

Exhibit 37

in the case of:

**People of the Republic of Texas
and the
Sovereign Nation of the Republic of Texas**

v.

**UNITED NATIONS
(and all it's Political Subdivisions)
and
UNITED STATES
(and all it's Political Subdivisions)**

Under Pains and Penalties of perjury and the laws of the Almighty, and being sworn under a vow and oath, I attest that the attached pages are true and correct representations of:

**The Convention of 1833, April 1-13, 1833,
from: Ernest Wallace, David M. Vigness, and
George B Ward, *Documents of Texas History*,
(State House Press, Texas, 1994).**

This attestation is made on August 10, 1998.

Attest: *Darell Dean Frank*

D. D. West
Witness to scan and above signature

E. J. Brannum
Witness to above signatures

35. THE CONVENTION OF 1833

April 1-13, 1833

A liberal revolution in Mexico in 1832 under Santa Anna overthrew the conservative government of Anastacio Bustamante that had precipitated the crisis at Anahuac and, as a result, the troops throughout East Texas were withdrawn. Hopeful that Santa Anna, whose cause they had supported, would be receptive to their requests for reforms, the Texans met in convention in October, 1832, and April, 1833, at San Felipe to draw up formal petitions for that purpose.

The first convention, consisting of fifty-six delegates representing sixteen districts, addressed memorials to the national and state governments, the two most important calling for the repeal of the Law of April 6, 1830, and for separation of Texas from Coahuila. Its petitions were never presented, however, possibly because Santa Anna had not yet won control of the government, but more probably because the Mexican officials in Texas and Coahuila considered the action extra-legal. But early in 1833 when it was apparent that Santa Anna would become president, the Central Committee of Safety and Correspondence at San Felipe called the second convention for April 1. A larger number of discontented delegates were in attendance this time, evidenced by the selection of William H. Wharton rather than Stephen F. Austin as president of the convention. Petitions similar to those of 1832 were prepared, but with greater emphasis on separate statehood.

The three documents which follow explain this sentiment clearly and provide the organic type of state government desired. The first was written by Austin at the request of the Central Committee of Safety and Correspondence to explain why the convention had been called; the second was written by David G. Burnet, chairman of the committee appointed by the convention to explain to Congress why Texas should have a separate state government; the third was the work of a committee, headed by Sam Houston, appointed by the convention to prepare a proposed constitution for the State of Texas.

1. AUSTIN'S ADDRESS EXPLAINING WHY THE CONVENTION WAS CALLED

April 1, 1833

From Eugene C. Barker (ed.), *The Austin Papers* (3 vols.; Washington, 1924, 1928; Austin, 1927), II, 934-940.

GENTLEMEN OF THE CONVENTION,

The central committee of safety and correspondence which was established by the late convention, and by whose request the present convention has assembled, beg leave to offer their sincere congratulations on your arrival at the theatre where you are to exercise the high and important duties which devolve upon you as the representatives of the people of your several districts.

Believing that your deliberations will be fraught with important results to the interests of our common country, the committee deem it a duty they owe you, as the delegates of the people to make a brief exposition of the reasons which have operated on them in calling this convention, and in doing this, they wish it to be understood, not as attempting to dictate to this convention the course it should pursue in the least degree, nor to prescribe limits to its action, but to give a satisfactory explanation to you, and through you to the great body of the people of Texas, of the causes which have impelled them to the exercise of this responsible duty.

The situation of Texas, is such as to give rise to great anxiety and even alarm in the heart of every person who inhabits it, or feels any interest for its prosperity or welfare.

The whole of this country, with the exception of the small towns of Bexar and Goliad, has been settled and redeemed from the wilderness within a few years by the enterprise of immigrants who removed to it in consequence of the express and earnest invitation of the Government, contained in the national and state colonization laws. Those immigrants have uniformly evinced their gratitude to the government and nation of their adoption for all the acts of kindness and liberality that have been extended towards them, and they have faithfully performed their duty as Mexican citizens, and fulfilled the intention and spirit of the colonization laws, by settling the country, defending it from hostile indians, or other enemies, and developing its resources, thus giving value and character to a large section of the Mexican territory which was before wild and almost unknown. They have introduced agriculture and the usefull arts and commerce, and if as has been said by a celebrated author "that man deserves well of his country who makes a blade of grass grow where none grew before," how much more do the people of Texas deserve from their country who have so materially added to the national grandeur, phisical force and resources. The people of Texas ought therefore to rely with confidence on the government for protection, and to expect that an adequate remedy will be applied to the many evils that are afflicting them.

The invitations in virtue of which they came here, and the guarantees of the constitution and laws, evidently contain a pledge on the part of the government, that they should be governed in accordance with the spirit of the free political institutions of the Mexican republic, and in the manner best adapted to the local situation and necessities of Texas. The *right* of the people of Texas to represent their wants to the government, and to explain in a respectfull manner the remedies that will relieve them cannot therefore be doubted or questioned. It is not merely a right, it is also a sacred and bounden duty which they owe to themselves and to the whole Mexican nation, for should evils of great and desolating magnitude fall upon Texas for the want of competent remedies, the people here would have cause to accuse themselves of neglect for not making an effort to procure such remedies, and the government would also have cause to complain, that a full and frank and timely representation had not been made and a remedy solicited.

It is very evident that these considerations have influenced the people of Texas in all they have done up to the present time. They have been governed by the desire to do their duty faithfully to the Mexican nation and to themselves. In the discharge of this duty the people and civil authorities of Austins Colony made a respectfull and humble petition to the General and State governments on the 18 day of Feby 1832 setting forth the evils that were afflicting this country. The inhabitants and civil authorities of Bexar, the ancient and present

capital of Texas, also made a very able and energetic representation on the same subject on the 19th of December last. Numerous other representatives have been made at various times by all the Ayuntamientos of Texas, and on the first of October last delegates of the people of Texas met in convention at this Town and unanimously resolved that it was expedient that the political union between Coahuila and Texas should be dissolved and that Texas should be organised as a separate State of the Mexican confederation as soon as the approbation of the General government to that effect could be obtained. That convention accordingly memorialised congress on the subject, and elected an agent to go to Mexico in order to forward the views of the people of Texas in obtaining the sanction of the general government. But the continuation of the intestine commotions which have raged within the bosom of the Mexican republic for more than twelve months past, and which threaten'd a total overthrow of the established institutions of the country, prevented the memorial from being presented in accordance with the intentions of the October convention.

That convention adopted many other memorials and resolutions, amongst the most important of which was the provisional organization of the militia, as a precaution against contemplated attacks upon our exposed frontier by the many tribes of hostile indians who inhabit the northern and western parts of Texas; and the establishment of the central and sub-committees of safety and correspondence throughout the country all of which were rendered inoperative by the decree of the governor of the state of Coahuila and Texas, who declared the proceedings of the convention null and void, and ordered the several committees to dissolve.

At the time when this committee determined to convoke the present convention, they took an impartial survey of our federal relations and of our local affairs.

They beheld the Mexican confederation torn and broken asunder by political parties each of which sustained its pretensions to the supreme executive power of the nation by force of arms. Civil war raged in every part of the Mexican territory and in looking upon the face of the nation nothing was to be seen but confusion and bloody discord—Brother contending with brother in deadly strife for mastery in political power. They saw that the constitution of the republic, that instrument which they had been taught to look upon as the sacred charter of their liberties was alternately violated and set aside by all parties, and that all the constitutional guarantees were merged for the time being in military power. They saw the constitutional period for the election of President and vice President of the nation and of members of Congress, pass by, and at least one third of the states refuse or neglect to hold the elections. The future presented the gloomy prospect that the days of constitutional freedom had been numbered to the Mexicans, and that we should ere long see the waves of anarchy and confusion close forever over the wreck of that Mexican republic. The disorganization of the government was so extreme, that even the leaders of the liberal party who have been contending for the restoration of constitutional liberty, and whose cause was espoused by the people of Texas, and generously defended with their blood

and treasure, found themselves compelled to lay aside all the established forms, and to renovate the constitution by violent and unconstitutional means.

The committee turned from this view of our national affairs to that of the local internal situation of Texas which has not materially changed since the last convention. The political system under which Texas has heretofore been governed, tends to check the growth of the country, and to produce confusion and insecurity, rather than to extend protection to lives liberty and property. The unnatural annexation of what was formerly the province of Texas to Coahuila by the constituent congress of the Mexican nation, has forced upon the people of Texas a system of laws which they do not understand and which cannot be administered so as to suit their condition or to supply their wants.

The Alcaldes who are the highest judicial officers in Texas and have unlimited jurisdiction in all cases, are elected annually by the people, and those who are ignorant and corrupt and without responsibility are as liable to be chosen as the wise, the virtuous and the responsible. This remark is justified by the fact that the office is without emolument and is extremely burdensome, and will therefore seldom be sought by those who are best qualified to fill it. In all civil cases there is an appeal to the supreme tribunal of the state at Saltillo a distance of near seven hundred miles from the inhabited parts of Texas. There are but few men in Texas who are qualified to prepare cases for the supreme court and when appeals have been taken they have generally been sent back several times to be reformed so that decisions in such cases are seldom had. It has become proverbial in Texas, that an appeal to Saltillo is a payment of the debt. It amounts to a total denial of justice especially to the poor, and this is the frail tenure by which the most important rights of the people of Texas are suspended.

The manner of trying culprits for high criminal offences is such that it amounts to no trial at all. The trial by jury is not sanctioned by law, and the rights of the accused are committed to an alcalde who is ignorant of the formulas of the laws, and of the language in which they are written who prepares the cause for the judgment of the supreme tribunal in Saltillo, thus the lives, liberty and honor of the accused are suspended upon the tardy decision of a distant tribunal which knows not nor cares not for his suffering, and the rights of the community to bring offenders to speedy and exemplary punishment are sacrificed to forms equally uncertain and unknown. The formula required by law in the prosecution of criminals is so difficult to be pursued that most of the courts in Texas have long since ceased to attempt its execution. The trial by jury has been attempted in some of the municipalities, but being unsupported by the sanction of law it also has failed of success. A total interregnum in the administration of justice in criminal cases may be said to exist. A total disregard of the laws has become so prevalent, both amongst the officers of justice, and the people at large, that reverence for laws or for those who administer them has almost intirely disappeared and contempt is fast assuming its place, so that the protection of our property our persons and lives is circumscribed almost

exclusively to the moral honesty or virtue of our neighbor.

The people and authorities of Bexar in their representation in December last speaking of the judiciary system in Texas use the following strong and conclusive language.

"In the judiciary department there never has been any adequate organization and it may be said with just cause that in this department there is not and never has been any government in Texas."

Besides the evils which menace Texas for the want of a judiciary there are others of no less appalling effects. This country is in danger of being inundated by bands of northern indians who are removing from the east side of the Mississippi to Arkansas on our borders. Also the Comanche, Tahuacana and other tribes of native Texas indians have recently become hostile and are committing depredations on the frontiers. But [it] is unnecessary to enter into details—enough is said in the representation of Bexar by the declaration that there is not and never has been any adequate gov^t in Texas.

Judging from the past, it must be considered a vain hope to look to the State government of Coahuila and Texas for a redress of grievances, or a remedy of wrongs. We have twice beheld the mortifying spectacle of the corrupt mob of the Capital driving the legislature by force to adopt measures, unconstitutional in themselves, insulting to the inhabitants of Texas, and disregarding of their rights. The general neglect of the state Legislature of all the important interests and rights of Texas and their repeated violations of the constitution are very clearly and energetically set forth in the Bexar remonstrance of last December. There seems to be no cause to expect any favourable change towards Texas in the politics of Coahuila. But even supposing there were the legislature that would suit Coahuila would be pernicious in Texas. No organization can be devised under the constitution of the State of Coahuila and Texas that would suit the two extremes, separated as they are more than 400 leagues, a great part through a wilderness that cannot be passed without imminent danger from hostile indians. The dissimilarity of habits occupation and language also present still greater difficulties than the distance. These difficulties are hard to reconcile for the reason that the state constitution requires that all general laws shall be the same throughout the whole state. There cannot therefore be any organization of the judiciary for Texas materially different from that of Coahuila.

In this state of things the committee considered themselves bound by a solemn duty to call on the people of Texas through their representatives to meet in general convention with full powers to deliberate on the present distracted situation of our infant country and to adopt such constitutional measures as in their wisdom they may deem necessary. In exercising this highly responsible duty the committee did not act unadvisedly or without the most mature deliberation, and they did not call this convention until they were satisfied that a large majority of the people of Texas were in favor of applying for a well organized state Gov^t as the only remedy for existing evils.

The law of the constituent Congress of 7 May 1824 evidently contemplates that Texas should form a separate State. The 2^d article of that law is in the following words as translated "Coahuila and Texas shall also form another state, but so soon as the latter is in a situation to figure as a separate state, it shall inform congress thereof for its resolution."

The right which this law confers upon the people of Texas to inform congress when they are in a situation to figure as a State, and to apply for admission into the Union is certainly very clear and unequivocal.

What method may be the best to obtain a remedy for the many evils which afflict Texas, can only be determined by the wisdom of the convention. Trusting that your deliberations will be conducted with that zeal for the public welfare which the common good of our adopted country requires and that they will tend to that happy issue which all so confidently anticipate, the central committee take leave of the convention by depositing the power which they have exercised for a time in the hands of those who gave it.

2. THE MEMORIAL TO CONGRESS REQUESTING SEPARATE STATEHOOD

April, 1833

From H. Yoakum, *A History of Texas* (2 vols.; New York, 1855; facsimile, Austin, 1935), I, 469-482.

The inhabitants of Texas, by their representatives elect, in convention assembled, would respectfully approach the national Congress, and present this their memorial, praying that the union which was established between Coahuila and Texas, whereby the two ancient provinces were incorporated into one free and independent state, under the name of "COAHUILA AND TEXAS," may be dissolved, abrogated, and perpetually cease; and that the inhabitants of Texas may be authorized to institute and establish a separate state government, which will be in accordance with the federal constitution and the constitutive act; and that the state so constituted shall be received and incorporated into the great confederation of Mexico, on terms of equality with the other states of the Union.

To explain the grounds of this application, your memorialists would respectfully invite the attention of the general Congress to the following considerations:

The consolidation of the late provinces of Coahuila and Texas was, in its nature, provisional, and, in its intention, temporary. The decree of the sovereign constituent Congress, bearing date the 7th of May, 1824, contemplates a separation, and guaranties to Texas the right of having a state government whenever she may be in condition to ask for the same. That decree provides that, "so soon as Texas shall be in a condition to figure as a state of itself, it shall inform Congress thereof, for its resolution." The implication conveyed by this clause is plain and imperative; and vests in Texas as perfect a right as language can convey. . . .

By the *Constitutive Act*, adopted on the 31st of January, 1824, Coahuila, New Leon, and Texas, were joined together, and denominated "the internal eastern state."

By a law passed by the constituent Congress on the 7th of May, 1824, that union was dissolved, and the province of New Leon was admitted into the confederacy as an independent state. It is on the *second* article of this law that the people of Texas now predicate their right to a similar admission. The constitutive act, above mentioned, consolidated the late provinces of Chihuahua, Durango, and New Mexico, under the style of "the internal northern state;" and on the 22d of May, 1824, a summary law decreed that "Durango should form a state of the Mexican confederation," and she was admitted accordingly. The same privilege was extended to Chihuahua by a decree of the 6th of July of the same year. These conjunct provinces stood, at the period of their separation, in precisely the same relation to the federal government that Texas and Coahuila now occupy. . . .

The general Congress may possibly consider the mode of this communication as informal. To this suggestion we would, with great deference, reply, that the events of the past year have not only violated the established forms and etiquette of the government, but have suspended, at least, its vital functions; and it would appear exceedingly rigorous to exact from the inhabitants of Texas, living on a remote frontier of the republic, a minute conformity to unimportant punctilios. The ardent desire of the people is made known to the Congress through their select representatives, the most direct and unequivocal medium by which they can possibly be conveyed; and surely the enlightened Congress will readily concur with us in the sentiment that the wishes and wants of the people form the best rule for legislative guidance. The people of Texas consider it not only an absolute right, but a most sacred and imperative duty to themselves, and to the Mexican nation, to represent their wants in a respectful manner to the general government, and to solicit the best remedy of which the nature of their grievances will admit. Should they utterly fail in this duty, and great and irremediable evils ensue, the people would have reason to reproach themselves alone; and the general Congress, in whom the remedial power resides, would also have reason to censure their supineness and want of fidelity to the nation. Under this view, we trust the Congress will not regard with excessive severity any slight departure which the good people of Texas may in this instance have made from the ordinary formalities of the government.

And we would further suggest to the equitable consideration of the federal Congress that, independent of and anterior to the express guaranty contained in the decree of the 7th of May, 1824, the right of having a separate state government was vested in and belonged to Texas, by the fact that she participated as a distinct province in the toils and sufferings by which the glorious emancipation of Mexico was achieved, and the present happy form of government was established. The subsequent union with Coahuila was a temporary compact, induced by a supposed expediency, arising from an inadequate population on the part of Texas "to figure as a state of itself." . . . The obvious design of the union between Coahuila and Texas was, on one part at least, the more effectually to secure the peace, safety, and

happiness, of Texas. That design has not been accomplished, and facts piled upon facts afford a melancholy evidence that it is utterly impracticable. Texas never has and never can derive from the connection benefits in any wise commensurate with the evils she has sustained, and which are daily increasing in number and in magnitude.

But our reasons for the proposed separation are more explicitly set forth in the subjoined remarks. . . . The two territories are disjunct in all their prominent respective relations.

In point of locality, they approximate only by a strip of sterile and useless territory, which must long remain a comparative wilderness, and present many serious embarrassments to that facility of intercourse which should always exist between the seat of government and its remote population. In respect to commerce and its various intricate relations, there is no community of interests between them. The one is altogether *interior*; is consequently abstracted from all participation in maritime concerns; and is naturally indifferent, if not adverse, to any system of polity that is calculated to promote the diversified and momentous interests of commerce. The other is blest with many natural advantages for extensive commercial operations, which, if properly cultivated, would render many valuable accessions to the national marine, and a large increase to the national revenues. The importance of an efficient national marine is evinced, not only by the history of other and older governments, but by the rich halo of glory which encircles the brief annals of the Mexican navy. In point of climate and of natural productions, the two territories are equally dissimilar. Coahuila is a pastoral and a mining country; Texas is characteristically an agricultural district. The occupations incident to these various intrinsic properties are equally various and distinct; and a course of legislation that may be adapted to the encouragement of the habitual industry of the one district, might present only embarrassment and perplexity, and prove fatally deleterious to the prosperity of the other.

It is not needful, therefore—neither do we desire—to attribute any sinister or invidious design to the legislative enactments or to the domestic economical policy of Coahuila (whose ascendancy in the joint councils of the state gives her an uncontrolled and exclusive power of legislation), in order to ascertain the origin of the evils that affect Texas, and which, . . . whether those evils have proceeded from a sinister policy in the predominant influences of Coahuila, or whether they are the natural results of a union . . . are equally repugnant and injurious, whether emanating from the one or the other source.

Bexar, the ancient capital of Texas, presents a faithful but a gloomy picture of her general want of protection and encouragement. Situated in a fertile, picturesque, and healthful region, and established a century and a half ago (within which period populous and magnificent cities have sprung into existence), she exhibits only the decrepitude of age—sad testimonials of the absence of that political guardianship which a wise government should always bestow upon the feebleness of its exposed frontier settlements. A hundred and seventeen years have elapsed since Goliad and Nacogdoches assumed the distinctive

names of towns, and they are still entitled only to the diminutive appellation of villages. Other military and missionary establishments have been attempted, but, from the same defect of protection and encouragement, they have been swept away, and scarcely a vestige remains to rescue their locations from oblivion.

We do not mean to attribute these specific disasters to the union with Coahuila, for we know they transpired long anterior to the consummation of that union. But we do maintain that the same political causes, the same want of protection and encouragement, the same mal-organization and impotency of the local and minor faculties of the government, the same improvident indifference to the peculiar and vital interests of Texas, exist *now* that operated then. Bexar is still exposed to the depredations of her ancient enemies; the insolent, vindictive, and faithless Camanches. Her citizens are still massacred, their cattle destroyed or driven away, and their very habitations threatened, by a tribe of erratic and undisciplined Indians, whose audacity has derived confidence from success, and whose long-continued aggressions have invested them with a fictitious and excessive terror. Her schools are neglected, her churches desolate, the sounds of human industry are almost hushed, and the voice of gladness and festivity is converted into wailing and lamentation, by the disheartening and multiplied evils which surround her defenceless population. Goliad is still kept in constant trepidation; is paralyzed in all her efforts for improvement; and is harassed on all her borders by the predatory incursions of the Wacoos, and other insignificant bands of savages, whom a well-organized local government would soon subdue and exterminate.

These are facts, not of history merely, on which the imagination must dwell with an unwilling melancholy, but they are events of the present day, which the present generation feel in all their dreadful reality. And these facts, revolting as they are, are as a fraction only in the stupendous aggregate of our calamities. Our misfortunes do not proceed from Indian depredations alone; neither are they confined to a few isolated, impoverished, and almost-tenantless towns. They pervade the whole territory—operate upon the whole population—and are as diversified in character as our public interests and necessities are various. Texas at large feels and deplores an utter destitution of the common benefits which have usually accrued from the worst system of internal government that the patience of mankind ever tolerated. She is virtually without a *government*; and if she is not precipitated into all the unspeakable horrors of anarchy, it is only because there is a redeeming spirit among the people, which still infuses some moral energy into the miserable fragments of authority that exist among us. We are perfectly sensible that a large portion of our population, usually denominated "the colonists," and composed of Anglo-Americans, have been greatly calumniated before the Mexican government. But could the honorable Congress scrutinize strictly into our real condition—could they see and understand the wretched confusion in all the elements of government, which we daily feel and deplore—our ears would no longer be insulted, nor our feelings mortified, by the artful fictions of hire-

ling emissaries from abroad, nor by the malignant aspersions of disappointed military commandants at home.

Our grievances do not so much result from any positive misfeasance on the part of the present state authorities, . . . We complain more of the *want* of *all* the important attributes of government, than of the abuses of any. . . .

It is equally obvious that the happiness of the people is more likely to be secured by a local than by a remote government. In the one case, the governors are part-takers, in common with the governed, in all the political evils which result to the community, and have therefore a personal interest in so discharging their respective functions as will best secure the common welfare. In the other supposition, those vested with authority are measurably exempt from the calamities that ensue [upon] an abuse of power, and may very conveniently subserve their own interests and ambition, while they neglect or destroy "the welfare of the associated."

But, independent of these general truths, there are some impressive reasons why the peace and happiness of Texas demand a local government. Constituting a remote frontier of the republic, and bordering on a powerful nation, a portion of whose population, in juxtaposition to hers, is notoriously profligate and lawless, she requires, in a peculiar and emphatic sense, the vigorous application of such laws as are necessary, not only to the preservation of good order, the protection of property, and the redress of personal wrongs, but such also as are essential to the prevention of illicit commerce, to the security of the public revenues, and to the avoidance of serious collision with the authorities of the neighboring republic. That such a judicial administration is impracticable under the present arrangement, is too forcibly illustrated by the past to admit of any rational hope for the future.

It is an acknowledged principle in the science of jurisprudence, that the prompt and certain infliction of mild and humane punishment is more efficacious for the prevention of crime than a tardy and precarious administration of the most sanguinary penal code. Texas is virtually denied the benefit of this benevolent rule by the locality and the character of her present government. Crimes of the greatest atrocity may go unpunished, and hardened criminals triumph in their iniquity, because of the difficulties and delays which enumber her judicial system, and necessarily intervene [between] a trial and conviction, and the sentence and the execution of the law. Our "supreme tribunal of justice" holds its sessions upward of seven hundred miles distant from our central population; and that distance is greatly enlarged, and sometimes made impassable, by the casualties incident to a "mail" conducted by a single horseman through a wilderness, often infested by vagrant and murderous Indians. Before sentence can be pronounced by the local courts on persons charged with the most atrocious crimes, a copy of the process must be transmitted to an assessor, resident at Leona Vicario (Saltillo), who is too far removed from the scene of guilt to appreciate the importance of a speedy decision, and is too much estranged from our civil and domestic concerns to feel the miseries that result from a total want of legal protection in person

and property. But our difficulties do not terminate here. After the assessor shall have found leisure to render his opinion, and final judgment is pronounced, it again becomes necessary to resort to the capital to submit the tardy sentence to the supreme tribunal for "approbation revocation, or modification," before the judgment of the law can be executed. Here we have again to encounter the vexations and delays incident to all governments where those who exercise its most interesting functions are removed by distance from the people on whom they operate, and for whose benefit the social compact is created.

These repeated delays, resulting from the remoteness of our courts of judicature are pernicious in many respects. They involve heavy expenses, which, in civil suits, are excessively onerous to litigants, and give to the rich and influential such manifold advantages over the poor as operate to an absolute exclusion of the latter from the remedial and protective benefits of the law. They offer seductive opportunities and incitements to bribery and corruption, and endanger the sacred purity of the judiciary, which, of all the branches of the government, is most intimately associated with the domestic and social happiness of man, and should therefore be, not only sound and pure, but unsuspected of the venal infection. They present insuperable difficulties to the exercise of the corrective right of recusation, and virtually nullify the constitutional power of impeachment. In criminal actions they are no less injurious. They are equivalent to a license to iniquity, and exert a dangerous influence on the moral feelings at large. Before the tedious process of the law can be complied with, and the criminal—whose hands are perhaps imbrued in a brother's blood—be made to feel its retributive justice, the remembrance of his crime is partially effaced from the public mind; and the righteous arbitrament of the law, which, if promptly executed, would have received universal approbation, and been a salutary warning to evil doers, is impugned as vindictive and cruel. The popular feeling is changed from a just indignation of crime into an amiable but mistaken sympathy for the criminal; and an easy and natural transition is converted into disgust and disaffection toward the government and its laws.

These are some of the evils that result from the annexation of Texas to Coahuila, and the exercise of legislative and judicial powers by the citizens of Coahuila over the citizens of Texas. The catalogue might be greatly enlarged, but we forbear to trespass on the time of the honorable Congress (confiding to the worthy citizens, who shall be charged with the high duty of presenting this memorial, and the protocol of a constitution, which the people of Texas have framed, as the basis of their future government, the more explicit enunciation of them). Those evils are not likely to be diminished, but they may be exceedingly aggravated by the fact that that political connection was formed without the cordial approbation of the people of Texas, and is daily becoming more odious to them. . . .

The idea may possibly occur, in the deliberations of the honorable Congress, that a territorial organization would cure our political maladies, and effectuate the great purposes which induce this application; and plaus-

ible reasons may be advanced in favor of it. But the wisdom of Congress will readily detect the fallacy of these reasons, and the mischief consequent to such vain sophistry. In this remote section of the republic, a territorial government must, of necessity, be divested of one essential and radical principle in all popular institutions—the immediate responsibility of public agents to the people whom they serve. . . .

And we would further present with great deference, that the institution of a territorial government would confer upon us neither the form nor the substance of our high guaranty. It would, indeed, diversify our miseries, by opening new avenues to speculation and abuse of power; but it would neither remove our difficulties nor place us in the enjoyment of our equal and vested rights. The only adequate remedy that your memorialists can devise, and which they ardently hope the collective wisdom of the nation will approve, is to be found in the establishment of a *local state government*. We believe that if Texas were endowed with the faculties of a state government, she would be competent to remedy the many evils that now depress her energies, and frustrate every effort to develop and bring into usefulness the natural resources which a beneficent Providence has conferred upon her. We believe that a local legislature, composed of citizens who feel and participate in all the calamities which encompass us, would be enabled to enact such conservative, remedial, and punitive laws, and so to organize and put into operation the municipal and inferior authorities of the country, as would inspire universal confidence; would encourage the immigration of virtuous foreigners—prevent the ingress of fugitives from the justice of other countries—check the alarming accumulations of ferocious Indians, whom the domestic policy of the United States of the North is rapidly translating to our borders; would give impulse and vigor to the industry of the people—secure a cheerful subordination and a faithful adhesion to the state and general governments; and would render Texas what she ought to be—a strong arm of the republic, a terror to foreign invaders, and an example of peace and prosperity—of advancement in the arts and sciences, and of devotion to the Union—to her sister-states. We believe that an executive chosen from among ourselves would feel a more intense interest in our political welfare, would watch with more vigilance over our social concerns, and would contribute more effectually to the purposes of his appointment. We believe that a local judiciary, drawn from the bosom of our own peculiar society, would be enabled to administer the laws with more energy and promptitude—to punish the disobedient and refractory—to restrain the viciousness of the wicked—to impart confidence and security, of both person and property, to peaceable citizens—to conserve and perpetuate the general tranquillity of the state—and to render a more efficient aid to the coordinate powers of the government, in carrying into effect the great objects of its institution. We believe that, if Texas were admitted to the Union as a separate state, she would soon "figure" as a brilliant star in the Mexican constellation, and would shed a new splendor around the illustrious city of Montezuma. We believe she would contribute largely to the national wealth and aggrandizement

—would furnish new staples for commerce, and new materials for manufactures. The cotton of Texas would give employment to the artisans of Mexico; and the precious metals, which are now flowing into the coffers of England, would be retained at home, to reward the industry and remunerate the ingenuity of native citizens. . . .

For these and other considerations, your memorialists would solemnly invoke the magnanimous spirit of the Mexican nation, concentrated in the wisdom and patriotism of the federal Congress. And they would respectfully and ardently pray that the honorable Congress would extend their remedial power to this obscure section of the republic; would cast around it "the sovereign mantle of the nation," and adopt it into a free and plenary participation of that "constitutional regime" of equal sisterhood which alone can rescue it from the miseries of an ill-organized, inefficient, internal government, and can reclaim this fair and fertile region from the worthlessness of an untenanted waste, or the more fearful horrors of barbarian inundation.

DAVID G. BURNET, *Chairman of the Committee.*

3. THE PROPOSED CONSTITUTION FOR THE STATE OF TEXAS

April 13, 1833

From *Constitution or Form of Government of the State of Texas* (Made in General Convention, in the Town of San Felipe de Austin, in the Month of April, 1833; New Orleans, 1833; photostat copy, Archives, Texas State Library, Austin).

CONSTITUTION OF TEXAS.

In the name of God, Omnipotent Author, and Supreme Legislator of the Universe! We, the People of Texas, being capable of figuring as a State in the manner contemplated in the second article of the Decree of the General Congress of the Nation, of the 7th of May, 1824, DO ORDAIN THE FOLLOWING CONSTITUTION, and do mutually agree with each other, to form ourselves into a Free and Independent State of the Mexican Confederacy, by the name of the STATE OF TEXAS.

GENERAL PROVISIONS

ARTICLE 1. All power is inherent in the people; and all free governments are founded on their authority, and established for their peace, safety, and happiness: for the advancement of these ends, they have at all times an undeniable right to alter, reform, or abolish the government, in such manner as they may think proper.

Art. 2. Government being instituted for the protection and common benefit of all persons, the slavish doctrine of non-resistance against arbitrary power and oppression is discarded, as destructive of the happiness of mankind, and as insulting to the rights, and subversive of the liberties of any people.

Art. 3. All elections shall be free and equal.

Art. 4. The right of trial by jury, and the privilege of the *Writ of Habeas Corpus* shall be established by law, and shall remain inviolable.

Art. 5. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures: and general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person, or persons, not named, whose offences are not particularly described, and supported by evidence, are dangerous to liberty, and *shall not be granted.*

Art. 6. No citizen shall be taken, or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner distrained, or deprived of his life, liberty, or property, but by the law of the land.

Art. 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof: he shall be confronted by his accusers and the witnesses, he shall have compulsory processes for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the municipality or district, in which the crimes shall have been committed; and shall not be compelled to give evidence against himself.

Art. 8. No person shall, for the same offence, be twice put in jeopardy of life or limb.

Art. 9. No retrospective law, or law impairing the obligation of contracts shall be made.

Art. 10. No conviction shall work corruption of blood, or forfeiture of estate.

Art. 11. No person arrested, or confined in jail, shall be treated with unnecessary rigour.

Art. 12. No person shall be compelled to answer any criminal charge but by presentment, indictment, or impeachment, or by a concurrent vote of both houses of the legislature, as provided by the constitution.

Art. 13. All persons shall beailable by sufficient sureties, unless for capital crimes, when the proof is evident, or the presumption strong; and the privilege of the Writ of Habeas Corpus shall not be suspended, except when in cases of rebellion, or invasion, the public safety may require it.

Art. 14. Excessive bail shall not be required, nor excessive fines imposed: or cruel or unusual punishment inflicted: all courts shall be open, and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

Art. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor, or creditors, in such manner as shall be prescribed by law.

Art. 16. The free communication of thoughts and opinions, is one of the inviolable rights of man; and every person may freely speak, write, print, and publish, on any subject, being responsible for the abuse of that liberty; but in prosecutions for the publication of papers investigating the official conduct of men in public capacity, the truth thereof may be given in evidence, as well as in personal actions of slander; and in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court as in other cases.

Art. 17. No man's particular service shall be demanded, nor property taken, or applied to public use, without the consent of himself, or his, representative; or without just compensation being made therefor, according to law.

Art. 18. The people have a right to assemble together, in a peaceable manner, for their common good: to instruct their representatives and to apply to those invested with the powers of government, for redress of grievances, or for other proper purposes, by address or remonstrance.

Art. 19. Perpetuities and monopolies are contrary to the genius of a free government, and shall not be allowed.

Art. 20. 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 to the organization of the militia of this State.

Art. 21. No soldier, in the time of peace, shall be quartered in the house, or within the inclosure of any individual, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Art. 22. No property qualifications shall be required to entitle a citizen to vote, or hold any office, in the gift of the people of this State.

Art. 23. All persons residing in Texas, at the date of this Constitution, except bonded servants, and other persons not liable to taxation by virtue of laws enacted under this Constitution, shall be regarded as citizens, and as being entitled to all the benefits of persons who emigrated to the country under the Colonization Law of 1825, and shall be acknowledged and admitted to all the rights and privileges of such immigrants.

Art. 24. All contracts and transfers of property, by will or otherwise, as well in relation to real as personal estate, which have been made in Texas heretofore, or which hereafter may be made, in good faith, by the parties, shall not be void for any want of form or technicality, but shall be construed and enforced according to the true intention of the parties.

Art. 25. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort.—No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act.

Art. 26. The benefits of education, and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government. The protection and advancement of these great objects are given in special and solemn charge to the legislature.—It shall be a particular duty of the government to patronize and cherish the interests of literature, of science, and the arts; and as soon as practicable, to establish schools, where the poor shall be taught gratis.

Art. 27. All elections in this State, shall be by ballot: and the manner thereof shall be prescribed by law.

Art. 28. All lands in this state, liable to taxation, held by deed, grant, concession, colonization law, or otherwise, shall be taxed according to their valuation.

Art. 29. The right of suffrage shall not be exercised by any person of insane mind, or who shall be a pauper, or supported by public or private charity, nor by any non-commissioned officer, soldier, seaman, or marine, in

the service of the United Mexican States; nor by any person convicted of an infamous offence, hereafter committed.

Art. 30. No bank nor banking institution, nor office of discount and deposite, nor other monied corporation, nor private banking establishment, shall ever exist during the continuance of this constitution.

Art. 31. All lands within the limits of Texas, at this date vacant, or not held agreeable to law, or to be located under genuine and bonifide grants, now issued and received by the grantee, or grantees, or otherwise provided for by this constitution, shall belong and constitute a fund for the use of the state; and be subject to the disposal of the legislature: Provided, that nothing contained in this article shall be so construed, as to prejudice the rights of citizens, colonists or settlers, who hold, or are entitled to acquire, under this constitution, lands by deed, grant, concession, or settlement right.

LEGISLATURE

Art. 32. The legislative authority of this State, shall be vested in a Legislature, which shall consist of a Senate and House of Representatives, both dependent on the people.

Art. 33. The members of the legislature shall be chosen by the qualified electors, and shall serve for the term of two years from the day of commencement of the general election, and no longer.

Art. 34. The senators and representatives shall be chosen every two years, on the first Monday of August, and the day following.

Art. 35. Within three years from the meeting of the first legislature under this constitution, an enumeration of the population of the state shall be made agreeably to the mode which shall be prescribed by the legislature, and the apportionment and representation shall be regulated by law.

Art. 36. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the precincts, formed as hereinafter directed, according to the number of taxable inhabitants in each, and shall never be less than one third, nor more than one half of the whole number of representatives.

Art. 37. Elections for representatives for the several precincts entitled to representation, shall be held at the places of holding their respective courts, or at such other places as the legislature may prescribe.

Art. 38. The senators shall be chosen by districts, to be formed by the legislature according to the number of taxable inhabitants in each, provided that no precinct shall be divided in forming a senatorial district.

Art. 39. The first three years after the adoption of this constitution, the legislature shall meet annually, on the first Monday of November; and thereafter it shall meet biennially, on the same day, and be held at such place as the legislature shall prescribe.

Art. 40. No person shall be eligible to a seat in the senate until he has arrived to the age of twenty five years, nor in the house of representatives until he shall have arrived to the age of twenty-one years; he shall be a citizen of the state, and shall have resided within the same twelve months, and six months within the precinct,

or district for which he is elected, immediately preceding the time of his election.

Art. 41. Every male inhabitant of the age of twenty-one years, who shall be a citizen of the state, and shall have resided for the last six months, immediately preceding the day of election, within the precinct, or district, shall enjoy the right of an elector.

Art. 42. the senate, at its meeting, shall elect a president pro tempore: and the house of representatives shall elect its speaker. Each house shall elect its own officers, and be judges of the qualifications and election of its members.

Art. 43. Each house may determine the rules of its proceedings; punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member; but not a second time for the same offence; and shall have all other powers necessary for the legislature of a state.

Art. 44. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same.

Art. 45. Each house may punish, by imprisonment, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence;—Provided, that such imprisonment shall not be for a longer time than thirty days.

Art. 46. Bills may originate in either house, but may be afterwards amended or rejected by the other.

Art. 47. Every bill shall be read on three different days, and signed by the president of the senate, and speaker of the house [of] representatives, before it becomes a law, unless the public safety should be endangered by delay.

Art. 48. After a bill has been rejected, no bill containing the same substance shall be passed into a law during that session.

Art. 49. The style of the laws of this state shall be—
"Be it enacted by the Senate and House of Representatives of the State of Texas."

Art. 50. Each house shall keep a journal of its proceedings, and publish them, except such parts as the welfare of the state may require to be kept secret; and the yeas and nays of the members, on any question, shall at the request of one-fourth of the members present, be entered on the journal.

Art. 51. The legislature shall have power to establish, from time to time, the salaries of all the officers of the state; and to regulate the compensation of its own members.

Art. 52. The doors of each house, and committees of the whole, shall be kept open, unless when the business before them require secrecy.

Art. 53. No money shall be drawn from the treasury but in pursuance of appropriation by law.

Art. 54. No person, who heretofore hath been, or hereafter may be a collector, or holder of public monies, shall have a seat in either house of the legislature of the state, until such person shall have accounted for, and paid into the treasury, all sums for which he may be liable.

Art. 55. No judge of any court of law, or equity, secretary of state, attorney general, register, clerk of any court of record, or person holding any office under the authority of the Mexican United States, shall have a seat in the legislature of this state, nor shall any person in this state hold more than one lucrative office at one and the same time; Provided, that no appointment in the militia, or to the office of justice of the peace, so long as no salary is attached thereto, shall be considered a lucrative office.

Art. 56. If any member of the legislature is appointed to, or elected to, or accepts any other office than that of justice of the peace, trustee of a literary society, or commission in the militia, such appointment and acceptance shall be a vacation of his seat in the legislature, and no member thereof shall be eligible to hold any office, created by the legislature, during his term of service as a member.

Art. 57. Any member of either house of the legislature shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public, or to any individual, and have the reasons of his dissent entered on the journals.

Art. 58. The legislature shall have power to establish such a system of internal improvement as they may think proper.

Art. 59. The legislature shall have power to enact laws to impose taxes, and collect money for the use of the state; but no currency shall ever be made lawful tender, except gold, silver and copper coin.

EXECUTIVE

Art. 60. The Executive power shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Texas.

Art. 61. The Governor shall be elected by the qualified electors, at the time and place of choosing representatives for the legislature. — He shall hold his office for the term of two years from the time of his installation, and until a successor be duly appointed and qualified; but shall not be eligible for more than four years in any term of six years. He shall be a citizen of the United States of Mexico; shall be at least twenty-seven years of age, and shall have resided in Texas at least three years, next preceding his election.

Art. 62. The returns of every election for governor and lieutenant governor shall be sealed up, and transmitted to the president of the senate pro tem. who shall open and publish them, in presence of both houses of the legislature. The person having the highest number of votes shall be governor. Should two or more have been candidates for the office, and two or more persons be equal and highest in number one of those who are equal and highest shall be chosen governor, by joint ballot of both houses; and in like manner, under similar circumstances, shall the lieutenant governor be chosen.

Art. 63. The governor shall, at stated times, receive for his services a compensation which shall be neither increased nor reduced during the term for which he shall have been elected.

Art. 64. The governor shall be commander in chief of the militia of the state; except when they shall be called into the service of the Mexican United States; but he

shall not command personally in the field, unless he shall be advised so to do by resolution of the legislature; shall take care that the constitution of this state, the constitutive act, and the constitution of the Mexican United States, and the laws be faithfully executed; shall communicate to the legislature at every session the condition of the state; and recommend such measures as he may deem expedient; he shall have power to convene the legislature, when, in his opinion, the interest of the state may require it; to grant reprieves and pardons, except in case of impeachment; to conduct all correspondence, or intercourse, with other states, and with the general government; and during the recess of the legislature, to fill, pro tempore, until the end of the next succeeding session, all vacancies in those offices which it may be the duty of the two houses, or of the executive and senate, to fill permanently.

Art. 65. Every bill which shall have passed both houses of the legislature, shall be presented to the governor; if he approve he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill, shall be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner, as if he had signed it, unless the legislature by their adjournment, prevent its return, in which case it shall not be a law.

Art. 66. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him; or being disapproved, shall be repassed by both houses, according to the rules and limitation prescribed in the case of a bill.

Art. 67. There shall be a Lieutenant Governor, who shall be elected at the same time, in the same manner, for the same term, and shall possess the same qualifications as the governor. The electors shall designate for whom they vote as governor, and for whom as lieutenant governor.

Art. 68. The lieutenant governor shall, ex officio, be president of the senate, and when there is an equal division in the senate, shall give the casting vote; and also, in joint voting of both houses.

Art. 69. When the office of governor shall become vacant by death, resignation, absence from the state, removal from office, refusal to qualify, impeachment, or otherwise, the lieutenant governor, or in case of the disability on his part, the president of the senate pro tempore; or if there be no president of the senate pro tem. the speaker of the house of representatives shall possess all the powers and discharge all the duties of governor;

and shall receive for his services the like compensation to the end of the term, or until the disability of the governor be removed. Provided, that should the office become permanently vacant, within ten months from the beginning of the term, the person exercising the powers of governor, for the time being, shall, as may be, cause an election to be held to fill such vacancy, giving three months notice thereof.

Art. 70. There shall be a Secretary of State, appointed by the governor, with the advice and consent of the senate. He shall hold his office three years, and shall keep a register of all the official acts and proceedings of the governor, and perform such duties as may be enjoined upon him by law. He shall, as soon as may be, procure and keep a seal of state, with such emblems and devices as shall be directed by law, which shall not be subject to change.

Art. 71. A state treasurer shall be elected by joint vote of both houses who shall also discharge the duties of Auditor, until otherwise provided by law.

Art. 72. There shall be an ayuntamiento in each municipality. The powers and duties of the ayuntamientos, the number of members who are to compose them, and the mode of their election, shall be prescribed by law.

Art. 73. All commissions shall be in the name of "The State of Texas," be sealed with the state seal, signed by the governor, and attested by the secretary of state.

Art. 74. Sheriffs and Coroners shall be elected every two years, by the qualified electors; at the time and place of choosing representatives. Their duties shall be regulated by law, and they shall hold their office for two years, and until a successor shall be duly appointed and qualified, unless sooner removed for misdemeanor in office.

Art. 75. The governor shall nominate and appoint, with advice and consent of the senate, all officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: Provided, however that the legislature shall have the right to prescribe the mode of appointment of all other officers to be established by law.

Art. 76. The governor shall make use of his private seal until a seal of the state shall be provided.

JUDICIARY

Art. 77. The judicial power shall be vested in a supreme court, and inferior courts.

Art. 78. The State of Texas shall be divided into four judicial districts, in each of which there shall be appointed a district judge.

Art. 79. The said district judges shall compose the supreme court; a majority of whom shall form a quorum. The said judges shall hold their courts as district judges, and judges of the supreme court, at the time and places prescribed by law.

Art. 80. The legislature shall create and establish such inferior courts as may be convenient for the administration of justice.

Art. 81. The judges of the district and supreme courts, who shall be elected at the first session of the legislature, shall hold their offices for the term of three years, eligible for re-election; and their successors in office shall hold

their office for the term of six years, eligible to re-election by the legislature every six years.

Art. 82. The judges, by virtue of their office, shall be conservators of the peace through the state. The style of all processes shall be, "The State of Texas;" all prosecutions shall be carried on "In the name, and by the authority of the State of Texas," and conclude, "against the peace and dignity of the State."

Art. 83. There shall be an attorney general for the state, and as many prosecuting attorneys as may hereafter be found necessary.—Their duties, salaries, perquisites, and terms of service shall be determined by law.

Art. 84. The clerks of the districts and supreme courts shall be appointed by the judges of the respective courts.

Art. 85. The judges of the district and supreme courts shall receive fixed and adequate salaries, which shall be established by law.

Art. 86. The judges may be removed from office by a concurrent vote of both houses of the legislature: but two-thirds of the number present, must concur in such vote, and the causes of removal shall be entered on the journal of each. The judge against whom the legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least thirty days before the day on which either house of the legislature shall sit thereupon.

Art. 87. The judges may also be removed by impeachment.

Art. 88. The power of impeachment shall be vested in the house of representatives.

Art. 89. All impeachments shall be tried by the Senate: when acting for that purpose, the members shall be upon oath, and no person shall be convicted without the concurrence of two-thirds of the members present.

Art. 90. The governor, and all civil officers shall be liable to impeachment for all misdemeanors in office; but judgment in such cases, shall not extend further than removal from office, and disqualification to hold any office of trust or profit, in this state. But the parties shall nevertheless, be liable and subject to indictment, trial and punishment according to law.

Art. 91. The judges of the district and supreme courts, and the attorney general, shall be at least twenty-five years of age, and shall be learned in the law.

Art. 92. Alcaldes and Comisarios shall be elected by the people; their duties, jurisdiction, number in each municipality, and fees, shall be determined by law.

Art. 93. The legislature is authorized to increase the number of judicial districts and district judges, whenever the necessity of the country requires it.

Art. 94. The legislature shall establish a separate supreme court, so soon as the condition of the state may require it.

Art. 95. The interpretation of the constitution and laws of this state shall belong exclusively to the judiciary.

SCHEDULE

Art. 96. The state of Texas shall include all the country formerly known as the province of Texas.

Art. 97. That no inconvenience may arise in our separation from Coahuila, it is declared that all rights, actions, prosecutions, and contracts, shall continue as if

no change had taken place, except in cases provided for in the body of this constitution.

Art. 98. All dues, fines, penalties, and forfeitures due and owing to the State of Coahuila and Texas, shall be collectable in the name, and for the use of Texas. All bonds for the performance of duties, shall be passed over to the first Governor of Texas, and his successors in office, for the use and benefit of the parties interested.

Art. 99. The authorities of the State of Coahuila and Texas shall fill their offices within the limits of Texas, and shall continue in the exercise of their respective duties until suspended under this constitution.

Art. 100. Until the first enumeration, as provided for by this constitution, the apportionment of representation to the legislature, shall be regulated by a resolution to be adopted by this constitution.

Art. 101. All officers or persons elected, or appointed to any office or place of trust, profit, or honor, in this state, before entering upon the duties of his office, or station, shall take the following oath:—"I A. B. do solemnly swear, that I will support the constitution of the United Mexican States, the constitutive act, and the constitution of this state, and that I will faithfully discharge the duties of the office of—, according to law, to the best of my abilities.—So help me God."

Art. 102. The election of Senators and Representatives to the general congress, shall take place agreeably to the provisions of the Federal constitution of the United Mexican States; and laws to that effect, shall be passed by the legislature.

Art. 103. Whenever a majority of both houses of the legislature, may deem it necessary to amend this constitution, they shall recommend to the electors at the next election of members of the legislature, to vote for or against a convention, and if it shall appear, that a majority of all the electors of the state, voting for the members of the legislature, shall have voted for a convention, the legislature shall, at their next session, call a convention to consist of at least as many members as there may be in the legislature, to be elected at the same places, and in like manner as prescribed for the election of members of that body.

Art. 104. Until the first enumeration shall be made as described by this constitution, the senatorial districts shall be composed of the following precincts:

Bexar, shall be entitled to one senator.

Nueces, Goliad and Guadalupe Victoria, one senator.

Labaca, Matagorda, and Santa Anna, one senator.

Victoria, and Bolivar, one senator.

San Felipe, one senator.

Magnolia, San Jacinto, [west side] and precinct of San Jacinto, one senator.

New-Holland, Hidalgo, and Tenoxticlan, one senator.

Anahuac, Liberty and Cow Bayou, one senator.

Nacogdoches, one senator.

Ayish and Snow River, one senator.

Tennahaw and Sabine, one senator.

Art. 105. The number of representatives that each of the precincts, above enumerated, shall have in the first legislature, shall be determined by the number of votes given in at the first election, on the basis of one repre-

the Year of our Lord, eighteen hundred and thirty-three.

WILLIAM H. WHARTON,

Member and President of the Convention.

[Signed]

EXPLANATION.

The paragraph following has been omitted at the proper place. It should be article 60, and follow article 59, under the head of LEGISLATURE. In the copy it stood as 85.

Art. 85. The existing law of the State of Coahuila and Texas, when this constitution goes into effect, shall continue in force until altered, or abolished, by the legislature; Provided, however, that the legislature shall never adopt any system of code of laws by general reference to said system or code, but in all cases shall specify the several provisions of the laws it may enact.

representative for every hundred voters, without counting fractions under one hundred. Provided, that each precinct shall have one representative, whatever may be the number of its voters. After all the votes are taken, and the polls are closed, the judges of the election shall declare the persons who have received the highest number of votes for representatives, to be duly elected, agreeably to the basis above established, and shall issue certificates to such persons accordingly. In case of a tie between two or more, it shall be decided by lot, by the judges.

Art. 106. All powers, or grants of power, rights, or privileges, and immunities, not expressly given or granted by this constitution, are reserved to, and shall remain with, the People of the State, and can only be divested, or delegated, by amendment of this Constitution.

DONE in the Town of San Felipe de Austin, in Convention of the People of Texas, by means of their chosen Delegates, on the thirteenth day of April, in

THE CONVENTION OF 1833

April 1-13, 1833

A liberal revolution in Mexico in 1832 under Santa Anna overthrew the conservative government of Anastacio Bustamante that had precipitated the crisis at Anahuac and, as a result, the troops throughout East Texas were withdrawn. Hopeful that Santa Anna, whose cause they had supported, would be receptive to their requests for reforms, the Texans met in convention in October, 1832, and April, 1833, at San Felipe to draw up formal petitions for that purpose.

The first convention, consisting of fifty-six delegates representing sixteen districts, addressed memorials to the national and state governments, the two most important calling for the repeal of the Law of April 6, 1830, and for separation of Texas from Coahuila. Its petitions were never presented, however, possibly because Santa Anna had not yet won control of the government, but more probably because the Mexican officials in Texas and Coahuila considered the action extra-legal. But early in 1833 when it was apparent that Santa Anna would become president, the Central Committee of Safety and Correspondence at San Felipe called the second convention for April 1. A larger number of discontented delegates were in attendance this time, evidenced by the selection of William H. Wharton rather than Stephen F. Austin as president of the convention. Petitions similar to those of 1832 were prepared, but with greater emphasis on separate statehood.

The three documents which follow explain this sentiment clearly and provide the organic type of state government desired. The first was written by Austin at the request of the Central Committee of Safety and Correspondence to explain why the convention had been called; the second was written by David G. Burnet, chairman of the committee appointed by the convention to explain to congress why Texas should have a separate state government; the third was the work of a committee, headed by Sam Houston, appointed by the convention to prepare a proposed constitution for the State of Texas.