of the supreme court in all criminal prosecutions brought before such court from any other courts, shall be executed in like manner in all respects as if such sentence had been rendered in the court wherein the prosecution originated, and the sheriff of the proper county shall be charged with the execution of such sentence.

SEC. 7. In all cases taken to the supreme court, in case the copy of the record in the cause below shall not be filed with the clerk of the supreme court, on or before the first day of the term to which such case was taken or returnable, it shall be lawful for the court, on motion of the defendant in appeal, and on producing a copy of the citation duly served on the defendant to dismiss the cause, but the same may be reinstated at any time during the term, if good cause be shown to the satisfaction of the court why a copy of the record was not filed in due time.

SEC. 8. The said court, or any judge thereof, in vacation, may grant writs of injunction, supersedeas, and such other writs as the laws permit to the judgements or decrees of the county or district courts, on such terms and conditions as the laws may prescribe in cases of appeals, and also to grant writs of habeas corpus, and all other remedial writs and process granted by said judges, by virtue of their office, agreeably to the principles and usages of law, returnable as the law directs, either to the supreme

court or before any judge of said court, as the nature of the case may require.

SEC. 9. In all cases of appeal to the supreme court, the trial shall be on the facts as found by the jury in the court below; and if the facts should not be stated in a manner sufficiently full and clear to enable the supreme court to give its judgment, then and in that case the said court shall remand the said cause to the proper court for a new trial, in order that the facts may be fully and clearly established, and this act shall be construed to extend to appeals taken to the superior courts of Texas, as established by the law of eighteen hundred and thirty-four, which cases remain yet undecided.

SEC. 10. For the said supreme court, one clerk shall be appointed in the following manner: in term time the appointment shall be made by an order entered of record in the proceedings of the court, and the person so appointed, before he enters on the duties of his office, shall take the oath prescribed in the constitution in open court, and shall enter into bond with two securities, to be approved by the court, payable to the president of the republic and his successors in office, in the penalty of twenty thousand dollars, conditioned for the faithful performance of the duties of his office; and that he seasonably record the judgments, decrees, decisions, and orders of the said court, and deliver over to his successor in office all records, minutes, books, papers, and whatever belongs to his said office of clerk, which bond shall be recorded in the clerk's office of said court, and immediately thereafter be deposited in the office of the secretary of state, and shall be void on the first recovery, but may be put in suit and prosecuted by the party injured, until the amount thereof be recovered; in vacation the appointment shall be made by the chief justice, and the person so appointed shall give bond and security, and take the oath as above prescribed which bond shall be recorded and deposited in the same manner as though the appointment had been made in term time, and may be prosecuted and put in suit in like manner: an authenticated copy, of said bond shall be received in evidence in any court in this republic in the same manner as the original would be if it were present in court.

SEC. 11. The said clerk shall hold his office for the term of four years from his appointment, but may be removed therefrom for neglect of duty or misdemeanor in office, by the supreme court, on motion of which, the clerk against whom complaint is made, shall have ten days previous notice, specifying the parti-

cular negligence or misdemeanor in office with which he stands charged, and in every such case the said court shall determine both the law and the fact; and whenever the necessity occurs, the supreme court may appoint a clerk *pro tempore*.

SEC. 12. The successor in office of any clerk shall receive into his possession, all papers, books, stationary, and every thing belonging to the said office; and should the person or persons, having possession of the same, refuse to give them up on demand made, it shall be the duty of the clerk to give information thereof to the attorney general, who shall prosecute such person or persons, in the name of the republic, before any court having jurisdiction of the same, and on conviction, the person so offending shall be fined in the sum of ten thousand dollars, for the use of the republic.

SEC. 13. If any clerk of the supreme court shall knowingly make any false entry or change any record in his keeping belonging to his office, every such clerk, so offending, shall, on conviction thereof, be fined and imprisoned at the discretion of the court, and shall also be liable to the action of the party aggrieved.

SEC. 14. The clerk of the said court shall carefully preserve the transcripts or records certified to his court, and all papers relative thereto, docketing all causes brought by appeal or otherwise, in the order he shall receive them, that they may be heard in the same course, unless the court, for good cause shown, direct any to be heard out of its term; and shall faithfully record the decision and proceedings of said court, and certify the same to the proper courts, and all causes shall be tried by the said supreme court at the return term, unless satisfactory cause can be shown for a continuance.

SEC. 15. The clerk of the district court shall receive and pay to the clerk of the supreme court, all costs that may have accrued in the supreme court in any cause or controversy which may have been brought into the supreme court from such district court, wherein a final judgment or decree shall be rendered, and any clerk failing to pay such costs on demand, after he shall have received the same, may be proceeded against by motion in the supreme court in the same manner that sheriffs may be proceeded against for money received on executions.

SEC. 16. A certified copy of the bond required by law to be given by the appellant or plaintiff in the appeal, shall be transmitted by the clerk of the court below, with a transcript of the record of the cause in which such appeal was taken, or which

may be taken in any other way to the supreme court; and in case the judgment or decree of the court below shall be affirmed, or the appellant shall fail to prosecute the same to effect, the supreme court shall enter up judgment or decree against all the obligors in such bond, both principal and security for the debt, damages, and costs which may be adjudged to the appellee; and it shall be the duty of the court below, on the certificate of the clerk of the supreme court, to issue executions thereon accordingly.

SEC. 17. In all cases decided by the supreme court, the judgment or decree of the court shall be pronounced publicly, with the reasons of the court for the same.

SEC. 18. All writs and processes issuing from the supreme court shall bear test of the clerk of such court, and shall be under the seal of said court and signed by the clerks thereof, and may be directed to the sheriff or other proper officer of any county in the republic, and shall be by him executed according to the commands thereof, and returned to the court from which they emanated; and whenever such writ or process shall not be executed, the clerk of said court is hereby authorized and required to issue another like writ or process upon the application of the party suing out the former writ or process; and when any person, plaintiff or defendant, in any suit depending in the said court, shall be dead, it shall be lawful for the clerk of the said court, during the recess of the court, upon application, to issue proper process, to enable the court to proceed to a final judgment or decree in the names of the representatives of such deceased person.

SEC. 19. The said court may adjourn from day to day, or for such longer period as they may think necessary to the ends of justice and the determination of the business before them; and there shall be no discontinuance of any suit, process, matter, or thing returned to or depending in the supreme court, although a sufficient number of judges shall not attend at the commencement, or any other day of the term; but if a sufficient number shall fail to attend at the commencement of any term, or at any time during the term, any judge of the said court, or the sheriff attending the same, may adjourn the said court from day to day for six days successively; at which time, if a majority of the judges do not attend, it shall be the duty of the judge or sheriff to adjourn the court to term in course.

SEC. 20. No judge of the supreme court shall sit in any cause wherein he is directly or indirectly interested, or if he

shall have been of counsel for either party in such cause; but although one or more of the judges of the supreme court be interested in the event of any suit, matter, or thing, depending therein, the same shall be finally decided by the other judges, if there be a number of judges not so interested sufficient to constitute a court; and in case a majority of said judges shall be interested in any cause depending in said court or of any kind to either party within the third degree, it shall be the duty of the congress to appoint, by joint resolution, one or more persons learned in the law to supply the places of the judges so interested, who shall hear and determine all such causes.

SEC. 21. Whenever the supreme court shall be equally divided in opinion, on hearing any appeal or other matter, the judgment or decree of the court below shall be affirmed.

SEC. 22. The sheriff of the county in which the supreme court shall be held, shall be the sheriff of said court, and shall attend the same with a sufficient number of deputies accordingly: and the sheriff and his deputies shall be bound to perform the duties of such.

SEC. 23. The supreme court shall have power to punish any person for a contempt of such court: provided such punishment shall not exceed, for each contempt, a fine of one hundred dollars, and imprisonment for six days.

SEC. 24. The chief justice shall cause to be procured a seal for the use of the supreme court, with the style of the Supreme Court around the margin in circular form, with a star of five points in the centre.

SEC. 25. The chief justice and the district judges shall be sworn into office by any one of the primary judges heretofore appointed by law.

SEC. 26. And be it further enacted, That the supreme court shall have power from time to time to establish rules or proceeding for the government of said courts, and in the several district courts in this republic: provided such rules be not inconsistent with the constitution and laws of the republic.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 15, 1836.

SAM. HOUSTON.

JOINT RESOLUTIONS,

For the relief of G. & T. H. Borden.

SEC. 1. Be it resolved by the senate and house of representatives of the republic of Texas, in congress assembled, That the president be, and he is hereby authorized to issue an order on David White, for the sum of two thousand two hundred and thirty-eight dollars twenty-seven cents, in favor of G. & T. H. Borden; and that such order, bearing legal interest, be received as cash, and paid by David White, as agent of Texas, out of any money he may have or receive for the republic of Texas.

SEC. 2. And be it further resolved, That the full amount of a contract between the Messrs. G. & T. H. Borden, on the one part, and a joint committee of both houses on the other, the date of the first payment terminating on the eleventh instant, and amounting to two thousand six hundred and sixty-two dollars fifty-six cents, be liquidated in the manner aforesaid.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 15, 1836.

SAM. HOUSTON.

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AN ACT,

Making appropriations for paying the expenses of the government of Texas.

SEC. 1. Be it enacted by the senate and house of representatives of the republic of Texas, in congress assembled, That there is hereby appropriated, out of any money in the treasury not otherwise appropriated, the following sums of money, for defraying the expenses of the government, in part, for the years 1836 and 1837. to wit: For defraying the expenses of the navy, one hundred and fifty thousand dollars; for the expenses of the army, seven hundred thousand dollars; for the executive and civil departments of the government, one hundred and fifty thousand dollars, making an appropriation of one million of dollars; which said one million of dollars, the secretary of the treasury is hereby authorized and required to pay out of the treasury, out of any money therein, not otherwise appropriated by law.

SEC. 2. And be it further enacted, That if there should be

no monies in the treasury when the same may be demanded according to law, of the secretary of the treasury, then and in that case he shall issue scrip to the person or persons lawfully entitled to the same.

IRA INGRAM,

Speaker of the house of representatives.

RICHARD ELLIS,

President pro tem. of the senate.

Approved, Dec. 15, 1836.

SAM. HOUSTON.

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AN ACT,

Establishing regulations and instructions for the government of the naval service of Texas.

OFFICERS IN GENERAL.

ART. 1. Every officer is to repair to the squadron or vessel to which he shall be appointed, without delay after receiving orders.

ART. 2. Every officer, from the time of his joining the squadron or vessel to which he shall be appointed, to the time of his removal, is to be constant in his attention to his duty; never absents himself, except on public service, without the consent of his commander, nor shall he remain out of the vessel during the night, nor after the setting of the watch, without having obtained express permission to that effect.

ART. 3. Every officer is directed to wear his uniform at all times while on public service, and it will be the duty of commanders and others to prevent any change whatever from being made in that which now is, or hereafter may be established for the navy.

ART. 4. Every officer is to conduct himself with proper respect to his superiors, and to show every respect and attention to those under his orders, having a due regard to their situation, and invariably to deport himself in every situation so as to be an example of morality, regularity, and good order, to all persons attached to the naval service. He will observe attentively the conduct of all under his command, encouraging and commending the meritorious, and censuring, punishing, or reporting to his superiors the misconduct of those who may deserve it.

ART. 5. If an inferior shall be oppressed by his superior, or observe any misconduct in him, he is not to fail in his respect

towards him, but he is to represent such oppression or misconduct to the captain of the vessel, or to the commander of the squadron in which he serves, or to the secretary of the navy in writing.

ART. 6. Every officer is strictly enjoined to avoid all unnecessary expenditure of money or stores belonging to the public, and as far as may depend on him, to prevent the same in others.

ART. 7. Every officer is strictly enjoined to report to his commander, or to the secretary of the navy, as circumstances may require, any neglect, collusion, or fraud discovered by him, in contractors, agents, or other persons employed in the supplying of vessels with provisions or stores, or in executing any work in the naval department, either on board vessel or on shore, whether or not such provisions or stores are under his own charge, or such work under his own inspection, or that of any other officer. But in making such representations he will be held accountable for all vexatious and groundless charges exhibited by him in manner aforesaid.

ART. 8. Every officer is strictly forbidden to have any concern or interest in the purchasing of, or contracting for supplies of provisions or stores of any kind for the navy, or in any works for or appertaining to it; neither shall he receive any emolument or gratuity of any kind, either directly or indirectly, on account of such purchases, contracts, or works, from any person or persons whatever.

ART. 9. Every commander, before he leaves his command, is to sign all books, accounts, and certificates, which may be necessary to enable officers to pass their respective accounts, or to receive their pay: provided he be satisfied that such books, accounts, and certificates, are correct, as by the assurance of the purser, who will be held accountable for all errors and improprieties appearing in papers bearing his signature.

ART. 10. If any officer shall receive an order from his superior, contrary to the general instructions of the secretary of the navy, or to any particular order he may have received from the said secretary of the navy, or any other superior, from whom he shall have received said orders; and if, after such representation, the superior shall still insist upon the execution of his order, the officer is to obey him, and report the circumstance to the commander of the vessel, to the commander of the squadron, or to the secretary of the navy, as may be proper.

ART. 11. The pay of every officer shall be held answerable

ble for any loss, embezzlement, or damage occurring through neglect of the public stores, and for all unnecessary expense.

### COMMANDER - IN - CHIEF.

ART. 1. Every officer appointed to the command of a squadron, shall obtain the most correct information of the state, qualities, and number of the vessels and crews under his command; the order and discipline observed in them; the quantity and quality of provisions and stores on hand, and their fitness for the service intended. He shall acquaint himself also with the skill, capacity, and information of the commanders and other officers, that he may be enabled to select for particular services, those best qualified by their peculiar abilities and sound knowledge to perform them. He shall use every exertion to equip expeditiously the squadron, and report to the secretary of the navy any defects he may discover in the vessels or their supplies, which may unfit them for the service intended.

ART. 2. He shall keep the squadron in the most perfect condition for service that circumstances will admit of, and make their repairs as far as may be in his power, by the artificers and others belonging to the vessel under his command.

ART. 3. He shall take every favorable opportunity to exercise the vessels under his command, in performing all such evolutions as may be necessary in the presence of an enemy; and on all occasions he is to be careful that a proper example of alertness and attention is shown to the squadron by the vessel which carries his flag.

ART. 4. He shall be attentive in battle to the conduct of every vessel or officer under his command, in order that he may be enabled to correct their errors, and prevent any bad effects from misconduct, and to make a true statement, to the end that they may be rewarded or punished as their conduct may really deserve.

ART. 5. He shall direct the crews of the respective vessels under his command to be frequently mustered, and cause inquiries to be made into the qualities of the men, and their fitness for the stations in which they may be rated.

ART. 6. He shall inspect into the state of every vessel under his command, and the order, discipline and attention to cleanliness, and the modes adopted for the preservation of health, and the degree of attention paid to the regulations and instructions of the navy.

ART. 7. He shall not order any commander to take on

board passengers, or to have supernumeraries, unless there should be strong reasons for so doing; and in such case he shall state his reasons in his order for that purpose.

ART. 8. He shall inform the secretary of the navy of all his proceedings relative to the service upon which he may be employed.

ART. 9. He shall correspond regularly with the secretary of the navy, informing him of all orders given by him, relating to the duties respectively connected with his command; and it shall be his duty to point out such naval improvements as his observation may enable him to suggest, and such defects and neglects as may come under his notice.

ART. 10. When it shall become absolutely necessary to suspend from employment, an officer having charge of stores, he may appoint another to act in his stead, until the pleasure of the secretary of the navy be known. He shall report by the first opportunity, an account of the circumstances which may have caused the suspension, and order a survey to be held, and an inventory of stores to be taken; one copy of which he shall forward to the navy department, and another he shall deliver to the officer taking charge of the stores, who will open accounts of the receipts, returns, conversions, and issues, from the period of closing the survey.

ART. 11. He may in like manner, and for good reasons, suspend from their stations, the captains or other officers under his command, and on a foreign station appoint others to act in their places, until the pleasure of the secretary of the navy be known; but in these cases he shall immediately transmit an account thereof to the secretary of the navy, specifying his reasons for so doing, and furnish the captain or other officers with a duplicate of the same.

ART. 12. He shall not, without good and sufficient reason, to be immediately communicated to the secretary of the navy, alter the appointments assigned to officers at the period of fitting out.

ART. 13. He shall preserve the instructions and orders received by him, and all other papers and correspondence relating to the service upon which he may be ordered in the most intelligible form, and at the end of every cruise he shall send to the secretary of the navy a narrative of his proceedings, accompanied by a fair copy of such official correspondence as may have any connection with the facts therein stated.

ART. 14. He shall conform to the standing rules of the

navy in such directions as he shall give to established agents, and incur no expense that the public service does not render absolutely necessary.

ART. 15. He shall have no private interest in the procurement of stores or provisions for the public service, nor in any way interfere with the purchase or procurement of them, where there are proper officers for that purpose, except when an absolute necessity arises for his making use of his credit or authority to obtain them.

ART. 16. He shall obey all orders received from the secretary of the navy, and exact a strict attention to them from all persons under his command.

ART. 17. In the purchase of provisions or stores at places where no regular agent is established, he may appoint one for the purpose of obtaining the necessary supply, and he may himself contract for the whole quantity required, or direct each captain to purchase what the vessel under his command may require; but in either case the amount of the bills drawn will be charged to his account, until satisfactory vouchers are received to show that the articles were of a suitable quality, and purchased at the lowest rate.

ART. 18. He shall, as far as may be practicable, when no regular agents may be established, have the public works which it may be necessary to have done, on contract, executed at the lowest rates, and on the most reasonable terms, giving public notice, that tenders may be received from those disposed to contract: copies of which contracts shall be sent by him to the secretary of the navy.

ART. 19. No boats or vessels shall be hired for the use of the squadron, without the consent of the commander, and he will be careful that such consent is not given, except when the service required cannot be performed by the boats of the vessel under his command.

ART. 20. Foreign agents are to be paid by bills drawn on the secretary of the navy, at the regular rates of exchange, unless otherwise instructed by the secretary of the navy; or bills may be disposed of, and the proceeds applied towards reimbursing them; but in either case the certificates of three respectable merchants, and the approval of the commander of the squadron, must be forwarded with the letter of advice. These bills shall in all cases be drawn by the pursers of the respective vessels for the amount of the provisions or stores received, and approved

by the commander of the squadron, or by the captain of the vessel when acting separately.

ART. 21. The commander of a squadron shall direct frequent examinations to be made into the hospital establishments, and sick quarters under his command, and cause every attention to be paid to the comforts of the sick. He shall cause the examining officers to make to him a written report of their state and condition.

ART. 22. Should the commander of a squadron be killed or disabled in battle, his flag shall continue flying while the enemy remains in sight, and the officer next in command shall be informed thereof, and take command of the squadron.

ART. 23. On the death of the commander of a squadron, the officer who succeeds him shall enjoy all the pay and emoluments of commander, in the same manner as his predecessor, until the pleasure of the secretary of the navy be known; but he is not to assume any badge of distinction, or hoist any flag which his rank does not entitle him to.

ART. 24. The commander of a squadron shall not resign his command or quit his station, unless the bad state of his health shall render a change of climate or situation absolutely necessary; and in such case he shall not weaken the squadron by taking from it a vessel, the service of which may be necessary.

ART. 25. When the commander of a squadron shall resign his command, he shall deliver to his successor the originals of all secret instructions, orders and signals, and authenticated copies of all other unexecuted instructions and orders, together with such information as may be in his possession relative to the service to be performed.

ART. 26. In the absence of the commander of the squadron, the senior officer shall be governed by the foregoing instructions, and shall superintend the various duties to be performed; for the due execution of which he will be held responsible.

## OF STORES AND PROVISIONS.

### THE CAPTAIN.

ART. 1. The signature of the captain shall be affixed to all papers having reference to the expenses of the vessel.

ART. 2. On taking command, he shall demand of his predecessor an inventory of all the articles which are on board, and if he command the vessel until she is paid off, he shall send such inventory with his accounts to the auditor of the treasury.

ART. 3. He shall cause a careful examination to be made of all articles received on board for the use of the vessel, and if he fail to do so he will be alone accountable for any evils resulting from defect or deficiencies in them: provided such defect or deficiencies were passed over at the receipt of the articles from want of due examination thereof.

ART. 4. When the duties of the ship will admit of it, he shall permit the purser to use the boats for the purpose of conveying on board provisions, stores, and other necessities for the use of the vessel.

ART. 5. He shall not permit his stores to be applied to private uses, wasted, or, without absolute necessity, converted to other purposes than those for which they were intended; and whenever he shall think it necessary to order any extraordinary expenditure or conversion of stores or provisions, his order for that purpose shall be given in writing, stating the reason or reasons for such extraordinary expenditure or conversion, which order shall be preserved and produced by the officer having charge of the stores so expended or converted, at the settlement of his accounts.

ART. 6. If any stores or provisions shall be lost, destroyed or embezzled, the circumstances shall be noted in the log book of the vessel and if, through neglect or design, they should be totally lost, they shall be charged to the offender, and he be brought to punishment.

ART. 7. He is to use the utmost economy in every thing which relates to the expenses of his vessel and the public service confided to him, using every article for the purpose for which it was originally intended, and making his supplies and means last as long as possible. He is not to use sails for covering boats, nor for awnings, nor to convert canvass into sails not allowed for the service, nor to any other purpose than that for which they were supplied, unless they shall have at first been surveyed and reported unfit for their proper use; nor shall he make any alterations in the vessel under his command without the permission of the commander-in-chief, or that of the secretary of the navy.

ART. 8. He shall examine the weekly returns of expenditures, and, with the master, sign those made monthly; which, when so signed, are to be delivered to the officers having charge of stores, to be presented by them at the settlement of their accounts.

ART. 9. He may grant to private vessels of Texas, and to

foreign vessels, when absolutely necessary, such supplies of provisions and stores as they stand in need of; giving the officers having charge of them written orders to that effect, and taking from the master or commander of the vessel so supplied, three receipts, and three bills of exchange, drawn in favor of the secretary of the navy on his owner, or those concerned in the vessel, for the real amount of the articles furnished; which bills, and two of the receipts, shall be transmitted to the secretary of the navy, and the circumstance noted on the accounts and log book of the vessel.

ART. 10. When it becomes necessary to purchase stores, they shall be delivered to the proper officers of the vessel, who shall sign receipts for them, and they are to be charged at their cost by the purser of the vessel, against such officers, in their accounts; and such charge or charges shall be transmitted to the auditor of the treasury, to stand against their pay until accounted for.

ART. 11. On the death of an officer having charge of stores, his public papers shall be separated from those of a private nature, the former to be forwarded by safe conveyance to the auditor of the treasury, and the latter, together with his private effects, to be put in charge of such officer as the captain of the vessel may appoint for that purpose, to be preserved for the benefit of the legal representative of the deceased; unless from particular circumstances, the captain should deem it advisable to dispose of them at public sale; in which case a duplicate of the inventory, with an account of the disposal or sale, shall be transmitted to the auditor of the treasury.

ART. 12. If an officer, having charge of stores, should from any accidental circumstance, be separated from his vessel, the captain shall proceed to survey and ascertain the state of the stores, as though such officer were actually dead, or discharged: and he shall, as in a like case, appoint another officer to act in his place, giving the earliest intelligence of his proceedings to the auditor of the treasury.

ART. 13. When a ship or vessel cuts, slips, or parts her cable, the captain shall, as soon as circumstances will admit, endeavour to recover the anchor or cable lost; and should it appear that no exertion for that purpose was made by him, the value of the articles will be charged against his pay; if the vessel put to sea without recovering them, the senior officer present shall endeavour to recover them, but no vessels are to be hired for the purpose, if the boats and crew of the squadron are able

to effect it: if neither of them, however, have an opportunity of recovering them, the captain of the vessel whose cable was thus cut, slipped, or parted, shall, without delay, give an account to the commander-in-chief, or to the navy agent, taking care to state particularly the bearings and distances of the most suitable places to mark the spot where the anchor lies, to the end that means may be immediately adopted for recovering it.

ART. 14. He shall attend with all the officers of his vessel when the crew is paid off, and examine carefully, to discover if any articles are concealed with a view to embezzlement, and report to the secretary of the navy the character of each officer serving under him, particularly as to his sobriety, diligence, activity and abilities.

ART. 15. A captain, when not under the immediate command of a superior, shall be held responsible for all accidents arising from negligence during his absence from the vessel he commands, where his presence might have prevented such accidents, unless he be absent on public duty, or by permission of the secretary of the navy. He shall also be held responsible for all accidents arising from the absence of the officers and crew of the vessel he commands, unless they be absent on public duty, or by permission of the secretary of the navy.

ART. 16. When the vessel goes into port to refit, he is to order a minute and careful survey of all stores, and call upon the proper officers and prepare lists of all such as are damaged as required to be replaced.

ART. 17. He is not to suffer any except the most careful of the officers and men to have berths, or to sleep in the orlop or cable tiers, in which lights are never to be used without his express permission, and then in good lanterns; nor is he to allow any person to smoke tobacco in any part of the vessel except the galley. He is strictly forbid the sticking of candles against the beams, the side or any other part of the vessel; to enjoin it upon the officers never to read in bed by the lights either of lamps or candles, nor to have any lights in their cabins without some person to attend them; to cause the funnel hole to be well secured by lead or otherwise, and the funnels to be cleaned every morning before the fires are lighted; to cause all fires to be extinguished, and lights to be put out, at the setting of the watch by the master-at-arms and ship's corporal, except such as he shall permit to be kept burning; and to give the most positive orders, and most rigidly to enforce them, that no lighted candle be carried into the spirit room on any pretext whatever,

while drawing or pumping of spirituous liquors, which duty shall be performed only by day, except on great emergencies occurring in the night.

ART. 18. He is not to suffer any person whatever to smuggle on board, nor to sell any kind of beer, wines, or spirituous liquors on board to the ship's company. He is not to allow the men to sell, exchange, or in any manner dispose of the slop clothes or bedding with which they are supplied, and as far as possible to prevent any traffic amongst them that would induce them to draw from the purser tobacco, sugar, tea, slop clothes, or any other articles in larger quantities than are usually supplied.

ART. 19. He is to be particularly attentive to the comfort and cleanliness of the men, directing them to wash themselves frequently, and to change their linen at least twice every week. He is never to suffer them to sleep in wet clothes or wet beds if it can possibly be avoided; and to cause them frequently, particularly after bad weather, to shake their clothes and bedding in the air, and to expose them to the sun and wind.

ART. 20. As cleanliness, dryness, and pure air essentially conduce to health, he is to exert his utmost endeavors to ensure these to the ship's company in the most extensive degree. He is to cause the upper decks to be washed every morning, and the lower decks as often as may be necessary when the weather will admit of their being properly aired and dried; to be swept every meal, and the dirt thrown overboard. He is to cause the hammocks to be carried on deck, and the ports to be opened as often as the weather will permit, and no more chests or bags to be kept on the lower gun deck than may be necessary for the comfort of the men; so that as few interruptions as possible may be opposed to a free circulation of air. He is to cause the wind sails and ventilators to be kept in continual operation; the vessel to be pumped out daily.

ART. 21. The clothing issued to the men is to be suitable to the season; but the wearing of flannel shirts is to be encouraged and permitted at all seasons and in all climates.

ART. 22. The practice of detaining boats on shore for officers, after night is set in, is strictly prohibited.

ART. 23. On receiving newly recruited men, the captain will cause an examination into the state of their persons and clothing, and use every measure to guard against the introduction of filth and contagion on board the vessel.

ART. 24. As soon as possible after the ship's company is received on board, he will, with the assistance of the senior

lieutenant, master, and boatswain, proceed to examine and rate them according to their abilities, which he is to do without partiality or favor. He is to rate as petty officers those only who shall be found qualified for such stations, and to take especial care that every person in the vessel, without exception, does actually perform the duties of his station in which he is rated. He shall rate none as ordinary seamen who have not been previously at sea twelve months, and are able to go aloft, and perform some of the duties of a seaman; nor shall he rate any as able seamen who have not been previously at sea three years, and are capable of performing most of the duties of a seaman.

ART. 25. He is, without loss of time, to make arrangements for quartering the officers and men, distributing them to the guns, musketry, rigging, &c.; to divide them into watches, make out his quarter, station, and watch bills of the names of men stationed at every gun, to muster and exercise them frequently at the great guns, small arms, bending and unbending loosing, and reefing, and furling sails, sending up and down top-gallant-masts and yards, rowing in boats, and every other duty which it may be necessary for seamen to perform at sea and in port.

ART. 26. As occasions may frequently occur on which it may be necessary and of great importance that seamen should be skillful in the use of muskets, the captain is to order a number of sailors to be exercised and trained up to the use of small arms.

ART. 27. No captain shall carry any woman to sea without an order from the secretary of the navy, or from the commander-in-chief of the squadron to which he belongs.

ART. 28. Every captain is required to make himself acquainted with every coast and harbor he may visit, and if practicable, to make charts and drawings of them, provided it can be done without giving offence; all of which he is to forward to the secretary of the navy, accompanied with a journal containing such remarks, description, and information as he may think necessary to give. He is to endeavour to ascertain correctly the latitude and longitude of places little known, the prevalent winds and currents, the soundings, &c., as well as every other information that may be of importance to those who visit the place after him; he will also encourage and offer every facility to such of his officers as are desirous of entering into similar occupations and pursuits; and if any such journals or charts contain observations or remarks which may contribute to the

improvement of geography by ascertaining the latitude and longitude, fixing or rectifying the position of places, the height and views of land, charts, plans or descriptions of any port, anchorage ground, coast, island, or dangers little known; remarks relative to the directions and effects of currents, tide or winds, the officers or persons appointed to examine them will make extracts of whatever may appear to merit preservation; and after these extracts have been communicated to the officer or author of the journal from which they have been taken, and that he has certified in writing to the fidelity of his journal, as well as of his charts, plans and views which he has joined to it, the same shall be signed by the officers and examiners, and transmitted with their opinions thereon, to be preserved in the depot of charts, journals, and plans.

ART. 29. Whenever he is to sail from port to port, in time of war, or appearance thereof, he is to give notice to merchant vessels bound his way, and to take them under his care, if they are ready, but not to make unnecessary stay, or deviate from his orders on that account.

ART. 30. He is, by all opportunities, to send an account of his proceedings to the secretary of the navy, and he is to keep up a punctual correspondence with all public officers in whatever concerns them.

ART. 31. He is not to go into any port but such as may be directed by his orders, unless by absolute necessity; and then not to make any unnecessary stay. If employed in cruising, he is to keep the sea, the time required by his orders, or give reasons for acting to the contrary, to the secretary of the navy.

ART. 32. Upon his own removal into another vessel, he is to show the originals of all such orders as have been sent him, and remain unexecuted to his successor, and leave with him attested copies of the same.

ART. 33. He is to leave with his successor a complete muster book, and send all other books and accounts to the officers to whom they respectively relate.

ART. 34. In case of shipwreck, or other disasters whereby the vessel may perish, the officers and men are to stay with the wreck as long as possible, and save all they can.

ART. 35. When any men employed for wages are discharged from one vessel to another, the captain of the vessel from which they may be discharged is immediately to send pay lists of such men to the auditor of the treasury, and the purser of the vessel from which they are so discharged, is also to supply

the purser of the ship to which they are transferred, a pay list, stating the balances respectively due them.

ART. 36. He is responsible for the whole conduct and good government of the vessel, and for the due execution of all regulations which concern the several duties of the officers and company of the vessel, who are to obey him in all things which he shall direct for the service of Texas.

ART. 37. The quarter deck must never be left without one commissioned officer at least, and the other necessary officers which the captain may deem proper to attend to the duty of the vessel.

ART. 38. On vessels of Texas being visited by custom-house officers, the captain will offer them every facility in the performance of their duties, and if there should be a suspicion of any persons having articles on board, subject to the payment of duties, which such person is desirous of smuggling, he is to give them every possible assistance in discovering such articles, if they are really on board. If he should discover any officer in the act of smuggling or attempting to smuggle, he is immediately to arrest such officer, and report the same to the secretary of the navy, in order that such direction may be given as conduct so injurious to the public, and so disgraceful to an officer shall require.

ART. 39. While in port or roadstead, he is to follow the motions of the senior officer present, by striking or getting up yards and topmasts, loosing or furling sails, and doing any other duties contemporaneously with the vessel which the senior officer commands, unless such senior officer shall dispense with his so doing.

ART. 40. He is to pay every attention to the comforts of the sick and wounded, causing a comfortable place to be provided for them in any part of the vessel where they will be the least incommoded.

ART. 41. He is required to keep copies of all official correspondence.

ART. 42. The captain of a vessel carrying a broad pendant, is on all occasions of duty to consult his commander, and a respect due him requires that he should not inflict any punishment without his knowledge.

ART. 43. If any Texian vessel of war should be wrecked, the captain is to use every possible exertion to save the lives of the crew, and to preserve the stores, provisions, and furniture of the vessel. He is also to endeavour to save the vessel's papers,

particularly the muster and slop books, and to take special care to preserve or destroy all signals, secret orders, and instructions, to prevent their falling into improper hands. He is to dispose of the crew in a manner most conducive to their comfort and the public interest, and to be very particular in keeping up a regular and perfect discipline among them, carefully preventing the commission of any irregularity which may give offence to the inhabitants of the country they are in.

ART. 44. He is to lose no time in getting the crew to Texas, to effect which he is authorized to dispose of, on the best terms, the property saved from the wreck, or to draw on the secretary of the navy for the necessary monies.

ART. 45. Whenever any commander of a public vessel of Texas shall find himself placed in such circumstances as shall compel him to strike his flag to an enemy, he is to take especial care to destroy all his secret instructions, signal books, and private signals; and for this purpose they should be always kept fastened to a weight, so heavy as to sink them immediately on being thrown overboard; and on enquiring into the loss of the vessel, he will produce evidence of his having done so.

ART. 46. The vessel and every person on board being placed under the command of the captain, he will be held responsible for everything done on board. From him will be expected an example of respect and obedience to his superiors, of unremitting attention to his duty, and a cheerful alertness in the execution of it, in all situations, and under all circumstances. He will be expected to observe himself, and strongly to enforce in others, the most rigid economy in the expenditures of public stores; and to show by every means in his power, a steady determination to serve his country with the utmost zeal and fidelity; and although particular duties are hereafter assigned, and various instructions given to every officer in the navy; from him it will be expected that all those, whether officers or others, shall be corrected, or their conduct properly represented, who are disobedient or disrespectful to their superiors, neglectful of their duty, wasteful of public stores, or who by their conduct or conversation shall endeavour to render any officer or other person dissatisfied with his situation, or with the service on which he is employed. He is to observe with particular attention the conduct of every officer, and of every other person under his command; that being acquainted with their respective merits, he may assign them such station as they may be qualified to fill; and for arduous and dangerous enterprises may select those whose

abilities and courage may afford the best hopes of success. He is to be extremely attentive to every thing done by his clerk, who, being appointed for the sole purpose of assisting him, will be considered as always acting by his order.

ART. 47. The commander of a squadron shall be allowed, on fitting out, to equip his cabin every three years or thereabouts, in lieu of every expense for movable furniture, the sum of five hundred dollars.

ART. 48. There shall be allowed on fitting out to equip the cabin of a captain, every three years or thereabouts, in lieu of every expense for movable furniture, three hundred dollars.

ART. 49. Articles unfit for service must be surveyed by an order from the secretary of the navy, or in the event of a vessel being on a foreign station, by an order from the commander of the station, on the application of the commander of the vessel; and no new articles are to be furnished until the old shall be condemned, which must be certified by the officers holding the survey, and the certificate forwarded to the secretary of the navy.

ART. 50. Articles of cabin furniture broken or lost at sea, shall be replaced by the commander of the vessel at his own expense, unless he shall make it appear by the certificate of two commissioned officers, that such loss or breaking was occasioned by unavoidable casualty, or accident beyond his control.

#### OF THE LIEUTENANT.

ART. 1. A lieutenant is to be constantly attentive to his duty, and diligently and punctually to execute all orders for the public service which he may receive from the captain or other senior officer. When he has the watch he is to be constantly on deck, until relieved by the officer who is to succeed him. He is to see that the men are alert and attentive to their duty, that every precaution is taken to prevent accidents from squalls or sudden gusts of wind, and that the vessel is as perfectly prepared for a battle as circumstances shall admit. He is to be particularly careful that the vessel be properly steered, and that a correct account be kept of her way, by the log being duly hove and marked on the log board.

ART. 2. He is to see that the master's mates and midshipmen of the watch, are constantly on deck, and attentive to their duty; and he is to order the men of the watch to be frequently mustered, and to report to the captain such as he shall find absent from their duty.

ART. 3. He is to be extremely attentive to keep the vessel in her station in any squadron he may belong to; and he is to inform the captain whenever he apprehends that he shall not be able to do so.

ART. 4. He is to inform the captain of all strange sails that are seen, all signals that are made, all changes of sail made by the commander, all shifting of the wind, and in general of all circumstances which may derange the order in which the squadron is sailing, or prevent the vessel from continuing on the course directed to be steered.

ART. 5. He is to be very particular in delivering to the lieutenant who relieves him on the watch, all orders received by him from the captain or lieutenant he relieved remaining unexecuted; and he is to inform him of all signals made by the commander-in-chief, which still remain to be obeyed. He is to point out to him more especially in the night the situation of the commander-in-chief, and to inform him what sail his vessel was carrying when it could last be ascertained, and whether the vessel was coming up with or dropping astern of him; and he is to give in general whatever other information may be necessary to enable him to keep the vessel on her station, if the squadron be formed in the order of sailing, or to keep well up with it, if it be not so formed.

ART. 6. He is to keep men at the masts' heads during the day, and in proper stations during the night, to look out. He is frequently to remind them of their duty, if necessary, and to relieve them, more or less frequently, according to the state of the weather, and the degree of their attention.

ART. 7. On a strange sail being seen in the night during war, he is to send a midshipman to inform the captain, and is himself to make arrangements for getting the vessel ready for action. He is to keep out of gunshot until every thing is ready, but in doing this he is to be careful not to remove to such a distance as to risk losing sight of her.

ART. 8. He is never to carry so much sail as to endanger the springing of any mast or yard, unless some particular service should require it, and when he does so, he must take care that all the men in the watch are at their stations, ready to shorten sail the moment any increase of wind, or other circumstances should make it necessary.

ART. 9. In the night he is to take care that the master-at-arms and corporals in their respective watches, are very particular in going the rounds, and that they visit all parts of the

vessel every half hour, to see that there is no disturbance among the men, and that no candles or lamps are burning, except such as are expressly allowed.

ART. 10. He is to direct the carpenter to sound the well himself, or direct one of his mates to do it, once at least in every watch, and to see that the ports are well barred; and the gunner or one of his mates to examine once at least in each watch, the state of the lashing of the guns, and to report to him when they have done so.

ART. 11. In the morning he is to direct the boatswain to examine into the state of the rigging, and the carpenter that of the masts and yards; he is to receive their reports, and to inform the captain of any defects they may discover.

ART. 12. He is never to change the course of the vessel without directions from the captain, unless it be necessary to avoid some danger.

ART. 13. If the vessel belongs to, or is in company with any squadron, he is to direct some careful officer to observe the signals made by the commanding officer; but he is never to answer any signal, whether general or addressed particularly to the vessel to which he belongs, unless he is certain that he sees it distinctly, and understands for what purpose it is made; and he is every evening before dark to see that lanterns with candles and every thing necessary for making signals in the night, are ready and in good order; and that the number of guns which may be directed not shotted, are ready for being fired, and to be particularly attentive in preventing any other lights being shown in the vessel when signal lights are hoisted, and when at sea that no light may be seen from the cabin or any part of the vessel.

ART. 14. During a fog he is to be particularly attentive to the guns fired by the commander-in-chief, that by observing any alteration that may take place either in the direction or strength of the report, he may take such steps as may be deemed necessary to prevent the vessel's being separated from the squadron. He is to be very careful to order the drum to be beat, and the bell to be sounded according to the tack the vessel may be on, for the information of vessels that may be near.

ART. 15. He is to see that every occurrence worthy of notice during the watch be properly entered on the log board, and that all signals made in the squadron are correctly minuted, in such a manner as the captain shall direct; and at the end of his watch he is to sign the log board and the report of signals,

with the initials of his name; and in like manner, when the occurrences of the day, and the report of the signals have been entered in the log book, he is to sign that with his name at the end of each watch he kept.

ART. 16. He is constantly to ascertain the latitude by observation, at noon, or by double altitude, as circumstances may require, and to keep an account of the vessel's way, specifying the course steered, and the distance run for each twenty-four hours, with the latitude and longitude she is in, and the bearings and distances of some head land from which she sailed, or towards which he may be going, with other particulars, and in any form that the captain shall direct; which account he is to deliver to the captain every day, as soon after noon as the other duties of the vessel will allow.

ART. 17. He is not to make any signal by day or night, except such as may be necessary to warn vessels of any danger to which they may be exposed, without the direction of the captain.

ART. 18. In time of action, he is to see that all the men under his command are at their quarters, and that they do their duty with spirit and alacrity. He is to be particularly attentive to prevent them from loading the guns improperly; from firing them before they are well pointed, and from wetting them after they have been fired, and he is to be very careful to prevent their making an improper accumulation of powder in any part of his quarters.

ART. 19. He is to be attentive to the conduct of all the ship's company, to prevent all profane swearing and abusive language, all disturbance, noise, and confusion, to enforce a strict obedience to orders, a proper respect to all superiors, and an observance of discipline and good order; and he is to report to the captain all those whose misconduct he shall think deserving of reprehension or punishment.

ART. 20. No boat is to be allowed to come along side, or to go from the vessel, without direction from the lieutenant of the watch. When vessels or boats come along side with provisions, stores, water, &c., he is to see that they are cleared without delay, and that the articles are taken into the vessel with the utmost care, to prevent their suffering any damage; and when any provisions, stores, empty casks, &c., are to be sent from the vessel, he is to be equally attentive in causing them to be put into the vessels or boats appointed to receive them.

ART. 21. In the absence of the captain, the senior lieute-

nant on board the vessel is to be responsible for every thing done on board; he is to see every part of the duty as punctually performed as if the captain were present.

He may put under arrest any officer whose conduct he shall think so reprehensible as to require it, and he may confine such men as he may think deserving of punishment; but neither he, nor any other lieutenant, who may become commanding officer, is to release an officer from his arrest, nor to release or punish any man who has been confined; for this is to be done by the captain only, unless he be absent from the vessel, with leave from the secretary of the navy, or from his commanding officer, in which case it is to be done only by the senior lieutenant commanding the vessel in the captain's absence.

#### OF THE MASTER.

ART. 1. A master, when attached to a vessel, is to be constantly attentive to his duty, and diligently and punctually to execute all orders he may receive from the captain or any of the lieutenants of the vessel for the public service.

ART. 2. He is to be present himself at the stowing of the hold, to see that the vessel has the proper quantity of iron or other ballast; and he is to stow her in a manner best qualified to preserve her trim, to make room in the hold, and to admit of the stowage of the water and provisions without risk of damage to the casks. He is to stow away as much wood in the hold as possible; and if it should appear to him that the quantity of wood and coals will not be sufficient for the time for which the vessel is victualled, he is to report it to the captain.

ART. 3. He is to be present when stores and provisions are received on board, to see them carefully and expeditiously hoisted in to prevent their being damaged; and if any of them should appear to him to be in any respect defective, he is to report it to the captain, or the commanding officer on board, that they may be surveyed as soon as the service will admit, and then disposed of in conformity to the report of the survey.

ART. 4. If any provisions are pointed out to him as being older than the rest, he is to stow them in such a way as to admit of their being first hoisted up; and on receiving any subsequent supplies, he is, whenever circumstances will admit, to put the new provisions under the old, that they may be the last expended.

ART. 5. He is to keep the keys of the after hold and spirit room, which, when wanted, he is to deliver to one of the

master's mates only, strictly charging him not to suffer a light to be carried into the spirit room; to attend himself, without quitting on any account, the spirit room or after hold while open, to see it properly secured when the service for which it was opened shall be executed, and to return the keys to him as soon as he has done so.

ART. 6. He is to see that the sails are properly fitted with points, robands, earings, &c., ready for being brought to the yards, and that the boatswain has always a sufficient number of spare points, robands, gaskets, mats, plats, knippers, &c., ready for any purpose for which they may be wanted.

ART. 7. He is to be attentive in observing the quantity of every species of provisions hoisted up from the hold, that if the quantity should appear to be more than is necessary for the ship's company, he may inform the captain; he is to attend also to the quantity of wood hoisted up, that he may prevent any improper expenditure of the same.

ART. 8. He is to be particularly careful to prevent any waste or improper expense of water, and never allow of its being started or pumped out in the hold without particular directions from the captain; nor is he to suffer more to be hoisted up in a day than the quantity allowed.

ART. 9. He is every day to report to the captain the quantity of water expended during the last twenty-four hours, and the quantity remaining on board.

ART. 10. He is, with the first lieutenant, to visit the store rooms of the warrant officers, to see that they are kept as clean and as well ventilated as circumstances will admit, that no other than the stores of the vessel are to be put into them, and that the stores are so regulated as to admit of any of them being found when wanted.

ART. 11. He is frequently to inspect the sail room, to see that they are dry, and the rooms in good order. He is to give orders for the repairing of sails immediately on discovering that they require it; and if he should find them or any of the stores at any time likely to be damaged by dampness, or by any other cause, he is immediately to represent it to the captain.

ART. 12. He is frequently to examine into the state of the rigging, and to see that the standing rigging is always kept well set up; to attend himself when it is set up; to examine frequently the running rigging, and to inform the captain when any part of it appears to be no longer serviceable.

ART. 13. At the end of every week he is to examine the

boatswain's and the carpenter's accounts of stores expended, and at the end of every month he is, with the first lieutenant, to sign their expense books, which he is to examine with very great attention before he signs them, to prevent the insertion of expenditures which have not been made, or any improper account of those which have.

ART. 14. He is to see that the compasses, the hour and other glasses are properly taken care of, to try them and compare them with each other frequently, to ascertain and prevent the bad effects of any error which may be in them, to see the log-lines and lead-lines correctly marked, and at hand, whenever they may be wanted.

ART. 15. He is, under the command of the captain, to have the charge of navigating the vessel. He is to represent to the captain every possible danger in or near the vessel's course, and the way to avoid it, and if it be immediate, to the lieutenant of the watch; whenever the vessel shall be approaching the land or any shoal, he is to be upon deck, and keep a good look out, always sounding to inform himself of the situation of the vessel.

ART. 16. He is every day at noon to deliver to the captain, an account of the situation of the vessel, the latitude and longitude she is in, the variation of the compass, the bearings and distance of the place sailed from, or of that to which the vessel is bound, and every other particular which the captain shall direct.

ART. 17. He is to have charge of the ship's log-book, which is to be written by the master's mate, under his immediate inspection; he is to compare it every day with the log board, to see that every circumstance which has occurred, is properly entered in it; and he is to send it immediately to the lieutenants, that they may sign their names at the end of their respective watches, while that which happened in them is still fresh in their memories. In the log book he is to enter with very minute exactness each of the following circumstances, viz:

1st, The state of the weather, the directions of the wind, the courses steered, and the distances run, with every occurrence relating to the navigation of the vessel, the setting and the velocity of the currents, and the result of all astronomical observations made to ascertain the situation of the vessel, the variation of the compass, &c.

2d, The loss of masts, yards, boats, &c., the splitting of

sails, the blowing away of flags or colors, and all other accidents, with the quantity of each article lost or saved.

3d, Every circumstance relating to the supply, receipts, loss, survey, and returns of slop clothes, provisions, casks, and water; specifying from whom they were received, and to whom they were supplied or returned, and by whose order, if any order were given, with the number of casks and packages written in words at length.

4th, An account of the quantity of every species of stores, purchased for the vessel, or received from, or supplied to any other Texian vessel, or to merchant vessels, or to any foreign vessels or arsenal.

5th, Every alteration made in the allowance of provisions, specifying by whose order such allowance was made.

6th, The marks and numbers of every cask of provisions or bale of slops opened for the use of the vessel's crew, with the quantity it is said to have contained, and the difference, if there is any.

7th, An account of the number of men employed on board who are to be paid for the services they perform, whether hired for that purpose, or lent from other vessels, mentioning the day on which they began, and on which they ceased working, and the number mustered every day. Every entry of the receipt, expenditures, loss, &c., of stores or provisions, is to be carefully examined by the officer who has the charge of them, who is to signify that the account is correct, by signing his name at the bottom of it. After the log book has been signed by the lieutenant, no alteration, however trifling, is to be made in it, without the approbation of the captain, and the perfect recollection of the lieutenant of the watch that such alteration is proper.

ART. 18. At the end of every six calendar months, he is to deliver a copy of the log book for those six months, signed by himself, to the captain, to be transmitted by the first safe opportunity to the secretary of the navy; and at the end of every twelve months he is to deliver the original log book, signed by himself, to the captain, to be kept by him till the vessel is paid off, and then to be sent to the secretary of the navy. If the master be superseded he is to sign the original log book, then in his possession, and to deliver it to his successor, who is to give him a receipt for it.

#### PURSER.

ART. 1. The purser being the officer appointed to receive

and distribute the victualing stores and slops of the vessel, having entered into bonds to the government of Texas, as prescribed by law, is to abide by the following regulations and instructions; and he is not to expect that any irregularity in, or omission of any part thereof, or of the forms referred to therein for keeping his accounts will pass unnoticed.

ART. 2. Every purser attached to a vessel of war shall make to the secretary of the navy a statement of his accounts every six months, and settle his accounts at the treasury every twelve months; nor shall he permit a longer time to elapse without offering his accounts for settlement, if the vessel to which he belongs be in a port, or on the coast of Texas; and in the event of his failing to do so, his pay and emoluments shall cease from the time of the expiration of the twelve months, commencing at the time of his joining the vessel, or at the date of the last settlement.

ART. 3. No purser can be employed or removed from one vessel or station to another, until he shall have settled up his accounts for the vessel or station to which he shall have last belonged, unless specially exempted from doing so by the secretary of the navy.

ART. 4. Before a purser can receive orders to join a vessel or station, or be removed from one vessel or station to another, he must produce a certificate from the auditor of the treasury, or other satisfactory evidence, that he has settled up his accounts for the last vessel or station to which he belongs, and that the balance against him does not exceed one thousand dollars.

ART. 5. When a purser joins a vessel or station he shall see that it is provided with the necessary articles belonging to his department; take care that the provisions, victualing stores, and slops are of good quality, and demand a survey on those which may appear damaged, or otherwise unfit for the service.

ART. 6. Tobacco will be purchased by the Texian government, and delivered and charged to the purser, at cost and charges; and he will, on the settlement of his accounts, be allowed fifty per cent. on the amount of all tobacco issued; which per centage is to be added to the cost and charges on the article when issued to the crew.

ART. 7. All the slops, clothing, &c., will be charged to the purser, at cost and charges, and he is to be held accountable for the expenditure.

ART. 8. In no case will the purser be credited even for

any alleged loss by damage in slops, unless he show, by regular surveys, signed by three officers, one at least to be commissioned, that the loss has been unavoidably sustained by damage, and not by any neglect or inattention on his part.

ART. 9. And as a compensation for the risk and responsibility, the purser shall be authorized to dispose of the slops to the crew at a profit of ten per cent.; but he must, at the end of every cruise, render a regular slop account, showing by appropriate columns, the quantity of each article received or purchased, and the prices and amount, and from whom, when and where, and he shall show the quantity disposed of, and to whom, and at what prices, so that his slop account may show the articles' prices, and amounts received and disposed of.

ART. 10. When on foreign station there shall be a necessity to purchase slops, they are to be purchased agreeably to the established uniform of the navy, which in winter shall consist of a blue jacket and trowsers, and red vest, yellow buttons, and black hat. In summer the dress will be white duck jackets and trowsers, and vests; and on the home station they will be supplied from the navy stores, on requisition, in the same manner as other stores are supplied.

ART. 11. Slops are to be issued out publicly, and in the presence of an officer, who is to be appointed by the captain, to see the article delivered to the seamen and others, and the receipt given for the same, which he is also to certify. The captain is not to suffer any one to be supplied with slops except when absolutely necessary, and he is to oblige those who may be ragged, and in want of apparel or bedding, to receive such of these things as he shall stand in need of.

ART. 12. When any one dies on board, his cloths and other effects may be sold at auction, and the amount, after being charged to the buyer, shall be carried to the credit of the deceased, for the benefit of his legal representatives.

ART. 13. The purser shall be allowed a commission of five per cent. to be deducted from the amount of the sale of dead men's clothes.

ART. 14. No purser shall draw moneys at any time or place without the approval and signature of his commanding officer.

ART. 15. Captains or commanders may shorten the daily allowance of provisions when necessity shall require it.

ART. 16. No officer is to draw whole allowance while the ship's company is on short allowance.

ART. 17. Provisions and stores purchased by agents are to be surveyed when received on board; and if it should appear by the report of the surveying officers that they are unfit for public use, they are to be returned to the agents, and on settlement the captain is to refuse to admit them into the agent's accounts against the vessel, and is to transmit to the secretary of the navy a duplicate of the report of survey, with such remarks as the case may require.

ART. 18. Every cask and package of provisions, wet or dry, bread excepted, sent on board the Texian vessels of war, is to have the contents thereof, as to quantity and kind, distinctly marked on it, together with a number, and the time when, place where, and by whom purchased or furnished. The casks are to be marked on the head, and the packages on some proper or conspicuous part of them.

ART. 19. The resignation of any officer when called into active service will be considered a disobedience of orders.

#### NAVAL GENERAL COURTS MARTIAL.

ART. 1. General courts martial may be convened as often as the president of the republic of Texas, the secretary of the navy, or the commander-in-chief of the squadron, while out of the limits of the republic of Texas, shall deem it necessary; provided, that no general courts martial shall consist of more than nine, nor less than five members; and as many officers shall be summoned as can be convened without injury to the service, so as not to exceed nine; and the senior officer shall always preside, the others ranking agreeably to the date of their commissions; and in no case, when it can be avoided, without injury to the service, shall more than one-half of the members, exclusive of the president, be junior to the officer to be tried.

ART. 2. Each member of the court martial, before proceeding to trial, shall take the following oath or affirmation, which the judge advocate, or person officiating as such, is hereby authorized to administer: "I, A. B., do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the navy, and my own conscience; and that I will not, by any means, divulge or disclose the sentence of the court until it shall have been approved by the proper authority; nor will I, at any time, divulge or disclose the vote or opinion of any particular member of the court,

unless required so to do before a court of justice, in due course of law."

ART. 3. All testimony given to a general court martial shall be on oath or affirmation, which the president of the court is hereby authorized to administer; and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall, and may be lawful, for the court to imprison such offender, at their discretion: provided, that the imprisonment in no case shall exceed two months, and every person who shall commit wilful perjury on examination on oath or affirmation before such court, or who shall corruptly procure or suborn any person to commit such wilful perjury, shall, and may be prosecuted by indictment or information, in any court of justice in the republic of Texas, and shall suffer such penalties as are authorized by the laws of the republic of Texas, in case of perjury or the subornation thereof. And in every prosecution for perjury or subornation, under this act, it shall be sufficient to set forth the offence charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought, or intended to be brought before the said court.

ART. 4. All charges on which an application for a general court martial is founded, shall be exhibited in writing to the proper officer, and the person demanding the court shall take care that the person accused shall be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest; nor shall any other charge or charges, than those so exhibited, be urged against the person so to be tried before the court, unless it appear to the court that the intelligence of such charge had not reached the person demanding the court, when the person so to be tried was put under arrest, or that some witness, material to the support of such charge, who was at that time absent, can be produced; in which case, reasonable time shall be given to the person to be tried, to make his defence against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under pain of dismissal from the service.

ART. 5. When the proceedings of any general court martial shall have commenced, they shall not be suspended or delayed, on account of the absence of any of the members: provided five or more be assembled; but the court is enjoined to sit from day to day, (Sundays excepted,) until sentence be given: and no

member of said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness, or orders to go on duty, from a superior officer, on pain of being cashiered.

ART. 6. Whenever a court martial shall sentence an officer to be suspended, the court shall have power to suspend his pay and emoluments, for the whole, or any part of the time of his suspension.

ART. 7. All sentences of courts martial, which shall extend to the loss of life, shall require the concurrence of two-thirds of the members present; and no such sentence shall be carried into execution, until confirmed by the president of the republic of Texas; or if the trial take place out of the limits of the republic of Texas, until it be confirmed by the commander of the squadron; all other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet or squadron, or officer ordering the court, except such as go to the dismissal of a commissioned or warrant officer, which are first to be approved by the president of the republic of Texas.

ART. 8. A court martial shall not, for any one offence not capital, inflict a punishment beyond one hundred lashes.

ART. 9. The president of the republic of Texas, or when the trial takes place out of the limits of Texas, the commander of the squadron, shall possess full powers to pardon any offence committed against these articles, after conviction, or to mitigate the punishment decreed by a court martial.

ART. 10. And be it further enacted, That courts of enquiry may be ordered by the president of the republic of Texas, the secretary of the navy, or the commander of the squadron: provided such court shall not consist of more than three members, who shall be commissioned officers, and a judge advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt, in the same manner as courts martial; but such courts shall merely state facts, and not give their opinion, unless expressly required so to do in the order for convening; and the party whose conduct shall be the subject of inquiry, shall have permission to cross examine all the witnesses.

ART. 11. The proceedings of courts of enquiry shall be authenticated by the signature of the president of the court, and judge advocate, and shall, in all cases not capital, or extending to dismissal of a commissioned, or warrant officer, be evidence

before a court martial: provided oral testimony cannot be obtained.

ART. 12. The judge advocate, or person officiating as such, shall administer to the members the following oath or affirmation: "You do swear (or affirm) well and truly to examine and enquire, according to the evidence, into the matter now before you, without partiality or prejudice." After which the president shall administer to the judge advocate, or person officiating as such, the following oath or affirmation: "You do swear (or affirm) truly to record the proceedings of this court, and the evidence to be given in the case in hearing."

#### REGULATIONS RELATIVE TO NAVAL SURGEONS AND THEIR ASSISTANTS.

ART. 1. Every naval surgeon, upon being ordered to a vessel of war of the republic of Texas, shall, without delay, report himself to the commanding officer, and take in his charge all the medicines, instruments, hospital stores, utensils, and all other articles ordered for the use of the sick, agreeably to estimate, for which he shall give duplicate receipts to the medical purveyor, by whom they were supplied. He shall personally examine the articles before he passes his receipts, as he will be held strictly accountable for the expenditures thereof.

ART. 2. He shall keep, or cause to be kept, a regular account of the receipt and expenditure of the said articles of medicine, according to form; and at the expiration of every month, the amount of the hospital stores shall be carried to the credit side. These books he is carefully to preserve, and at the end of every year, to deliver them to the medical purveyor of the depot where he may have arrived.

ART. 3. Should a fresh supply of medicines, or other articles in the surgeon's department, be required on a foreign station, in consequence of any extraordinary number of sick, or by any injury sustained in a gale of wind, or in action, he shall make out a requisition for such articles as he may think absolutely necessary for the remainder of the cruise, or until he shall arrive in Texas; which requisition, when signed by the commander, shall be forwarded to the navy agent, or consul of the port where the vessel may be, who will direct the supply thereof. The surgeon shall examine and approve the accounts of all articles thus supplied, before they are received on board.

ART. 4. No condemnation of any article of medicine, or hospital stores, shall take place, unless a survey shall have been