

Exhibit Section
"D"

Exhibit "D 1"

ARTICLES OF CONFEDERATION

(1777)

[The same continental congress which passed the Declaration of Independence, appointed a committee "to prepare and digest the form of confederation to be entered into between these colonies." On July 12, 1776, the committee reported a draft of these articles; and after many changes the congress adopted them on November 15, 1777. They did not, however, become operative till they had been adopted by all the individual states, the last of which, Maryland, finally consented on March 1, 1781. The articles were superseded by the Constitution in 1789.]

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE THE UNDERSIGNED
DELEGATES OF THE STATES AFFIXED TO OUR NAMES SEND GREETING.

WHEREAS, the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the year of our Lord One Thousand Seven Hundred and Seventy-seven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.
"*Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.*"

ARTICLE I. The stile of this confederacy shall be "The United States of America."

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm

Exhibit "D2"

CONSTITUTION OF THE UNITED STATES

(1787)

[On May 25, 1787, fifty-five delegates from the various States met in Philadelphia to discuss the drawing up of a Constitution to take the place of the Articles of Confederation. Washington presided; and, after a long struggle and many compromises, the resultant document was referred to the several States on September 28 of the same year. By June 21, 1789, the required nine out of the thirteen States had ratified it, and the new federal government was established at New York on April 30, 1789. The dates of the amendments are as follows: I-X, Nov. 3, 1791; XI, Jan. 8, 1798; XII, Sept. 25, 1804; XIII, Feb. 1, 1865; XIV, July 28, 1868; XV, March 30, 1870; XVI, Feb. 25, 1913; XVII, May 31, 1913; XVIII, Jan. 29, 1919; XIX, Aug. 26, 1920.]

We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I

SECTION 1 All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2 (1) The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the Age of Twenty-five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

(3) Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, accord-

ARTICLE VI

(1) All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

(2) This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

(3) The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present, the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In ~~Witness~~ whereof We have hereunto subscribed our Names,

GO. WASHINGTON

Presidt. and Deputy from Virginia.

New Hampshire

NICHOLAS GILMAN

JOHN LANGDON

Massachusetts

RUFUS KING

NATHANIEL GORHAM

Connecticut

ROGER SHERMAN

WM. SAML. JOHNSON

Exhibit "D3"

CONSTITUTION OF THE UNITED STATES

(1787)

[On May 25, 1787, fifty-five delegates from the various States met in Philadelphia to discuss the drawing up of a Constitution to take the place of the Articles of Confederation. Washington presided; and, after a long struggle and many compromises, the resultant document was referred to the several States on September 28 of the same year. By June 21, 1789, the required nine out of the thirteen States had ratified it, and the new federal government was established at New York on April 8, 1796; XII, Sept. 25, 1804; XIII, Feb. 1, 1865; XIV, July 28, 1868; XV, March 30, 1870; XVI, Feb. 25, 1913; XVII, May 31, 1913; XVIII, Jan. 29, 1919; XIX, Aug. 26, 1920.]

We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I

SECTION 1 All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2 (1) The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the Age of Twenty-five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

(3) Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, accord-

wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

ARTICLE XII

The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted;

Exhibit "D4"



ADMISSION OF STATE OF TEXAS INTO UNION

JOINT RES. DEC. 29, 1845, 9 U.S.STAT. 108

AS, the Congress of the United States, by a joint resolution March the first, eighteen hundred and forty-five, did consent territory properly included within, and rightfully belonging to olie of Texas, might be erected into a new State, to be called of Texas, with a republican form of government, to be adopt-people of said Republic, by deputies in convention assembled, consent of the existing government, in order that the same admitted as one of the States of the Union; which consent ss was given upon certain conditions specified in the first d sections of said joint resolution; and whereas, the people d Republic of Texas, by deputies in convention assembled, onsent of the existing government, did adopt a Constitution, a new State with a republican form of government, and, in of the people of Texas, and by their authority, did ordain e that they assented to, and accepted the proposals, condi-guarantees contained in said first and second sections of ition; and whereas, the said Constitution, with the proper f its adoption by the people of the Republic of Texas, has mitted to the President of the United States and laid before in conformity to the provisions of said joint resolution:

l, by the Senate and House of Representatives of the United America in Congress assembled, That the State of Texas e, and is hereby declared to be one, of the United States of and admitted into the Union on an equal footing with the

Resolution for the
recession of the
State as there are
the Union.

Resolution No. 2.

Dec. 10. 1845
That ~~the~~ spirit of the
time and under the
order of the day for
this day and

Mr. Douglas
from the Committee
on Territories reports
the following
Resolution.

1335 with the
constitution of the
new Spi, report 535
as per 1845/

1338
The next
in the next

Resolution for the admission of the State
of Texas into the Union

Whereas the congress of the United States,
by a "joint Resolution", approved March
the first eighteen hundred and forty
five, did consent that the territory
properly included within and rightfully
belonging to, the Republic of Texas,
~~may~~^{might} be created into a new State, to
be called the State of Texas, with a
Republican form of government, to be
adopted by the people of said Republic,
by deputies in convention assembled,
with the consent of the existing govern-
ment, in order that the same ~~may~~^{might} be
admitted as one of the States of the
Union; which consent of congress
was given upon certain conditions
specified in the first and second
sections of said joint Resolution;

and whereas the people of the said Repub-
-lic of Texas, by deputies in convention
assembled, with the consent of the existing
government, did adopt a constitution
and erect a new state, with a republican
form of government, and in the name
of the people of Texas, and by their auth-
-ority, did ordain and declare that they
agreed to and accepted, the proposals,
conditions and guarantees contained
in said first and second sections
of said resolutions; and whereas the
said constitution, with the proper
-vidence of its adoption by the people
of the Republic of Texas, has been
transmitted to the President of the
United States, and laid before congress,
in conformity to the provisions of said
joint resolution: Therefore
it resolved by the Senate and
House of Representatives of the

United States of America in congress
assembled, That the State of Texas

1822 it received by the same
House of Representatives of the

United States of America in Congress assembled, that the State of Texas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union, on an equal footing with the original States, in all respects whatever.

Be it further resolved, that until the representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of Texas shall be entitled to choose two Representatives.

COPY
from
THE NATIONAL ARCHIVES
Records of the U.S.
House of
Representatives
Record Group 233

Exhibit "D5"

Law, § 16. The question then for our decision is whether the majority or the dissent in Miller expressed the correct view of common law recoupment as it exists in Texas. And this is true whether we regard the applicable law as being that of the place where the contract was made or that of the place where the suit was brought. (As to the conflict of laws question, see, 11 Am.Jur. 502, §§ 189, 190.) In *Miller*, the contract was made in Texas and suit was brought in Texas. In the case now before us, the situation is essentially the same. Although it appears that the contract was executed in the State of Montana, Porter did not assert that the matter of recoupment should be determined by the law of Montana as the *lex loci contractus*, nor did he claim that the law of Montana on the point is different from that of Texas. Accordingly, we presume that they are identical. *Milner v. Schaefer*, Tex.Civ. App., 211 S.W.2d 600, wr. ref.

[2-5] The question of common law recoupment in Texas is to be determined in accordance with the decisions of this Court. Texas was never a British colony nor an American territory and the common law comes to us by adoption rather than by inheritance, so to speak. The Congressional Act of January 20, 1840, 2 Gammel's Laws, p. 177, Article 1, Vernon's Ann.Tex. Civ.Stats., simply makes the common law of England, so far as it is consistent with our constitutional and legislative enactments the rule of decision in Texas. No English statutes were adopted. *Paul v. Ball*, 31 Tex. 10, 15, and although Texas was an independent republic in 1840, the Act of the Congress of that year was not construed as referring to the common law as applied in England in 1840, but rather to the English common law as declared by the courts of the various states of the United States. *Grigsby v. Reib*, 105 Tex. 97, 153 S.W. 1124, L.R.A.1915E 1, Ann. Cas.1915C 1011. See also, *Clarendon Land Investment Agency Co. v. McClelland Bros.*, 86 Tex. 179, 23 S.W. 576, 1100, 22 L.R.A. 105; *Diversion Lake Club v. Heath*,

126 Tex. 129, 86 S.W.2d 441. The common law of Texas is somewhat unique in origin and its development has not in all respects coincided with the general course of evolution discernable throughout the other American states. However that may be, the Texas decisions control the point in this case and these holdings are fatal to a respondent's asserted recoupment. The narrow scope of recoupment in Texas is illustrated by the case of *Mason v. Peterson*, Tex.Com.App., 250 S.W. 142, holdings approved by the Supreme Court. It must be predicated upon a factor which would vitiate a contract either in whole or in part as of the time the contract was made. The claim asserted by Porter in the present case is clearly a counter claim under the holding of *Morris-Buick Co. v. Davis*, 127 Tex. 41, 91 S.W.2d 313 and barred under the contractual time limitations set forth in the Uniform Live Stock Contract.

The judgments of the trial court and the Court of Civil Appeals are reversed and judgment here rendered for Southern Pacific Company and against George A. Porter for the sum of \$4,319.50 as prayed for in the petition, together with interest thereon from April 10, 1958 (the date of the trial court's judgment) until paid at the rate of six per centum per annum.

Reversed and rendered.

CULVER, Justice (dissenting).

The question of law presented here is whether in a suit by petitioner-Railway Company, to recover freight charges for an interstate shipment of cattle by connecting carriers from Montana to California, the respondent-shipper may interpose defensively a claim for damages by way of recoupment although the claim if asserted as a setoff or counterclaim was barred by limitations. This question was resolved in favor of the shipper by the trial court and affirmed by the Court of Civil Appeals. 319 S.W.2d 810.

The case of *Pennsylvania R. Co. v. Miller*, 5 Cir., 124 F.2d 160, 140 A.L.R. 811

Exhibit "D6"

(Slip Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

U. S. TERM LIMITS, INC., ET AL. v. THORNTON ET AL.

CERTIORARI TO THE SUPREME COURT OF ARKANSAS

No. 93-1456. Argued November 29, 1994—Decided May 22, 1995*

Respondent Hill filed this suit in Arkansas state court challenging the constitutionality of §3 of Amendment 73 to the Arkansas Constitution, which prohibits the name of an otherwise-eligible candidate for Congress from appearing on the general election ballot if that candidate has already served three terms in the House of Representatives or two terms in the Senate. The trial court held that §3 violated Article I of the Federal Constitution, and the Arkansas Supreme Court affirmed. A plurality of the latter court concluded that the States have no authority “to change, add to, or diminish” the age, citizenship, and residency requirements for congressional service enumerated in the Qualifications Clauses, U. S. Const., Art. I, §2, cl. 2, and Art. I, §3, cl. 3, and rejected the argument that Amendment 73 is constitutional because it is formulated as a ballot access restriction rather than an outright disqualification of congressional incumbents.

Held: Section 3 of Amendment 73 to the Arkansas Constitution violates the Federal Constitution. Pp. 6-61.

(a) The power granted to each House of Congress to judge the “Qualifications of its own Members,” Art. I, §5, cl. 1, does not include the power to alter or add to the qualifications set forth in the Constitution’s text. *Powell v. McCormack*, 395 U. S. 486, 540. After examining *Powell*’s analysis of the Qualifications Clauses’ history and text, *id.*, at 518-548, and its articulation of the “basic principles of our democratic system,” *id.*, at 548, this Court reaf-

* Together with No. 93-1828, *Bryant, Attorney General of Arkansas v. Hill et al.*, also on certiorari to the same court.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 93-1456 AND 93-1828

U. S. TERM LIMITS, INC., ET AL., PETITIONERS
93-1456
v.
RAY THORNTON ET AL.

WINSTON BRYANT, ATTORNEY GENERAL OF
ARKANSAS, PETITIONER
93-1828
v.
BOBBIE E. HILL ET AL.

ON WRITS OF CERTIORARI TO THE SUPREME COURT OF
ARKANSAS

[May 22, 1995]

JUSTICE STEVENS delivered the opinion of the Court.

The Constitution sets forth qualifications for membership in the Congress of the United States. Article I, §2, cl. 2, which applies to the House of Representatives, provides:

“No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.”

Article I, §3, cl. 3, which applies to the Senate, similarly provides:

“No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for

make. We disagree for two independent reasons. First, we conclude that the power to add qualifications is not within the "original powers" of the States, and thus is not reserved to the States by the Tenth Amendment. Second, even if States possessed some original power in this area, we conclude that the Framers intended the Constitution to be the exclusive source of qualifications for members of Congress, and that the Framers thereby "divested" States of any power to add qualifications.

The "plan of the convention" as illuminated by the historical materials, our opinions, and the text of the Tenth Amendment, draws a basic distinction between the powers of the newly created Federal Government and the powers retained by the pre-existing sovereign States. As Chief Justice Marshall explained, "it was neither necessary nor proper to define the powers retained by the States. These powers proceed, not from the people of America, but from the people of the several States; and remain, after the adoption of the constitution, what they were before, except so far as they may be abridged by that instrument." *Sturges v. Crowninshield*, 4 Wheat. 122, 193 (1819).

This classic statement by the Chief Justice endorsed Hamilton's reasoning in *The Federalist* No. 32 that the plan of the Constitutional Convention did not contemplate "[a]n entire consolidation of the States into one complete national sovereignty," but only a partial consolidation in which "the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, *exclusively* delegated to the United States." *The Federalist* No. 32, at 198. The text of the Tenth Amendment unambiguously confirms this principle:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the

Exhibit "D7"

CONSTITUTION.

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

ARTICLE FIRST.

BILL OF RIGHTS.

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

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

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

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

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

(1877)

4 *Constitution of the State of Texas.*

duty of the Legislature to pass such laws as shall be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

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

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

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

Sec. 8. In all criminal prosecutions, the accused shall have a speedy public trial, by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor; and no person shall be helden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offenses against the laws regulating the militia.

Sec. 9. All prisoners shall be bailable by sufficient sureties unless for capital offenses, when the proof is evident or the presumption great; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a Judge of the Supreme or District Court, upon the return of the writ of habeas corpus, returnable in the county where the offence is committed.

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

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

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

(1878)

Exhibit Section
"E"

Exhibit "E1"

CONSTITUTION OF THE UNITED STATES

(1787)

[On May 25, 1787, fifty-five delegates from the various States met in Philadelphia to discuss the drawing up of a Constitution to take the place of the Articles of Confederation. Washington presided; and, after a long struggle and many compromises, the resultant document was referred to the several States on September 28 of the same year. By June 21, 1789, the required nine out of the thirteen States had ratified it, and the new federal government was established at New York on April 30, 1789. The dates of the amendments are as follows: I-X, Nov. 3, 1791; XI, Jan. 8, 1798; XII, Sept. 25, 1804; XIII, Feb. 1, 1865; XIV, July 28, 1868; XV, March 30, 1870; XVI, Feb. 25, 1913; XVII, May 31, 1913; XVIII, Jan. 29, 1919; XIX, Aug. 26, 1920.]

We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I

SECTION 1 All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2 (1) The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the Age of Twenty-five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

(3) Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, accord-

AMERICAN HISTORICAL DOCUMENTS

shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

(5) In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

(6) The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

(7) Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION 2 (1) The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

(2) He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Councils, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

all to whom these presents shall come. Greeting:

of the authority vested in me by the Archivist of the United States, I certify on his behalf,

of the National Archives of the United States, that the attached reproduction(s) is a true and

documents in his custody.

SIGNATURE <i>Cynthia G. Fox</i>	
NAME Cynthia G. Fox	DATE 6-28-95
TITLE Chief, NNRI	
NAME AND ADDRESS OF DEPOSITORY The National Archives Washington, D.C. 20408	

NA FORM 14007A (10-86)

Copied from holdings of the Texas State Archives

The United States shall have Power to fix the Standard and Unit of Weights and Measures that may legally remain in use...

Section 1. The judicial power shall extend to all Cases arising under this Constitution, to all Cases of Ambassadors, Ministers, Consuls, and to all Cases of admiralty and maritime Jurisdiction...

Article II.

Section 1. The executive Power shall be vested in a President of the United States, who shall hold his Office during good Behaviour, and shall be elected in the following Manner...

Section 2. The President shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur...

Article IV.

Section 1. Full Faith and Credit shall be given to the public Acts, Records, and judicial Proceedings of every State...

me shall not be considered... and the President shall have the right to pardon and reprieve all offences against the laws of the United States... and the President shall have the right to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the Office of President; nor shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been seven Years a Citizen, or fourteen Years within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Duties of the said Office, the same shall devolve on the Vice President; and in Case of the Removal of the Vice President, or his Death, Resignation, or Inability to discharge the Duties of the said Office, the Congress shall provide that the Electors shall then elect a President, and such Officer shall act, until they shall have chosen a President.

The Electors shall meet in one or more States, and shall vote for President and Vice President, and the Congress shall have the Power to determine the Time of meeting the Electors, and the Place where they shall assemble, and may also determine the Qualification of the Electors.

Section 2. The Electors in each State shall have the Number of Electors equal to the Number of Senators and Representatives to which such State may be entitled in the Senate and House of Representatives; but the Electors in the State of Rhode Island and in that of Delaware shall not exceed three.

Section 3. The Electors shall meet in one or more States, and shall vote for President and Vice President, and the Congress shall have the Power to determine the Time of meeting the Electors, and the Place where they shall assemble, and may also determine the Qualification of the Electors.

Section 4. The Electors shall meet in one or more States, and shall vote for President and Vice President, and the Congress shall have the Power to determine the Time of meeting the Electors, and the Place where they shall assemble, and may also determine the Qualification of the Electors.

Article III.

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases of Misdemeanors and Crimes against the United States, Cases of Admiralty and Maritime Jurisdiction, Cases of Controversy between two or more States, between a State and Citizens of another State, between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States, and Cases of Ambassadors, Consuls, and other public Ministers and Consuls, and those in which the United States shall be Party.

In all Cases of Controversy between two or more States, between a State and Citizens of another State, between Citizens of different States, and Cases of Ambassadors, Consuls, and other public Ministers and Consuls, and those in which the United States shall be Party, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Section 3. Treason against the United States, shall consist only in levying War against the same, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless he shall have been declared to be a Traitor by a Declaration of Congress.

Article IV.

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.

Exhibit "E2"

JOURNAL

OF THE

SENATE OF THE UNITED STATES

OF AMERICA,

BEING THE



SECOND SESSION OF THE TWENTY EIGHTH CONGRESS,

PROPERTY OF THE
UNITED STATES SENATE
LIBRARY

AT THE CITY OF WASHINGTON,

DECEMBER 2, 1844,

AND IN THE SIXTY-NINTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON :

PRINTED BY GALE & SEATON.

1844.

other purposes, reported it with amendments; which were ordered to be printed.
The Senate resumed the consideration of the resolution (H. R. 46) for annexing Texas to the United States; and
After debate, and the consideration of Executive business, by unanimous consent,
On motion by Mr. Sevier,
Ordered, That the Senate take a recess until 5 o'clock, P. M.

FIVE O'CLOCK, P. M.

Mr. Breese reported, from the committee, that they had this day presented to the President of the United States the following enrolled bills:

S. 36. An act extending the jurisdiction of the district courts to certain cases upon the lakes and navigable waters connecting the same.

S. 101. An act explanatory of an act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year 1839."

S. 102. An act to authorize a relocation of land warrants numbers three, four, and five, granted by Congress to General Lafayette.

S. 117. An act vesting in the county commissioners of the county of Wyandot the right to certain town lots and out lots in the town of Upper Sandusky, in the State of Ohio.

S. 121. An act to extend a patent heretofore granted to William Woodworth.

S. 127. An act to authorize the South Carolina Railroad Company to import certain pipes and machinery free of duty.

The following message was received from the President of the United States, by Mr. Wagaman:

To the Senate of the United States:

In compliance with the resolution of the Senate of the 3d instant, I herewith transmit the information called for.

WASHINGTON, February 26, 1845.

The message was read.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution (H. R. 46) for annexing Texas to the United States.

After debate,
On motion, by Mr. Bates, that the Senate adjourn,

It was determined in the negative, {

Years, 21,
Nays, 23.

On motion by Mr. Walker,
The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Francis, Huntington, Jarnagin, Miller, Morehead, Phelps, Porter, Rives, Upham, White, Woodbridge.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Archibson, Atherton, Bagby, Benton, Buchanan, Colquitt, Dickinson, Fairfield, Haywood, Henderson, Huger, Lewis,

McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

After further debate,
On motion, by Mr. Dayton, that the Senate adjourn,

It was determined in the negative, {

Yeas, 26,
Nays, 26.

On motion by Mr. Walker,
The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Johnson, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Archibson, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

The debate having been continued,
On motion by Mr. Crittenden,

The Senate adjourned.

THURSDAY, FEBRUARY 27, 1845.

The President pro tempore presented a memorial of the Legislative Assembly of the Territory of Wisconsin, praying the establishment of a United States road from the falls of St. Croix to Lapointe, on Lake Superior;

A memorial of the Legislative Assembly of the Territory of Wisconsin, praying the establishment of a post route from Milwaukee to Fort Madison, in said Territory; and

A memorial of the Legislative Assembly of the Territory of Wisconsin, praying the construction of a road from Fort Howard, on Green bay, to Fort Wilkins, at Copper Harbor, on Lake Superior.

Ordered, That the memorials be printed.

Mr. Merrick presented a petition of citizens of Natchez, Mississippi, praying a reduction of the rates of postage, and the discontinuance of the franking privilege.

Ordered, That it lie on the table.

Mr. Bates presented a report of a committee, adopted by the Legislature of the Commonwealth of Massachusetts, accompanied by resolutions, which passed that body, declaring their opposition to the acquisition of any foreign territory to the United States by legislative enactment as repugnant to the Constitution; and objecting to the admission into the Union of Texas or any State or Territory not now within the limits of the Union on any other basis than that of the "perfect equality of freemen."

Ordered, That the report and resolutions be printed.

Mr. Pearce presented the petition of John Smith Hanna, praying that Texas may not be annexed to the United States.

Ordered, that it be printed.

Mr. Evans, from the Committee on Finance, reported a bill (S. 144) supplementary to an act entitled "An act to fix the value of certain for-

eign moneys of account, in computations at the custom-houses;" which was read the first and second times by unanimous consent, and considered as in Committee of the Whole; and no amendment being made, it was reported to the Senate.

Ordered, That it be engrossed, and read a third time. The said bill, having been reported by the committee correctly engrossed, was read a third time by unanimous consent.

Resolved, That this bill pass, and that the title be as aforesaid. *Ordered*, That the Secretary request the concurrence of the House of Representatives therein.

Mr. Woodbridge, from the Committee on Public Lands, reported a bill (S. 145) to discontinue the land office at Fort Wayne, in Indiana, to modify the boundaries of certain land districts, and to provide for the sale of certain lands acquired from the Miami Indians, in the same State; which was read the first and second times by unanimous consent.

The bill (S. 135) for the relief of William Henson was read the second time, and considered as in Committee of the Whole; and no amendment being made, it was reported to the Senate.

Ordered, That it be engrossed, and read a third time. Mr. Pearce, from the Committee on Naval Affairs, to whom was referred the petition of J. Melville Gilliss, submitted a report, accompanied by a resolution, (S. 26) for the relief of J. Melville Gilliss; which was read, and passed to the second reading.

Ordered, That the report be printed. Mr. Bayard, from the Committee on Naval Affairs, who were instructed by a resolution of the Senate to inquire into the expediency of printing certain astronomical and magnetic observations made by Lieutenant Gilliss, reported.

Whereupon, *Ordered*, That the astronomical and magnetic observations made by Lieutenant Gilliss, under the instructions of the Navy Department of the 13th August, 1838, be printed for the use of the Senate; and that five hundred copies, in addition to the usual number, be printed; two hundred of which shall be for the use of the department.

On motion by Mr. Choate, *Ordered*, That the Committee on the Library be discharged from the further consideration of the memorial of the American Statistical Association; and that the accompanying report be printed.

The Senate proceeded to consider, as in Committee of the Whole, the bill (H. R. 498) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1846, together with the amendments reported thereo; and the reported amendments having been agreed to, with an amendment,

On motion by Mr. Archer, *Ordered*, That the bill lie on the table.

The Senate resumed the consideration of the resolution (H. R. 46) for annexing Texas to the United States; and

After debate, On motion by Mr. Evans, *Ordered*, That the Senate take a recess until 6 o'clock in the evening.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution (H. R. 46) for annexing Texas to the United States. On motion, by Mr. Walker, to amend the resolution by adding thereto the following:

"*And be it further resolved*, That, if the President of the United States shall, in his judgment and discretion, deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas as an overture on the part of the United States for admission, to negotiate with that Republic, then, *Be it resolved*, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, with two Representatives in Congress until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission, and the cession of the remaining Texan territory to the United States, shall be agreed upon by the Governments of Texas and the United States; and that the sum of one hundred thousand dollars be, and negotiations, to agree upon the terms of said admission and cession, and by treaty to be submitted to the Senate, or by articles to be submitted to the two Houses of Congress, as the President may direct."

A motion was made, by Mr. Foster, to amend the proposed amendment, by inserting, in the 15th line, after "United States;" "*And provided, further*, That, in fixing the terms and conditions of such admission, it shall be expressly stipulated and declared, that the State of Texas, and such other States as may be formed of that portion of the present territory of Texas lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State so hereafter asking admission may desire: *And provided, furthermore*, That it shall be also stipulated and declared, that the public debt of Texas shall in no event become a charge upon the Government of the United States."

A division of the amendment proposed by Mr. Foster was called for; and the question being taken on agreeing to the *first proviso* thereof,

It was determined in the negative, { Yeas, 18, Nays, 33.

On motion by Mr. Foster, The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are, Messrs. Archer, Barrow, Bayard, Berrien, Clayton, Crittenden, Foster, Hannegan, Hunger, Jarragin, Johnson, Mangum, Merrick, Morehead, Pearce, Phelps, Rives, Sevier.

Those who voted in the negative, are, Messrs. Allen, Ashley, Archison, Atherton, Bagby, Bates, Benton, Breese, Buchanan, Choate, Colquitt, Dayton, Dickinson, Dix, Evans, Fairfield, Francis, Haywood, Henderson, Huntington, Lewis, McDuffie, Miller, Niles, Porter, Semple, Sturgeon, Tappan, Upham, Walker, White, Woodbridge, Woodbury.

On the question, to agree to the second proviso thereof, It was determined in the negative, { Yeas, 20, Nays, 31.

On motion by Mr. Foster, The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Evans, Foster, Francis, Huntington, Jarnagin, Johnson, Miller, Pearce, Phelps, Porter, Rives, Simmons, Upham.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Crittenden, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Lewis, McDuffie, Mangum, Merrick, Morehead, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, White, Woodbridge, Woodbury.

So the amendment proposed by Mr. Foster to the amendment of Mr. Walker was not agreed to.

On motion, by Mr. Archer, to amend the amendment proposed by Mr. Walker, by striking out all after the word *Resolved*, where it first occurs, and inserting the following:

“That the President of the United States be, and he is hereby, requested to order negotiations to be entered into with the Government of Texas, for the transfer to the United States, with the assent of the people of Texas, of the territory, with all rights incident thereto, which now constitutes the said State of Texas; and that the incorporation into the Union of the United States of the inhabitants of said State, and their admission to all the rights, privileges, and immunities, of the citizens of the United States, as soon as may be consistent with the principles of the Federal Constitution, be stipulated in such treaty”—

It was determined in the negative, { Yeas, 26,
Nays, 26.

On motion by Mr. Walker,
The years and days being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Johnson, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

So the amendment of Mr. Archer was disagreed to.
On the question, to agree to the amendment proposed by Mr. Walker, It was determined in the affirmative, { Yeas, 27,
Nays, 25.

On motion by Mr. Sevier,
The years and days being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

Those who voted in the negative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Mangum,

Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

So the amendment was agreed to.
No further amendment being made, the resolution was reported to the Senate.

The question being on concurring in the amendment made in Committee of the Whole, on the motion of Mr. Walker,

On motion, by Mr. Berrien, to amend the amendment, by striking out the word “either,” in line 15; and after the word “Senate,” in the 19th line, by striking out the words, “or by articles to be submitted to the two Houses of Congress, as the President may direct?”—

It was determined in the negative, { Yeas, 25,
Nays, 26.

On motion by Mr. Berrien,
The years and days being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Francis, Huntington, Jarnagin, Johnson, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

On the question, to concur in the amendment, It was determined in the affirmative, { Yeas, 27,
Nays, 25.

On motion by Mr. Bates,
The years and days being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,
Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

Those who voted in the negative, are,
Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

On motion, by Mr. Crittenden, to amend the resolution, by striking out, after the word “assembled,” in the second line, the following:

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

“Sec. 2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit:

“First. Said State to be formed, subject to the adjustment by this Govern-

ment of all questions of boundary that may arise with other Governments; and the Constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress, for its final action, on or before the first day of January, one thousand eight hundred and forty-six.

"Second. Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas; and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States.

"Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crimes) shall be prohibited.

"And be it further resolved?"

It was determined in the negative, { Yeas, 24.
Nays, 25.

On motion by Mr. Evans,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

- Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Francis, Huntington, Jarnagin, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

Those who voted in the negative, are,
Messrs. Allen, Ashley, Archison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Foster, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Sevier, Surgeon, Tappan, Walker, Woodbury.

On motion, by Mr. Archer, to amend the resolution, as amended, by striking out all after the enacting clause, and in lieu thereof inserting, "That the President of the United States be, and he is hereby, requested to order negotiations to be entered into with the Government of Texas, for the transfer to the United States, with the assent of the people of Texas, of the territory, with all rights incident thereto, which now constitutes the said State of Texas; and that the incorporation into the Union of the United States of the inhabitants of said State, and their admission to all the rights, privileges, and immunities of the citizens of the United

States, as soon as may be consistent with the principles of the Federal Constitution, be stipulated in such treaty?"

A motion was made, by Mr. Foster, to amend the amendment by adding thereto, "And provided, further, That, in fixing the terms and conditions of such admission, it shall be expressly stipulated and declared, that the State of Texas, and such other States as may be formed of that portion of the present territory of Texas lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State so hereafter asking admission may desire: And provided, further, That it shall be also stipulated and declared, that the public debt of Texas shall in no event become a charge upon the Government of the United States?"

It was determined in the negative, { Yeas, 16,
Nays, 33.

On motion by Mr. Foster,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

- Messrs. Archer, Barrow, Bayard, Berrien, Clayton, Crittenden, Foster, Henderson, Jarnagin, Johnson, Mangum, Merrick, Morehead, Pearce, Rives, Sevier.

Those who voted in the negative, are,

- Messrs. Allen, Ashley, Archison, Atherton, Bagby, Bates, Benton, Breese, Buchanan, Choate, Colquitt, Dayton, Dickinson, Dix, Evans, Fairfield, Francis, Hannegan, Haywood, Huger, Huntington, Lewis, McDuffie, Miller, Niles, Semple, Surgeon, Tappan, Upham, Walker, White, Woodbridge, Woodbury.

So the amendment proposed to the amendment was disagreed to.

The question recurring on agreeing to the amendment proposed by Mr. Archer,

It was determined in the negative, { Yeas, 25,
Nays, 27.

On motion by Mr. Evans,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

- Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Francis, Huntington, Jarnagin, Johnson, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

Those who voted in the negative, are,

- Messrs. Allen, Ashley, Archison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Foster, Hannegan, Haywood, Henderson, Huger, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Surgeon, Tappan, Walker, Woodbury.

So the amendment was disagreed to.

On motion, by Mr. Miller, to amend the resolution by striking out all after the enacting clause, and inserting the following:

"That the President of the United States be, and he hereby is, authorized and advised to open negotiations with Mexico and Texas, for the adjustment of boundaries, and the annexation of the latter to the United States, on the following basis, to wit:

"I. The boundary of the annexed territory to be in the desert prairie

west of the Nueces, and along the highlands and mountain heights which divide the waters of the Mississippi from the waters of the Rio del Norte, and to latitude forty-two degrees north.

"II. The people of Texas, by a legislative act, or by any authentic act which shows the will of the majority, to express their assent to said annexation.

"III. A State, to be called 'the State of Texas,' with boundaries fixed by herself, and an extent not exceeding that of the largest State in the Union, be admitted into the Union by virtue of this act, on an equal footing with the original States.

"IV. The remainder of the annexed territory to be held and disposed of by the United States as one of their Territories, and to be called 'the South-west Territory.'

"V. The existence of slavery to be forever prohibited in the northern and northwestern part of said Territory west of the 100th degree of latitude west from Greenwich, so as to divide, as equally as may be, the whole of the annexed country between slaveholding and non-slaveholding States.

"VI. The assent of Mexico to be obtained by treaty to such annexation and boundary, or to be dispensed with when the Congress of the United States may deem such assent to be unnecessary.

"VII. Other details of the annexation to be adjusted by treaty, so far as the same may come within the scope of the treaty-making power."

It was determined in the negative, { Yeas, 11, Nays, 33.

On motion by Mr. Miller,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Archer, Berrien, Choate, Crittenden, Dayton, Evans, Francis, Miller, Phelps, Upham, Woodbridge.

Those who voted in the negative, are,

Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Barrow, Benton, Breese, Buchanan, Clayton, Colquitt, Dickinson, Dix, Fairfield, Foster, Hannegan, Haywood, Henderson, Huger, Jarnagin, Johnson, Lewis, McDuffie, Merrick, Niles, Pearce, Rives, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

So the proposed amendment was disagreed to.

On the question, "Shall the amendment be engrossed, and the resolution read a third time?"

It was determined in the affirmative, { Yeas, 27, Nays, 25.

On motion,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Bréese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury.

Those who voted in the negative, are,

Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge.

So it was Ordered, That the amendment be engrossed, and the resolution read a third time.

The amendment to the said resolution, having been reported by the committee correctly engrossed, was read a third time.

Resolved, That the resolution pass, with an amendment.

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendment.

On motion,

The Senate adjourned.

FRIDAY, FEBRUARY 28, 1845.

Mr. Dickinson presented two petitions of citizens of Seneca county, New York, praying the annexation of Texas, and the adoption of measures for the occupation and settlement of the Oregon Territory.

Ordered, That they lie on the table. Mr. Sturgeon presented a petition of citizens of Wyoming valley, Pennsylvania, praying the passage of the joint resolution for the relief of Francis Slocum, of the Miami tribe of Indians; which was referred to the Committee on Indian Affairs.

Mr. Dix presented a petition of citizens of the United States, praying that negotiations may be directed to be entered into by the United States, with the Government of Great Britain, for the acquisition of the provinces of Canada.

Ordered, That it lie on the table.

Mr. Choate presented a petition of the heirs at law of John Manning, deceased, praying indemnity for French spoils prior to 1800.

Ordered, That it lie on the table.

On motion by Mr. Allen,

Ordered, That Holly Raper have leave to withdraw his petition and papers.

On motion by Mr. Barrow,

Ordered, That Thomas W. Chinn have leave to withdraw his petition and papers.

Mr. Ashley submitted the following resolution, which was considered by unanimous consent, and agreed to.

Resolved, That thirty thousand copies of the report of the Commissioner of Patents, (omitting the list of patents,) in addition to those heretofore ordered, be printed for the use of the Senate.

Mr. Johnson submitted the following resolution, which was considered by unanimous consent, and agreed to.

Resolved, That the Secretary of the Treasury be directed to report to the Senate, at the next session of Congress, the number of the pre-emption land claims in the State of Louisiana for which patents cannot be issued, on account of irregularities in the entries, or from other causes, and a plan for their adjustment.

A message from the House of Representatives, by Mr. French, their Clerk:

Mr. President: The House of Representatives have passed the following resolutions from the Senate:

tions of the United States for the fiscal year beginning on the 1st day of July, 1845, and ending on the 30th of June, 1846.

They disagree to the amendments of the Senate to the bill (H. R. 493) making appropriations for the support of the military academy for the year ending on the 30th of June, 1846.

They have passed the bill from the Senate (S. 40) renewing certain naval pensions for the term of five years, and the resolution from the Senate (S. 6) to authorize the Attorney General to contract for copies of a proposed edition of the Laws and Treaties of the United States.

The Senate proceeded to consider their amendments, disagreed to by the House of Representatives, to the bill (H. R. 498) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th June, 1846, and for other purposes; and,

On motion by Mr. Evans,
Resolved, That they insist on their amendments to the said bill, and ask a conference on the disagreeing votes of the two Houses.

On motion,
Ordered, That the managers at the conference on the part of the Senate be appointed by the President pro tempore; and

Mr. Evans, Mr. Barrow, and Mr. Benton, were appointed.
Ordered, That the Secretary notify the House of Representatives accordingly.

Mr. Breese reported, from the committee, that they had examined and found duly enrolled the following bills and resolution:

S. 46. An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department.

H. R. 494. An act making appropriations for the service of the Post Office Department for the year ending 30th June, 1846.

H. R. 71. Resolution directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain certain moneys to which such State is entitled, for the purposes therein named.

A message from the House of Representatives, by Mr. French, their Clerk:

Mr. President: The House of Representatives insist on their disagreement to the amendments of the Senate to the bill (H. R. 498) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1846, and for other purposes; agree to the conference asked by the Senate on the disagreeing votes of the two Houses; and have appointed Mr. McKay, Mr. Garrett Davis, and Mr. Dromgoole, managers at the same on their part.

The Speaker of the House of Representatives having signed two enrolled bills and an enrolled resolution, I am directed to bring them to the Senate, for the signature of their President.

The President pro tempore signed the two enrolled bills (S. 46, H. R. 494) and the enrolled resolution (H. R. 71) last reported to have been examined; and they were delivered to the committee, to be presented to the President of the United States.

Mr. Breese reported, from the committee, that they had this day presented to the President of the United States the following acts:

S. 1. An act to change the time of holding the Federal courts in Kentucky, North Carolina, South Carolina, Georgia, Alabama, and Louisiana.

H. R. 392. An act for the relief of Samuel Neely.

H. R. 497. An act for the relief of Benjamin S. Roberts.

H. R. 503. An act changing the times of holding the circuit and criminal courts for the county of Washington.

H. R. 607. An act making appropriations for the payment of navy pensions for the year ending 30th June, 1846.

H. R. 629. An act in alteration of an act entitled "An act to establish a port of delivery at the city of Lafayette, in the State of Louisiana."

H. R. 46. Resolution for annexing Texas to the United States.

H. R. 520. An act to authorize the sale of two Arabian horses received as a present, by the consul of the United States at Zanzibar, from the Imam of Mascat.

S. 12. Resolution amendatory of the resolution, passed April 30, 1844, "respecting the application of certain appropriations heretofore made."

S. 18. Resolution for the relief of Mrs. Mary W. Thompson.

A message from the House of Representatives by Mr. French, their Clerk:

Mr. President: The President of the United States this day approved and signed the following enrolled bills and resolution:

H. R. 46. Resolution for annexing Texas to the United States.

H. R. 607. An act making appropriations for the payment of navy pensions for the year ending 30th June, 1846.

H. R. 629. An act in alteration of an act entitled "An act to establish a port of delivery at the city of Lafayette, in the State of Louisiana."

H. R. 497. An act for the relief of Benjamin S. Roberts.

H. R. 392. An act for the relief of Samuel Neely.

H. R. 503. An act to change the time for holding the circuit and criminal courts in the county of Washington.

H. R. 520. An act to authorize the sale of two Arabian horses received as a present, by the consul of the United States at Zanzibar, from the Imam of Mascat.

H. R. 601. An act to alter the corporate limits of Georgetown.

H. R. 441. An act for the relief of Joseph Ramsey.

H. R. 377. An act for the relief of John Adams, and John Adams, Jr.

H. R. 415. An act for the relief of Walker, Kinkle & Caruthers.

H. R. 522. An act for the relief of the president and directors of the Dismal Swamp Canal Company.

A message from the President of the United States, by Mr. Tyler, his secretary:

Mr. President: The President of the United States this day approved and signed the following enrolled bill and resolutions:

S. 1. An act to change the time of holding the Federal courts in Kentucky, North Carolina, South Carolina, Alabama, and Louisiana.

S. 12. Resolution amendatory of the resolution passed April 30, 1844, respecting the application of certain appropriations heretofore made.

S. 18. Resolution for the relief of Mrs. Mary W. Thompson.

Ordered, That the Secretary notify the House of Representatives accordingly.

On motion by Mr. Evans,

Ordered, That when the Senate adjourn, it be to meet at 10 o'clock, Monday morning.

COPY

from
THE NATIONAL ARCHIVES
Record Group No. 287

Exhibit "E3"

TWENTY-EIGHTH CONGRESS. SESS. II. FEB. 1, 3, 4. 1845.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

March 3, 1845.

The House of Representatives having been notified by the Senate that the bill entitled "An act relating to revenue cutters and steamers," had been returned by the President, with his objections, to the Senate, in which it originated, and that the Senate having proceeded, in pursuance of the Constitution, to reconsider the same, had "Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same," the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the said bill, and "Resolved, That the said bill do pass, two thirds of the House of Representatives agreeing to pass the same."

H. B. FRENCH,
Clerk of the Ho. Reps. U. S.

RESOLUTIONS.

Jan. 23, 1845.
No. 1. A Resolution explanatory of "an act making appropriations for the payment of revolutionary and other pensions of the United States for the fiscal year ending the thirtieth of June, one thousand eight hundred and forty-five."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States for the fiscal year ending on the thirtieth of June, one thousand eight hundred and forty-five," shall not be so construed as in any way to affect the claims of those widows whose application for a pension, or an arrear of pension, at the passage of this resolution, shall have been made and filed in the Pension Office, awaiting the decision of the Commissioner of Pensions thereon.

APPROVED, January 23, 1845.

Feb. 13, 1845.
No. 3. A Resolution to suspend a part of the third section of the joint resolution of the eleventh of September, one thousand eight hundred and forty-one, relating to armories.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the third section of the joint resolution of the eleventh of September, one thousand eight hundred and forty one, as requires the consent of the State before the expenditure of any public money, upon any site or land purporting to be the United States, for the purpose of armories, arsenals, forts, fortifications, navy-yards, custom-houses, light-houses, or other public buildings of any kind, be, and the same is hereby, suspended, so far as Tennessee, until after the adjournment of the first session of the legislature of said State which may be held after the passage of this resolution.

APPROVED, February 13, 1845.

Feb. 20, 1845.
No. 4. Joint Resolution authorizing the Postmaster General of the United States to contract with railroad companies, in certain cases, without advertising for proposals therefor.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he hereby is, authorized to make and enter into contracts with any railroad company for the transmission of the mail, without advertisement.

Authority to contract with any railroad.

TWENTY-EIGHTH CONGRESS. SESS. II. FEB. 5, 7, 8. 1845.

No. 5. A Resolution for distributing the work on the Exploring Expedition.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as each part of the work now in course of publication on the "Exploring Expedition," shall be completed, fifty-eight copies of the same shall be delivered to the Secretary of State, to be distributed as follows, that is to say: To each of these United States, one copy; to the government of France, two copies; Great Britain, two copies; Russia, two copies; and one copy each to Sweden, Denmark, Prussia, Austria, Bavaria, the Netherlands, Belgium, Portugal, Spain, Sardinia, Greece, Tuscany, the Ecclesiastical States, the Two Sicilies, Turkey, China, Mexico, New Granada, Venezuela, Chili, Peru, the Argentine Republic, Brazil, Texas, and the Sandwich Islands; and one copy to the Naval Lyceum in Brooklyn, New York.

Sec. 2. And be it further resolved, That one copy of said work be given to Charles Wilkes, esquire, the commander of said expedition, one copy to William L. Hudson, esquire, and one copy to Cadwallader Kingold, esquire, commanders of vessels in said expedition.

Sec. 3. And be it further resolved, That two copies of said work shall be placed in the Library of Congress, and that the residue of said work be placed in the Library of the Librarian, to be by him preserved for future distribution.

APPROVED, February 20, 1845.

No. 7. A Resolution amendatory of the resolution passed April thirty, one thousand eight hundred and forty-four, "respecting the application of certain appropriations heretofore made."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the joint Resolution of April thirty, one thousand eight hundred and forty-four, or in any other act or Resolution, shall be understood or construed to prevent the Secretary of War from allowing and paying any just and equitable claims for supplies furnished, or advances or loans of money made to provide for the defence of the inhabitants and suppression of Indian hostilities in the Territory of Florida, provided that the amount so allowed and paid shall not exceed the sums already appropriated by law.

APPROVED, March 1, 1845.

No. 8. Joint Resolution for annexing Texas to the United States.

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

2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First, Said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before

Feb. 20, 1845.

Fifty-eight copies to Secretary of State for distribution.

Further disposition.

March 1, 1845.

Payment for supplies, &c., for defence of inhabitants of Florida. Resolution of April 30, 1844, ante, p. 716.

March 1, 1845.

Consent of the Congress to the erection of Texas into a State for admission into the Union.

Conditions of admission.

copied from holdings of the Texas State Archives

mitted into the Union, after ceasing to the United States, all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said Republic of Texas, shall remain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. *Third.* New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may determine. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude, (except for crime,) shall be prohibited.

3. And be it further resolved, That if the President of the United States shall in his judgment and discretion deem it most advisable, in- of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission, and the cession of the remaining Texian territory to the United States shall be agreed upon by the Governments of Texas and the United States: And that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admissions and cession, either by treaty to be submitted to the Senate, or by articles to be submitted to the two houses of Congress, as the President may direct.

APPROVED, March 1, 1845.

March 3, 1845. No. 9. *A Resolution directing an examination of Putnam's ploughing and dredging machine.*

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby authorized and directed to examine a machine invented by, and patented to the late Dr. James R. Putnam of New Orleans, called a Ploughing and Dredging Machine for the removal of obstructions and bars in Rivers and Harbors, &c., and to appoint a Board of three officers to test the practical utility of said machine. APPROVED, March 3, 1845.

March 3, 1845. No. 10. *A Resolution to authorize the Attorney General to contract for copies of a proposed edition of the Laws and Treaties of the United States.*

is hereby authorized and directed to contract, on behalf of the General Government, with Messieurs Little and Brown, for one thousand copies of their proposed edition of the Laws and Treaties of the United States, at a price not exceeding three dollars and fifty cents a volume: *Provided, nevertheless,* That the contract aforesaid shall be made upon the terms and conditions following, that is to say: *First,* That the work shall be executed, from stereotype plates, in the style proposed by the said Little and Brown in their memorial presented to Congress at the present session thereof, in volumes, well bound, of not less than eight hundred super-royal octavo pages, with a very wide text, and a syllabus of each section in small type; the text to be on long primer, the types having a full round face, and being entirely new, and the paper to be of the best quality, sized, so that notes, in manuscript, may be written on the margin of the pages. *Second,* That the work shall contain the articles of Confederation, the Constitution, all the public and all the private laws and resolves, whether obsolete, repealed, or in force, and whether temporary or permanent, as well those respecting the District of Columbia as all others, and all treaties with foreign nations and Indian tribes; but the treaties may be printed separately, and the private laws separately, in the same style and in the same order of arrangement with the others; the general laws and resolves to be contained in four octavo volumes, and the private laws and treaties in two additional octavo volumes. *Third,* There shall be a reference by a foot note, in small type, at the bottom of each page, to all laws passed subsequently or previously to that in the text, on the same subject whether printed in pamphlet or otherwise, with such explanations as may aid in obtaining a knowledge of the changes of Congressional legislation on the subject of the laws; and in the volumes of the treaties there shall be such reference, and by a similar note, to all the legislation of Congress, on the subjects of the treaties. *Fourth.* If parts of a law only have been repealed, or parts only are in force, it shall be accurately and exactly marked in the margin. *Fifth.* The laws, resolves, and treaties shall be arranged in strict chronological order; the laws of each session furnishing chapters, designated numerically to the end of each session, and the whole series of laws of each session to be described as one statute; the day of the approval of each act to be stated at the end thereof; a running title at the head of each page, to express the session of Congress, the date and chapter of each act; and at the beginning of each Congress shall be stated the place where the session was held, the name of the President of the United States, of the President of the Senate, and the Speaker of the House of Representatives. *Sixth.* At the foot of each page, in a note, reference shall be made to all decisions of the supreme, circuit and district courts, construing or applicable to the law or treaty in the text. *Seventh.* There shall be a full alphabetical verbal general index of all the matters of the laws, resolves, and treaties, at large, under the leading heads, with full reference, under the minor heads, to all the matters, according to the plan and illustration in the memorial aforesaid; and a separate index of the matters in each volume, prepared in the same manner as the general index, shall be subjoined to each volume. There shall be an appendix at the end of each volume, containing a complete list of all the acts, resolves, and treaties, in the volume, chronologically arranged, with a brief and general description of the subject of the act, in this form, that is to say:

Attorney General authorized to contract with Little & Brown. Provision of contract.

Stat. 1789, chap. 1. Oaths of office.
 Stat. 1789, chap. 2. Duties.
 Stat. 1789, chap. 3. Duties on tonnage.
 Stat. 1789, chap. 4. Establishment of Executive Departments.
 Stat. 1789, chap. 5. Duties on tonnage.
 Stat. 1789, chap. 6. Establishment of Executive Departments.
 Stat. 1789, chap. 7. Duties on tonnage.
 Stat. 1789, chap. 8. Establishment of Executive Departments.
 Stat. 1789, chap. 9. Duties on tonnage.
 Stat. 1789, chap. 10. Establishment of Executive Departments.

COPY

from
THE NATIONAL ARCHIVES
Record Group No. 287

U.S. Statutes at Large

Exhibit "E4"

SOME OBSERVATIONS PERTAINING TO THE EARLY DEVELOPMENT
OF TEXAS LAND LAW

by Thomas K. McElroy

Reprinted 1981 with permission from Baylor University Book Store

by Mexico by the Treaty of Guadalupe-Hidalgo. However, Texas retained such land that had been ceded to the United States by a foreign power because Texas was a sovereign Republic, and its annexation was by virtue of a treaty between two nations, and Texas could therefore insist upon retaining title to its public domain.

Texas is the only state that came into the Union by virtue of a treaty, and it is the only state that owns its public domain that has been ceded to the United States by a foreign power.

The State of Texas has disposed of its land generally as follows:

- (1) By the Homestead Law.
- (2) Grants to railroads and for internal improvements.
- (3) Grants to schools and eleemosynary institutions.
- (4) By purchase.

The Homestead Law was carried over from the Republic to the State, and the State operated under that law for a short period.

Between 1853 and 1882, Texas enacted a number of laws whereby it made grants of lands for the construction of railroads, irrigation canals, the establishing of manufacturing concerns in the State, and the building of river and sea-going vessels.

It was the general custom to grant railroads 16 sections of land for each mile of railroad constructed. Since a section is 640 acres, each mile of railroad cost the State of Texas 10,240 acres of land up until 1882. It was finally discovered that the state had issued script to railroads amounting to 8,000,000 acres of land more than remained in the unappropriated public domain, and all un-executed agreements were thereupon canceled. As a total, Texas granted approximately 4,061,000 acres for internal improvements.

Exhibit "E5"

A SOCIAL AND POLITICAL HISTORY OF TEXAS

BY

LEWIS W. NEWTON

DIRECTOR OF THE DEPARTMENT OF HISTORY IN THE
NORTH TEXAS STATE TEACHERS COLLEGE

AND

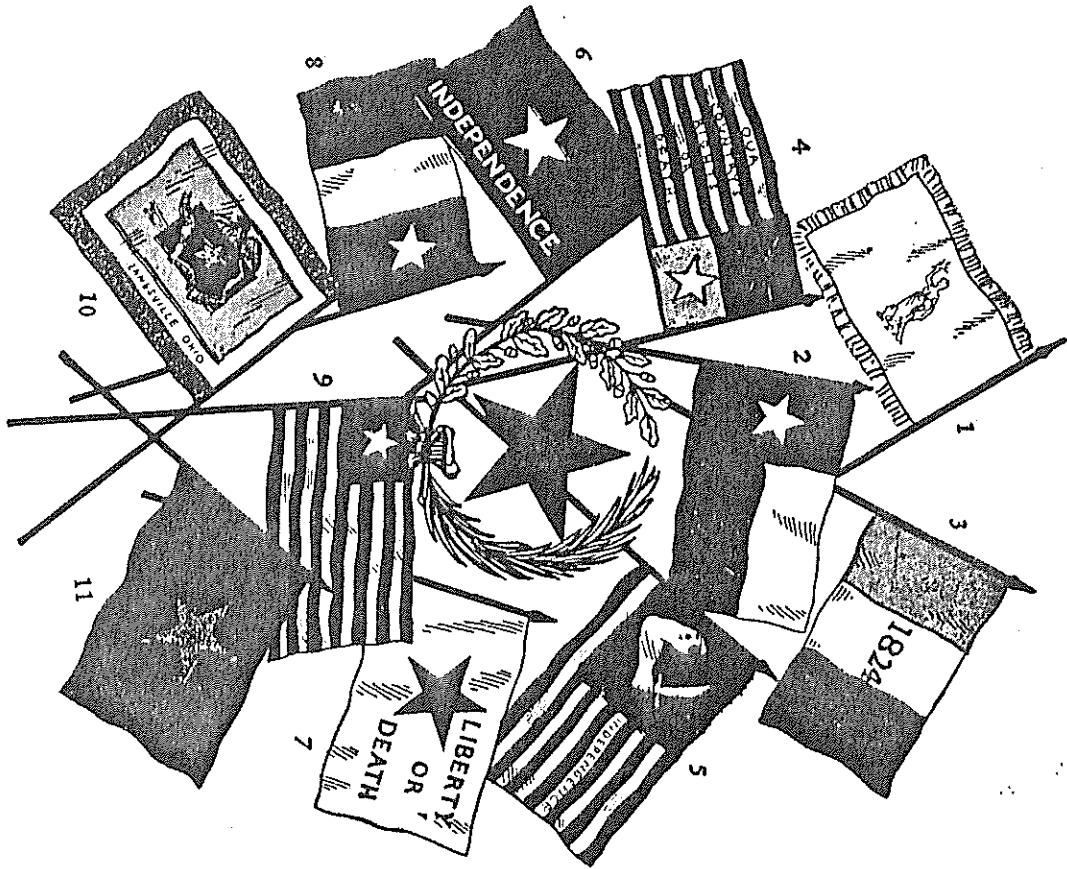
HERBERT P. GAMBRELL

ASSOCIATE PROFESSOR OF HISTORY IN SOUTHERN
METHODIST UNIVERSITY

REVISED EDITION



TURNER COMPANY
Publishers in and of the Southwest
DALLAS, TEXAS



THE EVOLUTION OF THE TEXAS FLAG

- No. 1—Flag of San Jacinto.
- No. 2—National Standard of Republic (January 24, 1839), present State Flag.
- No. 3—Flag of the Alamo.
- No. 4—San Felipe Flag (Feb. 29, 1836).
- No. 5—Flag of Colind and Velasco (Brown's).
- No. 6—McCahay Flag (1835).
- No. 7—Flag of Ward's Georgia Battalion.
- No. 8—Captain Dodson's Flag (September, 1835).
- No. 9—Naval Flag (April 9, 1836).
- No. 10—Captain Burrough's Flag (1836).
- No. 11—National Standard of Republic (December 10, 1836).

Padre - Priest

COPYRIGHT, 1935
TURNER COMPANY

of the United States for admission, or negotiate a new treaty with Texas.

Though the resolution was approved in the House by a vote of one hundred and twenty to ninety-eight, in the Senate the points were raised that this mode of annexation was unconstitutional and a breach of the senatorial power of confirming treaties. On March 1 the Senate approved the resolution by the narrow margin of twenty-seven to twenty-five. On the same day President Tyler signed the resolution, this being one of his last official acts. Not wishing to risk the overthrow of another treaty in the Senate, he offered the resolution directly to Texas through the American *chargé d'affaires*, Major A. J. Donelson.

Texas Accepts Annexation. The final decision now devolved upon Texas, and the outcome was not at all certain. President Anson Jones, who had succeeded Houston in December, 1844, had not mentioned the subject of annexation in his inaugural address nor in any of his messages. Neither had any action thereon been taken by the Texan Congress which adjourned February 3, 1845. Furthermore, Ashbel Smith, the secretary of state, had signed in March the preliminaries of a treaty with Mexico by which that country would recognize the independence of Texas provided Texas would agree never to become annexed to the United States. This proposed treaty was ratified by the Mexican government in May, about the time that President Jones received the annexation resolution from Washington. Thus Texas had the choice of a union under the stars and stripes, which would probably mean war with Mexico, or independence guaranteed by the British government.

On May 15 President Jones summoned a convention of sixty-one delegates to meet at Austin on July 4, to decide what should be the response of the people of Texas; and at the same

Exhibit Section

"F"

Exhibit "F1"

(Slip Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

U. S. TERM LIMITS, INC., ET AL. *v.* THORNTON ET AL.

CERTIORARI TO THE SUPREME COURT OF ARKANSAS

No. 93-1456. Argued November 29, 1994—Decided May 22, 1995*

Respondent Hill filed this suit in Arkansas state court challenging the constitutionality of §3 of Amendment 73 to the Arkansas Constitution, which prohibits the name of an otherwise-eligible candidate for Congress from appearing on the general election ballot if that candidate has already served three terms in the House of Representatives or two terms in the Senate. The trial court held that §3 violated Article I of the Federal Constitution, and the Arkansas Supreme Court affirmed. A plurality of the latter court concluded that the States have no authority "to change, add to, or diminish" the age, citizenship, and residency requirements for congressional service enumerated in the Qualifications Clauses, U. S. Const., Art. I, §2, cl. 2, and Art. I, §3, cl. 3, and rejected the argument that Amendment 73 is constitutional because it is formulated as a ballot access restriction rather than an outright disqualification of congressional incumbents.

Held: Section 3 of Amendment 73 to the Arkansas Constitution violates the Federal Constitution. Pp. 6-61.

(a) The power granted to each House of Congress to judge the "Qualifications of its own Members," Art. I, §5, cl. 1, does not include the power to alter or add to the qualifications set forth in the Constitution's text. *Powell v. McCormack*, 395 U. S. 486, 540. After examining *Powell's* analysis of the Qualifications Clauses' history and text, *id.*, at 518-548, and its articulation of the "basic principles of our democratic system," *id.*, at 548, this Court reaf-

* Together with No. 93-1828, *Bryant, Attorney General of Arkansas v. Hill et al.*, also on certiorari to the same court.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 93-1456 AND 93-1828

U. S. TERM LIMITS, INC., ET AL., PETITIONERS
93-1456
v.
RAY THORNTON ET AL.

WINSTON BRYANT, ATTORNEY GENERAL OF
ARKANSAS, PETITIONER
93-1828
v.
BOBBIE E. HILL ET AL.

ON WRITS OF CERTIORARI TO THE SUPREME COURT OF
ARKANSAS

[May 22, 1995]

JUSTICE STEVENS delivered the opinion of the Court.

The Constitution sets forth qualifications for membership in the Congress of the United States. Article I, §2, cl. 2, which applies to the House of Representatives, provides:

“No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.”

Article I, §3, cl. 3, which applies to the Senate, similarly provides:

“No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for

value of congressional exclusion cases is "quite limited." *Powell*, 395 U. S., at 545-546. Nevertheless, those incidents lend support to the result we reach today.

Democratic Principles

Our conclusion that States lack the power to impose qualifications vindicates the same "fundamental principle of our representative democracy" that we recognized in *Powell*, namely that "the people should choose whom they please to govern them." *Id.*, at 547 (internal quotation marks omitted).

As we noted earlier, the *Powell* Court recognized that an egalitarian ideal—that election to the National Legislature should be open to all people of merit—provided a critical foundation for the Constitutional structure. This egalitarian theme echoes throughout the constitutional debates. In *The Federalist* No. 57, for example, Madison wrote:

"Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people." *The Federalist* No. 57, at 351.

Similarly, hoping to persuade voters in New York that the Constitution should be ratified, John Stevens, Jr., wrote: "[N]o Government, that has ever yet existed in the world, affords so ample a field, to individuals of all ranks, for the display of political talents and abilities. . . . No man who has real merit, let his situation be what it will, need despair." 1 *Bailyn* 487, 492. And Timothy Pickering noted that, "while several of the state constitutions prescribe certain degrees of property as indispensable qualifications for offices, this which is

Exhibit "F2"

(No. 1 fac simile)

T.M. 2000-25

1

TRAINING MANUAL
No. 2000-25

WAR DEPARTMENT,
WASHINGTON, November 30, 1928.

CITIZENSHIP

Prepared under direction of the
Chief of Staff

This manual supersedes Manual of Citizenship Training

*The use of the publication "The Constitution of the United States," by Harry Atwood, is by permission and courtesy of the author.
The source of other references is shown in the bibliography.*

(No. 2 fac simile)

CITIZENSHIP

T.M. 2000-25
118-120

Democracy:

A government of the masses.

Authority derived through mass meeting or any other form of "direct" expression.

Results in mobocracy.

Attitude toward property is communistic—negating property rights.

Attitude toward law is that the will of the majority shall regulate whether it be based upon deliberation or governed by passion, prejudice, and impulse, without restraint or regard to consequences.

Results in demagogism, license, agitation, discontent, anarchy.

(No. 3 fac simile)

T.M. 2000-25

120-121

CITIZENSHIP

Republic:

Authority is derived through the election by the people of public officials best fitted to represent them.

Attitude toward property is respect for laws and individual rights, and a sensible economic procedure.

Attitude toward law is the administration of justice in accord with fixed principles and established evidence, with a strict regard to consequences.

A greater number of citizens and extent of territory may be brought within its compass.

Avoids the dangerous extreme of either tyranny or mobocracy. Results in statesmanship, liberty, reason, justice, contentment, and progress.

Is the "standard form" of government throughout the world.

A republic is a form of government under a constitution which provides for the election of (1) an executive and (2) a legislative body, who working together in a representative capacity, have all the power of appointment, all power of legislation, all power to raise revenue and appropriate expenditures, and are required to create (3) a judiciary to pass upon the justice and legality of their governmental acts and to recognize (4) certain inherent individual rights.

Take away any one or more of those four elements and you are drifting into autocracy. Add one or more to those four elements and you are drifting into democracy.—Atwood.

121. Superior to all others.—Autocracy declares the divine right of kings; its authority can not be questioned; its powers are arbitrarily or unjustly administered.

Democracy is the "direct" rule of the people and has been repeatedly tried without success.

Our Constitutional fathers, familiar with the strength and weakness of both autocracy and democracy, with fixed principles definitely in mind, defined a representative republican form of government. They "made a very marked distinction between a republic and a democracy * * * and said repeatedly and emphatically that they had founded a republic."

Exhibit "F3"

A Democracy And A Republic

vanced. With the tyranny of a completely lawless dictatorship the ultimate stage and goal.

Of course none of this just happened. The tremendous forces work, deliberately to speed up this degeneration of our republic, in best be typified by the large foundations. They have for decades been working under the secret but visible directive: So to change the economic and political structure of the United States that it can be comfortably merged with Soviet Russia. They have set the pace for the whole demagogic tribe that—many of them unaware of where they were heading or who was pushing them—as sought not only to make us a *democracy* but to convince the American people that we are supposed to be a democracy. For acceptance of that change, from a republic, is an all-inclusive step of tremendous importance on the road to the rule of a Communist tyrant, with neither laws nor precedents nor traditions to restrict is cruel power. The glorification of "majority rule" as the unchecked and immediate arbiter of the fate of minorities and majorities alike is the great and dangerous criminal fraud, which our forefathers so much feared, and tried as well as they knew how to prevent.

In summary, democracy is government by majority vote, whether direct in a pure democracy or by one step removed in a representative democracy. It provides no protection of the rights of minorities nor even of the best interests of the majorities themselves, against the sudden whims of the electorate or the results of the voters' gullibility. And those who, through ignorance or greed or indifference, will allow their glorious republic to be converted into so despicable a pretense of civilized government, deserve the ultimate enslavement into which that transition is designed to lead them. But the framework of what was given us by our ancestors is not yet destroyed. The destruction now going on can be stopped and inner damages can—with enough determination—still be repaired. Ours is a republic, not a democracy. Let's keep it that way.

On The Differences Between A DEMOCRACY AND A REPUBLIC

Historically both words, *democracy* and *republic*, have been used with a wide variety of meanings and shades of meanings. Nor is there any denial that these shades overlap to some extent. But there is a tendency, permitted by even some of the best dictionaries, to regard *democracy* as the generic term, and a republic as merely one species of democracy. This is not supported by either etymology or history.

The word *democracy* comes from the Greek, and is concerned from the very beginning with the form of rule, or the source of governmental power and the method by which it is exercised. It meant rule by the people instead of rule by an autocracy or oligarchy. And so rapidly and completely did demagoguery cause this rule by the people to degenerate into mobocracy that by the time of Aristotle it was considered very unflattering to any government to speak of it as a democracy.

The word *republic* comes from the Latin, and designates only "the public affairs" or the "common weal," without regard to how those public affairs are conducted or the common well-being is achieved. None of the Greek city states, in which democracy originated, ever had a republic, or anything resembling one. But since then, and before the Communists deliberately prostituted so much of our language into deceptive reversals, the term has been applied, almost universally and with ready acceptance, to such widely different states as Rome in its earliest centuries, Venice, Poland in the 16th through the 18th centuries, the United Netherlands Confederation of the same period, the Swiss Republic, various French governments, and the United States of America. Some of these were monarchies (even at times absolute monarchies), some were oligarchies, and some were *representative democracies*, so far as the form of government is our concern. But what made these states *republics*, in the minds of statesmen and political scientists and historians and the informed public, was the fact that each of them (in theory, anyway) was ruled according to the well

Additional reprints of this article, delivered:

1 to 99 copies, 20 for \$1.00; 100 to 999 copies, 4¢ each; 1,000 or more, 3¢ each.

Address: AMERICAN OPINION, Belmont 78, Massachusetts.

A Democracy And A Republic

established laws—whether set forth by statutes, by precedents, or by written constitutions—and not simply by the whim of the monarch, or of the oligarchy, or of a temporary majority of the voters. "The rule of laws, not men," is one of the soundest of all the copybook maxims. And it is the essence of the whole difference between a democracy and a republic. Democracy is the rule of men, not bound by laws—or tradition or precedent—whenever mob psychology can be built up by demagogues to support the demagogues' disdain for the restrictions of law. A republic is rule subject to laws—and tradition and precedent—which laws cannot be changed except by due and deliberate process according to their own provisions.

Except when utilized by very small units, such as a tiny Greek city-state or an American township or village, democracy has never worked satisfactorily as a form of government. Especially when the size of the unit becomes such that "pure democracy" is no longer practicable, and it is necessary for the voters to select representatives to make the actual decisions and do the governing for them, does the deterioration into a mobocracy always become rapid and disastrous. The whole life cycle of a "representative democracy," from early stability through mobocracy and murderous cruelty to counter-revolution and stability once again, was telescoped by the French Revolution into a period of a few short years. This was because of the excessive steam pressure of the forces at work. But the pattern was an exact one for the course of a "representative democracy," as a form of government for large units, nevertheless.

Although our republic was established before the French Revolution had supplied this horrible example, our founding fathers were well aware of the faults and dangers of a democracy. They wanted no part of one for our national government. In fact, while our constitution goes so far as to guarantee a republican form of government to each of the several states, it does not even mention a democracy or a democratic form of government once. And one of the very few times the Federalist Papers (which tell us most of what we know about the thinking that went into our constitution) even mention a democracy, is in Federalist Paper No. 10, where Madison does so in order to show us its disadvantages.

A Democracy And A Republic

If Washington and Hamilton and Jefferson and Madison and all of the other great men of our constitutional convention had not believed that a constitutional republic was the best of all forms of government, they would have provided something else. For theirs was a clean slate on which to write. They did so believe, and both man's age-old experience with government and his most carefully reasoned theories support their choice.

But a republic, even if in the form of a monarchy or an oligarchy, does presuppose the ultimate responsibility of the governors to the governed. A king "by divine right" cannot head a republic, but only a king by—in theory, anyway—the consent of the governed. So that the governed do have the inherent right, and usually the opportunity, to make changes even in the basic laws through which the republic functions. And when the governmental form is the same as that of a "representative democracy," the danger of a breakdown of the legal guard rails of the republic is always present and usually becomes worse with time. So that the greatest fault of a republic is the likelihood of its deteriorating into a democracy. And of this, too, our forefathers were well aware. When Benjamin Franklin was asked, at the end of the Constitutional Convention, "What have you given us, Mr. Franklin?" his answer was: "A republic, Madam, if you can keep it!"

His fear was well founded. For today, because of the utterly unjustified and steadily increasing violation and disregard of our constitution itself, we have already gone far towards losing that protection of laws, against the schemes of demagogues and the whims of the electorate, which made us a republic instead of a democracy. The formerly slow erosion of our constitutional guarantee became a rapid rotting away under the Franklin Roosevelt Administration and those which have succeeded it. First, the Executive Department began to attack and circumvent the Constitution. Then the Legislative Department began supinely to surrender its rights and to fail in its duties under the Constitution. And then the Judicial Department began, in brazen and criminal violation of the oaths of office of individual justices, to change the Constitution by fiat of the Supreme Court, and of lesser courts. Until today the conversion of our republic into a democracy and the preparatory steps for making it a mobocracy are already fa