

TEXAS : MARCH 1 TO DECEMBER 29, 1845

Annexation of Texas. Joint resolution of the Congress of the United States, March 1, 1845. Joint resolution of the Congress of Texas, June 23, 1845. Ordinance of the Convention of Texas, July 4, 1845. Joint resolution of the Congress of the United States, December 29, 1845. Other proceedings are described in the editorial notes.

[*Joint Resolution of the Congress of the United States, March 1, 1845*]

28th Congress, { Begun and held at the city of Washington, in the
Second Session. { District of Columbia, on Monday the second day
of December, eighteen hundred and forty-four.

Joint Resolution for annexing Texas to the United States.

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

2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: *First*—said state to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, 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 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, 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, 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 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 the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission 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.

J W JONES

Speaker of the House of Representatives.

WILLIE P. MANGUM

President, pro tempore, of the Senate.

Approv'd March 1. 1845.

JOHN TYLER

[Joint Resolution of the Congress of Texas, June 23, 1845]

Joint Resolution Giving the consent of the existing Government to the Annexation of Texas to the United States.

Whereas the Government of the United States hath proposed the following terms, guarantees and conditions on which the people and Territory of the Republic of Texas may be erected into a new State to be called the State of Texas, and admitted as one of the States of the American Union, to wit: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within and rightfully belonging to the Republic of Texas may be erected into a new State, to be called the State of Texas, with a Republican form of Government, to be adopted by the people of said Republic, by deputies in Convention assembled, with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union. 2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First, said State to be formed subject to the adjustment by this Government of all questions of boundary that may arise with other Governments, and the Constitution thereof, with the proper evidence of its adoption, by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January 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 the said Republic of Texas, shall retain all the public funds, debts, taxes and dues of every kind which may belong to or be due and owing 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 provision of the Federal Constitution. And
 “such States as may be formed out of that portion of said territory
 “lying south of thirty-six degrees thirty minutes north latitude,
 “commonly known as the Missouri compromise line, shall be admitted
 “into the Union, with or without Slavery, as the people of each State
 “asking admission may desire. And in such State or States as shall
 “be formed out of said territory north of said Missouri compromise
 “line, slavery or involuntary servitude (except for crime) shall be
 “prohibited.” And whereas, by by said terms, the consent of the
 existing Government of Texas is required,—Therefore,

Be it resolved by the Senate and House of Representatives of the
 Republic of Texas in Congress assembled, That the Government of
 Texas doth consent that the People and Territory of 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, in order that
 the same may be admitted as one of the States of the American Union;
 and said consent is given on the terms, guarantees, and conditions set
 forth in the Preamble to this Joint Resolution.

Section 2. Be it further resolved, That the Proclamation of the
 President of the Republic of Texas, bearing date May fifth eighteen
 hundred and forty five, and the election of deputies to set in Conven-
 tion, at Austin, on the fourth day of July next for the adoption of a
 Constitution for the State of Texas, had in accordance therewith,
 hereby receives the consent of the existing Government of Texas.

Sec. 3. Be it further resolved, That the President of Texas is hereby
 requested, immediately, to furnish the Government of the United
 States, through their accredited Minister near this Government, with
 a copy of this Joint Resolution, also to furnish the Convention to
 assemble at Austin on the fourth of July next a copy of the same.
 And the same shall take effect from and after its passage.

JOHN M. LEWIS

Speaker of the House of Representatives

K. L. ANDERSON

President of the Senate

Approved June 23^d 1845

ANSON JONES

[Ordinance of the Convention of Texas, July 4, 1845]

An Ordinance.

Whereas the Congress of the United States of America has passed resolutions providing for the Annexation of Texas to that Union, which resolutions were approved by the President of the United States on the first day of March One thousand eight hundred and forty five; and Whereas the President of the United States has submitted to Texas, the first and second Sections of the said Resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and Whereas the existing Government of the Republic of Texas has assented to the proposals thus made, the terms and conditions of which are as follow,

Joint Resolution For annexing Texas to the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That Congress doth consent, that the territory, properly included within and rightly 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.

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

1st. Said State to be formed, subject to the adjustment by this Government of all questions of boundary, that may arise with other Governments, and the Constitution thereof with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress, for its final action, on or before the first day of January, 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 and armaments and all other property and means pertaining to the public defence belonging to the said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind which may belong to or be due & owing to the said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct, but in no event are said debts and liabilities to become a charge upon the Government of the United States.

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

Now, in order to manifest the assent of the people of this Republic as required in the above recited portions of the said Resolutions; We, the Deputies of the people of Texas in Convention assembled, in their name and by their Authority, do ordain and declare, that we assent to and accept the proposals, conditions and guarantees contained in the first and second Sections of the Resolution of the Congress of the United States aforesaid.

TH^o J. RUSK, *President.*

PHIL' M. CUNY
 H. G. RUNNELS
 ROBERT M. FORBES
 SAM LUSK
 JN^o CALDWELL
 JOSE ANTONIO NAVARRO
 GEO' M. BROWN
 GUSTAVUS A. EVERTS
 LEMUEL DALE EVANS
 J. B. MILLER
 R. E. B. BAYLOR
 J. S. MAYFIELD.
 R. BACHE
 JAMES LOVE
 Wth L. HUNTER
 JOHN D. ANDERSON
 ISAAC PARKER
 P. O. LUMPKIN
 FRANCIS MOORE J^r
 ISAAC W. BRASHEAR
 ALEXANDER M^oGOWAN

ISAAC VAN ZANT
 S HOLLAND
 EDWARD CLARK
 GEO' W. SMYTH
 JAMES ARMSTRONG
 FRANCIS M. WHITE
 JAMES DAVIS
 GEORGE T. WOOD
 G. W. WRIGHT
 H. R. LATIMER
 JOHN M. LEWIS
 JAMES SCOTT
 ARCHIBALD M^oNEILL
 A. C. HORTON
 ISRAEL STANDEFER
 JOS' L. HOGG
 CHA^o S. TAYLOR
 DAVID GAGE
 HENRY J. JEWETT
 CAVITT ARMSTRONG
 JAMES BOWER

ALBERT H. LATIMER
 W^m C. YOUNG
 J. PINCKNEY HENDERSON
 NICHOLAS H. DARNELL
 EMERY RAINS
 A. W. O. HICKS
 JAMES M. BURROUGHS

H. L. KINNEY
 WILLIAM L. CAZNEAU
 A. S. CUNNINGHAM
 ABNER S. LIPSCOMB
 JOHN HEMPHILL
 VAN R. IRION.

Adopted. July 4th 1845

Attest

JA^s H. RAYMOND
Secretary of the Convention

CITY OF AUSTIN REPUBLIC OF TEXAS *July 5th 1845*

I certify the foregoing is a correct copy of the Ordinance as adopted and signed by the Members of the Convention on Yesterday, July 4th 1845.

JA^s H RAYMOND
Secretary of the Convention

[*Joint Resolution of the Congress of the United States, December 29, 1845*]

29th Congress. { Begun and held at the city of Washington, in the
 1st Session. { District of Columbia, on Monday, the first day of
 December, eighteen hundred and forty-five.

Joint 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, might 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 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 Republic 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 authority, did ordain and declare, that they assented to and accepted the proposals, conditions, and guarantees contained in said first and second

sections of said resolution: And whereas the said Constitution, with the proper evidence 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

Resolved by the Senate and 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.

Section 2. And 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.

JOHN W DAVIS

Speaker of the House of Representatives.

G. M. DALLAS.

President of the Senate.

Approved December 29th 1845.

JAMES K POLK

NOTES

The source texts of the four documents printed above are the following: the joint resolution of the Congress of the United States approved March 1, 1845, from the original in the archives of the Department of State; the joint resolution of the Congress of Texas approved June 23, 1845, from the certified copy in D.S., 2 Despatches, Texas, No. 31, June 23, 1845, enclosure 2; the ordinance of the Convention of Texas of July 4, 1845, from the certified copy in *ibid.*, No. 31 [33], July 6, 1845, enclosure; the joint resolution of the Congress of the United States approved December 29, 1845, from the original in the archives of the Department of State (each original joint resolution of the Congress of the United States bears the customary certification of origin, "I certify that this Joint Resolution originated in the House of Representatives", signed by B. B. French, Clerk).

Other proceedings had at Washington, D.C., at Washington, Texas (for a time the seat of government of the Republic of Texas; a town in Washington County, on the Brazos, about sixty miles northwest of Houston), and at Austin (the capital of the Republic of Texas pursuant to an act of the Congress of Texas of January 14, 1839, and the present capital of the State of Texas), are described below.

THE TREATY OF ANNEXATION

On April 12, 1844, a treaty of annexation between the United States of America and the Republic of Texas was signed at Washington in the following terms (D.S., Unperfected R3):

A Treaty of Annexation, concluded between the United States of America and the Republic of Texas.

The people of Texas having, at the time of adopting their constitution, expressed by an almost unanimous vote, their desire to be incorporated into the Union of the United States, and being still desirous of the same with equal unanimity, in order to provide more effectually for their security and prosperity; and the United States, actuated solely by the desire to add to their own security and prosperity, and to meet the wishes of the Government and people of Texas, have determined to accomplish, by treaty, objects so important to their mutual and permanent welfare:

For that purpose, the President of the United States has given full powers to John C. Calhoun, Secretary of State of the said United States, and the President of the Republic of Texas has appointed, with like powers, Isaac Van Zandt and J. Pinckney Henderson, citizens of the said Republic: and the said plenipotentiaries, after exchanging their full powers, have agreed on and concluded the following articles:

ARTICLE I.

The Republic of Texas, acting in conformity with the wishes of the people and every department of its government, cedes to the United States all its territories, to be held by them in full property and sovereignty, and to be annexed to the said United States as one of their Territories, subject to the same constitutional provisions with their other Territories. This cession includes all public lots and squares, vacant lands, mines, minerals, salt lakes and springs, public edifices, fortifications, barracks, ports and harbours, navy and navy-yards, docks, magazines, arms, armaments and accoutrements, archives and public documents, public funds, debts, taxes and dues unpaid at the time of the exchange of the ratifications of this treaty.

ARTICLE II.

The citizens of Texas shall be incorporated into the Union of the United States, maintained and protected in the free enjoyment of their liberty and property, and admitted, as soon as may be consistent with the principles of the federal constitution, to the enjoyment of all the rights, privileges and immunities of citizens of the United States.

ARTICLE III.

All titles and claims to real estate, which are valid under the laws of Texas, shall be held to be so by the United States; and measures shall be adopted for the speedy adjudication of all unsettled claims to land, and patents shall be granted to those found to be valid.

ARTICLE IV.

The public lands hereby ceded shall be subject to the laws regulating the public lands in the other Territories of the United States, as far as they may be applicable; subject, however, to such alterations and changes as Congress may from time to time think proper to make. It is understood between the parties that if, in consequence of the mode in which lands have been surveyed in Texas, or from previous grants or locations, the sixteenth section cannot be applied to the purpose of education, Congress shall make equal provision by grant of land elsewhere. And it is also further understood, that, hereafter, the books, papers and documents of the General Land Office of Texas shall be deposited and kept at such place in Texas as the Congress of the United States shall direct.

ARTICLE V.

The United States assume and agree to pay the public debts and liabilities of Texas, however created, for which the faith or credit of her government may be bound at the time of the exchange of the ratifications of this treaty; which debts and liabilities are estimated not to exceed, in the whole, ten millions of dollars, to be ascertained and paid in the manner hereinafter stated.

The payment of the sum of three hundred and fifty thousand dollars shall be made at the Treasury of the United States within ninety days after the exchange of the ratifications of this treaty, as follows: Two hundred and fifty thousand dollars to Frederick Dawson, of Baltimore, or his Executors, on the delivery of that amount of ten per cent. bonds of Texas: One hundred thousand dollars, if so much be required, in the redemption of the Exchequer bills which may be in circulation at the time of the exchange of the ratifications of this treaty. For the payment of the remainder of the debts and liabilities of Texas, which, together with the amount already specified, shall not exceed ten millions of dollars, the public lands herein ceded and the nett revenue from the same are hereby pledged.

ARTICLE VI.

In order to ascertain the full amount of the debts and liabilities herein assumed, and the legality and validity thereof, four commissioners shall be appointed by the President of the United States, by and with the advice and consent of the Senate, who shall meet at Washington, Texas, within the period of six months after the exchange of the ratifications of this treaty, and may continue in session not exceeding twelve months, unless the Congress of the United States should prolong the time. They shall take an oath for the faithful discharge of their duties, and that they are not directly or indirectly interested in said claims at the time, and will not be during their continuance in office; and the said oath shall be recorded with their proceedings. In case of the death, sickness or resignation of any of the commissioners, his or their place or places may be supplied by the appointment as aforesaid or by the President of the United States during the recess of the Senate. They, or a majority of them, shall be authorised, under such regulations as the Congress of the United States may prescribe, to hear, examine and decide on all questions touching the legality and validity of said claims, and shall, when a claim is allowed, issue a certificate to the claimant, stating the amount, distinguishing principal from interest. The certificates so issued shall be numbered, and entry made of the number, the name of the person to whom issued, and the amount, in a book to be kept for that purpose. They shall transmit the records of their proceedings and the book in which the certificates are entered, with the vouchers and documents produced before them, relative to the claims allowed or rejected, to the Treasury Department of the United States, to be deposited therein, and the Secretary of the Treasury shall, as soon as practicable after the receipt of the same, ascertain the aggregate amount of the debts and liabilities allowed; and if the same, when added to the amount to be paid to Frederick Dawson and the sum which may be paid in the redemption of the Exchequer bills, shall not exceed the estimated sum of ten millions of dollars, he shall, on the presentation of a certificate of the commissioners, issue, at the option of the holder, a new certificate for the amount, distinguishing principal from interest, and payable to him or order, out of the nett proceeds of the public lands, hereby ceded, or stock, of the United States, for the amount allowed, including principal and interest, and bearing an interest of three per cent. per annum from the date thereof; which stock, in addition to being made payable out of the nett proceeds of the public lands hereby ceded, shall also be receivable in payment for the same. In case the amount of the debts and liabilities allowed, with the sums aforesaid to be paid to Frederick Dawson and which may be paid in the redemption of the Exchequer bills, shall exceed the said sum of ten millions of dollars, the said Secretary, before issuing a new certificate, or stock, as the case may be, shall make in each case such proportionable and rateable reduction on its amount as to reduce the aggregate to the said sum of ten millions of dollars, and he shall have power to make all needful rules and regulations necessary to carry into effect the powers hereby vested in him.

ARTICLE VII.

Until further provision shall be made, the laws of Texas as now existing shall remain in force, and all executive and judicial officers of Texas, except the President, Vice-President and Heads of Departments, shall retain their offices, with all power and authority appertaining thereto, and the Courts of justice shall remain in all respects as now established and organized.

ARTICLE VIII.

Immediately after the exchange of the ratifications of this treaty, the President of the United States, by and with the advice and consent of the Senate, shall appoint a commissioner who shall proceed to Texas, and receive the transfer of the territory thereof, and all the archives and public property and other things herein conveyed, in the name of the United States. He shall exercise all executive authority in said territory necessary to the proper execution of the laws, until otherwise provided.

ARTICLE IX.

The present treaty shall be ratified by the contracting parties and the ratifications exchanged at the City of Washington, in six months from the date hereof, or sooner if possible.

In witness whereof, we, the undersigned plenipotentiaries of the United States of America and of the Republic of Texas, have signed, by virtue of our powers, the present treaty of Annexation, and have hereunto affixed our seals respectively.

Done at Washington, the twelfth day of April, eighteen hundred and forty-four.

[Seal] J. C. CALHOUN

[Seal] ISAAC VAN ZANDT

[Seal] J. PINCKNEY HENDERSON

That treaty was submitted to the Senate on April 22, 1844, with the presidential message of the same date (Executive Journal, VI, 257-61); and it was rejected by the Senate by a vote of sixteen yeas to thirty-five noes on the following June 8 (*ibid.*, 311-12). Certain papers accompanied the presidential message of April 22, 1844, and also the sixteen later messages to the Senate of various dates from April 26 to June 10 (*ibid.*, *passim*); from most of these the injunction of secrecy was removed during the Senate proceedings; nine of the messages of April and May, with the accompanying papers, were printed at the time in Senate Documents Nos. 341, 345, and 349, 28th Congress, 1st session, serial 435; of the first and last mentioned of those three documents (perhaps of the second also) twenty thousand copies were printed; but the message to the Senate of May 16, 1844 (Executive Journal, VI, 286-87), and the accompanying papers, the Senate refused to print (*ibid.*, 287); with the other papers sent to the Senate they were made public with the presidential message to Congress of June 10 (Richardson, IV, 323-27; House Document No. 271, 28th Congress, 1st session, serial 444).

MEXICO AND TEXAS

At no time had Mexico recognized the independence or separate existence of Texas. The position of Mexico was that "the Department of Texas" was an integral part of Mexico; not until the negotiations of 1845, to which reference is made below, was there any willingness on the part of Mexico to treat on the basis of Texan

independence. Except for a few expeditions, which were of the nature of raids on the one side or the other (see Rives, *The United States and Mexico, 1821-1848*, I, 477-92), hostilities between the two countries had in fact for some years ceased to be carried on; but no legal or formal basis of peace existed, and recent proposals of mediation and for an armistice had failed (see Senate Document No. 1, 28th Congress, 2d session, serial 449, particularly pp. 29-36, the instruction of Secretary of State Calhoun to Wilson Shannon, Minister to Mexico, of September 10, 1844; the decree of General Santa Anna of June 17, 1843; and the order of General Adrian Woll of June 20, 1844). Under date of May 16, 1844, the following statement of the facts was made to Secretary of State Calhoun by the Plenipotentiaries of the Republic of Texas who signed the treaty of April 12, 1844 (D.S., 1 Communications from Agents of Texas; House Document No. 271, 28th Congress, 1st session, serial 444, pp. 85-86):

LEGATION OF TEXAS
Washington May 16th 1844

The Undersigned &c. &c. in reply to the note of Mr Calhoun Secretary of State of the United States of yesterdays date, have the honor to submit for his information the following facts, in relation to the origin and history of the alledged armistice between Mexico and Texas, to which he refers.

By the terms of a convention, concluded between Texas and Great Britain on the 14th of November 1840 (text in British and Foreign State Papers, XXIX, 84-85), the British Government agreed to offer its mediation for the settlement of the difficulties between Mexico and Texas, upon the basis of the recognition of the Independence of Texas by Mexico. In pursuance of this convention, the mediation of Great Britain was tendered to, and declined by Mexico, information of which was communicated to the President of Texas. Afterwards, in the year 1842 representations were made, by Texas to Great Britain, France, and the United States, requesting their joint interposition for the settlement of the difficulties between Mexico and Texas. To this request the Governments of France and the United States indicated their ready willingness to accede. The British Government however for reasons deemed by it sufficient declined to be thus associated, suggesting at the same time that each might act separately. Subsequently the Texian Charge d'Affaires in London, was informed by the Minister of Foreign Affairs of the British Government that the mediation, as before pursued, was utterly hopeless, and that Her Majesty's Charge d'Affaires in Mexico had been directed to propose a *new feature* in the same to Mexico.

In the month of May 1843, in reply to the representations upon the subject, made by Her Britannic Majesty's Charge d'Affaires in Mexico, to Genl. Santa Anna, the latter indicated his willingness to agree to a suspension of hostilities, and to receive Commissioners from Texas to treat on the terms of a peace. This fact was communicated by Her Britannic Majesty's Charge d'Affaires in Texas to the President of Texas, on the 10th of June 1843, who, on the 15th of the same month, issued his proclamation for an armistice [text in *ibid.*, XXXIII, 251], annexing certain stipulations, by which it should be terminated. When these were communicated to Genl. Santa Anna, through the British Charge d'Affaires, he declined to assent to them, suggesting that it would be better that the terms, duration &c should be arranged by Commissioners, appointed by the respective Governments, for that purpose. Information of this was communicated to the Texian Government, both, through the British Charge d'Affaires in Texas and in a communication from Genl. Woll to Genl. Houston, in which it was stated, in substance, that he (Genl. Woll) was authorized, by Genl. Santa Anna, to appoint Commissioners to meet any persons, similarly commissioned by Texas, to arrange the proposed armistice. In pursuance of this the Texian Commissioners were appointed and proceeded to Mexico. They were instructed that no arrangement made by them would be binding until approved by the

President. When the agreement entered into by them was submitted to the President of Texas, he declined approving it. Referring to Texas as a Department of Mexico was a sufficient reason for its prompt rejection, and precluded all possibility of official action under it.

The negotiations having thus terminated; and this agreement being held to be null and void, there is at present no subsisting arrangement of any character between Mexico and Texas.

The Undersigned avail themselves of this occasion to offer to Mr Calhoun renewed assurances of their distinguished consideration.

ISAAC VAN ZANDT
J PINCKNEY HENDERSON

Honorable J. C. CALHOUN
&c. &c. &c.

THE PRESIDENTIAL CAMPAIGN OF 1844

The question of the annexation of Texas became one of the major issues of the presidential campaign of 1844. Henry Clay was nominated by the Whig Party; the party platform said nothing about Texas; but the letter of Clay of April 17, 1844, the Raleigh letter, had declared against annexation, at least at that time. The leading candidate for the Democratic nomination was Martin Van Buren, who received a majority of the votes in the party convention on the first ballot; but Van Buren's letter of April 20, 1844, was also against immediate annexation; and James Knox Polk became the Democratic nominee on a platform which declared "that the re-occupation of Oregon and the re-annexation of Texas at the earliest practicable period are great American measures, which this Convention recommends". A third candidate was James G. Birney, of Ohio, nominated by the Liberty Party on an antislavery platform; and President John Tyler was renominated by still another group, but withdrew on August 21. The result was the election of Polk, who carried New York by a small plurality and had 170 votes in the electoral college against 105 for Henry Clay (see Rives, *The United States and Mexico, 1821-1848*, I, ch. XXIV, "The Election of Polk", 618-50).

THE SUBMISSION TO CONGRESS

In the meantime President Tyler had presented to Congress the question of the annexation of Texas in his message of June 10, 1844 (Richardson, IV, 323-27); he communicated "for your consideration, the rejected treaty, together with all the correspondence and documents which have heretofore been submitted to the Senate in its executive sessions" (House Document No. 271, 28th Congress, 1st session, serial 444); and he proposed action by the National Legislature in lieu of action by treaty.

It seems that the earliest suggestion that the annexation of Texas might be accomplished by means of a joint resolution of Congress rather than by treaty was made by J. Pinckney Henderson, who, as Acting Secretary of State of the Republic of Texas, wrote the following in the elaborate instructions of December 31, 1836, to Memucan Hunt, who had been appointed Minister Extraordinary of Texas to

the United States (Garrison, Diplomatic Correspondence of Texas, pt. 1, 161-65):

In the event that there should be doubts entertained whether a treaty made with this Government for its annexation to the United States would be ratified by a constitutional majority of the Senate of the United States you are instructed to call the attention of the authorities of that Government to the propriety and practicability of passing a law by both house (in which it would require a bare majority) taking in this Country as a part of her Territory, this law could be passed, (provided Congress has the power to do so) based upon the vote of the people of Texas at the last election but in framing such an act great care should be used in order to secure all of the rights of Texas and its citizens as fully as you are instructed to have them attended to in any treaty which may be made. If such an act is passed you can give that Government the fullest assurance that it will be approved by this Government and people. But inasmuch as this is rather a novel position you will speak of it with great prudence and caution.

The following paragraphs are extracted from the message of President Tyler of June 10, 1844, above cited:

The treaty negotiated by the Executive with the Republic of Texas, without a departure from any form of proceeding customarily observed in the negotiations of treaties for the annexation of that Republic to the United States, having been rejected by the Senate, and the subject having excited on the part of the people no ordinary degree of interest, I feel it to be my duty to communicate, for your consideration, the rejected treaty, together with all the correspondence and documents which have heretofore been submitted to the Senate in its executive sessions. The papers communicated embrace not only the series already made public by orders of the Senate, but others from which the veil of secrecy has not been removed by that body, but which I deem to be essential to a just appreciation of the entire question. While the treaty was pending before the Senate, I did not consider it compatible with the just rights of that body or consistent with the respect entertained for it to bring this important subject before you. The power of Congress is, however, fully competent in some other form of proceeding to accomplish everything that a formal ratification of the treaty could have accomplished, and I therefore feel that I should but imperfectly discharge my duty to yourselves or the country if I failed to lay before you everything in the possession of the Executive which would enable you to act with full light on the subject if you should deem it proper to take any action upon it.

So much have I considered it proper for me to say; and it becomes me only to add that while I have regarded the annexation to be accomplished by treaty as the most suitable form in which it could be effected, should Congress deem it proper to resort to any other expedient compatible with the Constitution and likely to accomplish the object I stand prepared to yield my most prompt and active cooperation.

The great question is not as to the manner in which it shall be done, but whether it shall be accomplished or not.

The responsibility of deciding this question is now devolved upon you.

Moreover, while no action was taken at that session of Congress, which adjourned on June 17, 1844, the question of annexation was kept open with the Government of Texas, despite the rejection of the treaty. General Tilghman A. Howard was appointed Chargé d'Affaires to Texas on June 11, 1844; and in the instructions to him of June 18, Secretary of State Calhoun wrote (D.S., 1 Instructions, Texas, 96-100):

The recent rejection of the Treaty of Annexation by the Senate has placed these relations [between the United States and Texas] in a very delicate and

hazardous state;—and the great object of your mission is to prevent, by every exertion in your power, the dangerous consequences to which it may lead.

The first step towards the accomplishment of so desirable a result, will be to satisfy the government of Texas that the loss of the Treaty does not necessarily involve the failure of the great object which it contemplated. It is now admitted that what was sought to be effected by the Treaty submitted to the Senate, may be secured by a joint resolution of the two houses of Congress incorporating all its provisions. This mode of effecting it will have the advantage of requiring only a majority of the two houses, instead of two thirds of the Senate. A joint resolution for this purpose has accordingly been introduced by Mr M^cDuffie of South Carolina in the Senate, and was laid on the table by a vote of 19 to 27 (many members being absent) on the ground that there was not sufficient time to act on it. Three of the absentees and also three who voted to lay on the table, were known to be favorable to annexation, which shows that, in a full Senate, and supposing the other absentees unfavorable, but two Senators are required to constitute a majority of the whole number.

In the other House the indications are still more favorable; as appears by the votes to which the President's recent Message communicating the Treaty and accompanying documents to that body, gave rise. On the motion to lay the Message and Documents on the table, the vote stood 66 yeas to 118 nays, and on that to suspend the rules with a view to the printing of 15,000 extra copies, it stood 108 yeas to 79 nays. All of which would seem to indicate that there is already a majority in the House in favor of annexation. In addition to these facts, it may be safely stated from the indications in the country, that amongst the people, a far larger proportion is in favor of annexation, and that it is still on the increase. On this point, however, it is not deemed necessary to enlarge; as your residence here during the past winter with all the facilities for ascertaining the state and current of public opinion, will enable you to sustain its correctness from your own information. Indeed, the force of the popular sentiment in favor of annexation is believed to be so strong as to afford just ground to hope that, on consulting with their Constituents, it will induce a sufficient number to make a majority, especially from the South and West, to vote for the measure, and you may assure the Government of Texas that the President is resolved to call an extra session of Congress whenever there is cause to believe that there is a sufficient change to secure the passage of a Joint Resolution by both Houses.

The importance of satisfying the Government of Texas that the non-approval of the Treaty does not involve the loss of annexation, and that there is still reasonable ground to hope for its success, is based on the belief that the government and people of Texas are so deeply devoted to the measure that they will not abandon it so long as there is any reasonable hope of its success. In this belief we cannot feel that we are mistaken. The evidences they have given of such a disposition are so numerous and strong, that we cannot permit ourselves to doubt. Indeed, an opposite conclusion would imply that they were not only insensible to the feelings and sympathies which belong to a common origin, but blind to their own safety and prosperity. The danger is that the revulsion of disappointed hopes highly excited, may be seized upon by an interested and wily diplomacy, and made the means of seducing them to seek and form other alliance with the Power, which there is reason to fear has been eagerly watching the favorable opportunity.

Of all the results which could follow, this, in the end, would be the most disastrous to Texas,—to the United States and to the whole American continent. The Government of Texas would be blind, indeed, not to see that Great Britain, in seeking its alliance, seeks it for purposes purely selfish. She looks to her interests exclusively,—not to the interests of Texas:—and that whatever motive may be held out, the result, in the end, must be abject submission and degradation on the part of Texas. Such has ever been the fate of the smaller in alliances between them and larger communities; and in none would the connection be followed by more oppressive consequences than between Texas and Great Britain. Their interests would be opposite in many and important particulars. Her vast East Indian possessions exercise a controlling influence over her in all commercial questions in which their interests come in conflict with the products of this continent. To those she has already sacrificed her West India Islands; and it would

be the height of folly for Texas, as a dependent community, to expect a better fate. The enlightened Chief Magistrate of the Republic of Texas [General Samuel Houston] has too much intelligence not to see that this would be the consequence of such an alliance; and too much patriotism to seek it while one hope remained of incorporating that Republic into our glorious Union. He has already acquired too much fame to hazard it by a step which Texas would long deplore, and which in after times could not fail to impair his just renown, while, on the other hand, by successfully carrying out the measure with which he is so intimately identified, he would fill the measure of his country's glory and his own.

In regard to the orders which have been heretofore given to the officers in command of the military and naval force of the United States in the Gulph of Mexico and on the frontiers of Texas, you may assure the government of Texas that there will be no material change, except that the communications made to it by the officer commanding the military as well as the naval force, will be made through the *Chargé d'Affaires* of the United States.

You will consider these as constituting the general outline of your instructions. Much must be left to your judgement and discretion as to the means and matters most proper to be employed in securing the attachment of the Government and people of Texas, in removing existing and preventing future causes of discontent and alienation and of advancing the great object of annexation, so essential to the peace and safety of both countries. In conclusion you may give assurance that annexation has been defeated at the present time mainly by the controlling influence of temporary causes, but that the measure has taken so deep and general a hold on the public mind that it must ultimately triumph, should it not be abandoned by the Government and People of Texas.

THE JOINT RESOLUTION OF MARCH 1, 1845

Part of the annual presidential message to Congress of December 3, 1844, at the opening of the ensuing session (Richardson, IV, 334-52), was devoted to the question of Texas; the concluding paragraphs on the subject were these:

Other considerations of a controlling character influenced the course of the Executive. The treaty which had thus been negotiated had failed to receive the ratification of the Senate. One of the chief objections which was urged against it was found to consist in the fact that the question of annexation had not been submitted to the ordeal of public opinion in the United States. However untenable such an objection was esteemed to be, in view of the unquestionable power of the Executive to negotiate the treaty and the great and lasting interests involved in the question, I felt it to be my duty to submit the whole subject to Congress as the best expounders of popular sentiment. No definitive action having been taken on the subject by Congress, the question referred itself directly to the decision of the States and people. The great popular election which has just terminated afforded the best opportunity of ascertaining the will of the States and the people upon it. Pending that issue it became the imperative duty of the Executive to inform Mexico that the question of annexation was still before the American people, and that until their decision was pronounced any serious invasion of Texas would be regarded as an attempt to forestall their judgment and could not be looked upon with indifference. I am happy to inform you that no such invasion has taken place; and I trust that whatever your action may be upon it Mexico will see the importance of deciding the matter by a resort to peaceful expedients in preference to those of arms. The decision of the people and the States on this great and interesting subject has been decisively manifested. The question of annexation has been presented nakedly for their consideration. By the treaty itself all collateral and incidental issues which were calculated to divide and distract the public councils were carefully avoided. These were left to the wisdom of the future to determine. It presented, I repeat, the isolated question of annexation, and in that form it has been submitted to the ordeal of public sentiment. A controlling majority of the people and a large majority of the States have declared in favor of immediate annexation. Instructions have thus come up to both branches of Congress from their respective constituents in

terms the most emphatic. It is the will of both the people and the States that Texas shall be annexed to the Union promptly and immediately. It may be hoped that in carrying into execution the public will thus declared all collateral issues may be avoided. Future Legislatures can best decide as to the number of States which should be formed out of the territory when the time has arrived for deciding that question. So with all others. By the treaty the United States assumed the payment of the debts of Texas to an amount not exceeding \$10,000,000, to be paid, with the exception of a sum falling short of \$400,000, exclusively out of the proceeds of the sales of her public lands. We could not with honor take the lands without assuming the full payment of all incumbrances upon them.

Nothing has occurred since your last session to induce a doubt that the dispositions of Texas remain unaltered. No intimation of an altered determination on the part of her Government and people has been furnished to the Executive. She still desires to throw herself under the protection of our laws and to partake of the blessings of our federative system, while every American interest would seem to require it. The extension of our coastwise and foreign trade to an amount almost incalculable, the enlargement of the market for our manufactures, a constantly growing market for our agricultural productions, safety to our frontiers, and additional strength and stability to the Union—these are the results which would rapidly develop themselves upon the consummation of the measure of annexation. In such event I will not doubt but that Mexico would find her true interest to consist in meeting the advances of this Government in a spirit of amity. Nor do I apprehend any serious complaint from any other quarter; no sufficient ground exists for such complaint. We should interfere in no respect with the rights of any other nation. There can not be gathered from the act any design on our part to do so with their possessions on this continent. We have interposed no impediments in the way of such acquisitions of territory, large and extensive as many of them are, as the leading powers of Europe have made from time to time in every part of the world. We seek no conquest made by war. No intrigue will have been resorted to or acts of diplomacy essayed to accomplish the annexation of Texas. Free and independent herself, she asks to be received into our Union. It is a question for our own decision whether she shall be received or not.

The two Governments having already agreed through their respective organs on the terms of annexation, I would recommend their adoption by Congress in the form of a joint resolution or act to be perfected and made binding on the two countries when adopted in like manner by the Government of Texas.

In order that the subject may be fully presented in all its bearings, the correspondence which has taken place in reference to it since the adjournment of Congress between the United States, Texas, and Mexico is herewith transmitted [Senate Document No. 1, 28th Congress, 2d session, serial 449].

The joint resolution of March 1, 1845, the text of which is the first of the four documents printed above (following the headnote), originated in the House of Representatives; as passed there on January 25 by a vote of 120 to 98, it included sections 1 and 2 only; section 3 was added in the Senate, which on February 27, by 27 votes to 25, adopted the resolution thus amended; the House of Representatives concurred in the amendment on February 28 by 132 votes to 76; and on March 1 the resolution was approved by President Tyler (5 Statutes at Large, 797-98; the debates on the measure are in Congressional Globe, XIV, and appendix, *passim*; see also Benton, *Thirty Years' View*, II, 632-38).

It will be observed that those clauses of the joint resolution of March 1, 1845, on which action was based and taken (sections 1 and 2) differed from the provisions of the defeated treaty of annexation in certain important features. Under the treaty it was contemplated

that Texas would become temporarily a territory of the United States; the public lands were ceded, and the United States assumed the public debts of Texas to the extent of \$10,000,000. Under the joint resolution Texas was to be admitted as a State, and the State of Texas retained all the vacant and unappropriated lands, to be applied to the payment of the debts and liabilities of the Republic of Texas, which were not to become a charge upon the Government of the United States.

THE COMMUNICATION TO TEXAS

With the first annual message of President Polk to Congress of December 2, 1845, there were transmitted most of the correspondence between the Department of State and the Chargé d'Affaires to Texas during the year 1845 (beginning with March 3) and various other papers relevant to the question of the annexation of Texas. The message and the accompanying papers are printed in Senate Document No. 1, 29th Congress, 1st session, serial 470, and also in House Document No. 2 of that Congress and session, serial 480. The first of those two documents is hereafter generally cited as "published correspondence".

In its final form the joint resolution of March 1, 1845, authorized two entirely different modes of procedure; by sections 1 and 2 the consent of Congress to the erection of a new State, the State of Texas, to be admitted into the Union "with the consent of the existing government" of the Republic of Texas, was given under certain conditions; a constitution of the new State was to be adopted by "deputies in Convention assembled" and by the people; that constitution was to be transmitted to the President of the United States to be laid before Congress by January 1, 1846; all questions of boundary with "other governments" were for the United States to adjust; there were provisions regarding public buildings and property, public funds, public lands, and public debts; new States might be formed out of the territory in question with the consent of Texas; and the Missouri Compromise line of 1820 (36°30' north; sec. 8 of the act of March 6, 1820, 3 Statutes at Large, 545-48) was made applicable to any such States.

By section 3 of the joint resolution, as an alternative, the President was authorized, in lieu of submitting sections 1 and 2 to the Republic of Texas "as an overture on the part of the United States for admission", to negotiate with the Government of Texas for the admission of a State "with suitable extent and boundaries", and for "the cession of the remaining Texan territory to the United States"; and "the terms of said admission and cession" were to be framed "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".

The term of President Tyler was about to expire; but he decided to act at once, and to act under sections 1 and 2 of the joint resolution (see Tyler, *Letters and Times of the Tylers*, II, 364-65); and the following instructions were sent to Andrew Jackson Donelson, Chargé d'Affaires to Texas (who had been appointed on September 16, 1844, following the death of Tilghman A. Howard on August 16), under

date of March 3, 1845 (D.S., 1 Instructions, Texas, 107-11; published correspondence, 32-34):

I herewith transmit to you a copy of the Joint Resolutions adopted by Congress for the annexation of Texas to the United States.

You will perceive that they consist of two distinct parts; the one embraced in the first and second sections, being the original Resolution as it passed the House of Representatives; the other, included in the third and last, being the amendment made by the Senate and subsequently adopted by the House. The former contains certain specific propositions for the admission of Texas into our Union; the latter gives a discretionary power to the President, if he should deem it advisable, to enter into negotiations with the Republic, as prescribed in the section itself, instead of submitting to its acceptance or rejection the proposals contained in the former.

The President has deliberately considered the subject, and is of opinion that it would not be advisable to enter into the negotiations authorized by the amendment of the Senate, and you are accordingly instructed to present to the government of Texas, as the basis of its admission, the proposals contained in the Resolution as it came from the House of Representatives.

It is not deemed necessary to state at large the grounds on which his decision rests. It will be sufficient to state briefly that the provisions of the Resolution as it came from the House, are more simple in their character; may be more readily and with less difficulty and expense, carried into effect, and that the great object contemplated by them is much less exposed to the hazard of ultimate defeat.

That they are more simple in their character a very few remarks will suffice to show. According to the Resolution as it came from the House, nothing more is necessary than that the Congress of Texas should be called together, its consent given to the provisions contained in it, and the adoption of a Constitution by the people in Convention to be submitted to the Congress of the United States for its approval in the same manner as when one of our own territories is admitted as a State. On the contrary, according to the provisions of the Senate's amendment, the Congress of Texas must, in like manner, be convened;—it must then go through the slow and troublesome process of carving a State out of a part of its territory;—afterwards it must appoint agents or commissioners to meet similar agents or commissioners to be appointed on our part, to discuss and agree on the terms and conditions on which the State shall be admitted, and on the cession of the remaining territory to the United States, and after all this, and not before, the people of the said State must call a Convention, frame a Constitution and then present it to the Congress of the United States for its approval, but which cannot be acted on until the terms agreed upon by the negotiators, and which constitute the conditions on which the State is to be admitted, shall have been ratified.

That they may be more readily and with less difficulty and expense, carried into effect, is plain from the fact that the details are fewer and less complex. It is obvious that the numerous and complicated provisions contained in the amendment of the Senate must involve much time and difficulty in their execution; while, as to the expense, the appropriation of \$100,000 provided for by it, is a clear additional cost over and above that attendant on the execution of the Resolution of the House.

But the decisive objection to the Amendment of the Senate is, that it would endanger the ultimate success of the measure. It proposes to fix, by negotiation between the Governments of the United States and Texas, the terms and conditions on which the State shall be admitted into our Union, and the cession of the remaining territory to the United States. Now, by whatever name the agents conducting the negotiation may be known, whether they be called commissioners, Ministers or by any other title, the compact agreed on by them in behalf of their respective governments would be a Treaty;—whether so called or designated by some other name. The very meaning of a Treaty is a compact between independent States founded on negotiation. And if a treaty (as it clearly would be) it must be submitted to the Senate for its approval and run the hazard of receiving the votes of two thirds of the members present, which could hardly be expected, if we are to judge from recent experience. This, of itself, is considered by the President as a conclusive reason for proposing the Resolution of the House, instead of the amendment of the Senate, as the basis of annexation.

But it may be objected that the Resolution of the House prescribes no means of rendering its provisions acceptable to the government and people of Texas, in case they should prove unsatisfactory. The objection, however, is more apparent than real; for although none are expressly provided, it cannot be doubted that the Congress of Texas may propose whatever amendments it may think essential, and transmit them to the government of the United States for its consideration and agreement; and, if adopted, to be binding on both parties, a far more satisfactory mode, in all probability, of obtaining the mutual consent of both, than that of negotiating through commissioners or other agents; while it is exempt from the decisive objections to which this is liable.

But it is deemed by the President of great importance that the Resolution should be adopted by the Government of Texas without amendment; so as to avoid the hazards and contingencies incident to delay; and you are accordingly instructed to use your best exertions to effect this object. Should you fail in this, you will next endeavor to induce the Congress of Texas to substitute, in place of amendments, separate and distinct propositions, expressive of their views of what the provisions of the Resolution ought to be, accompanied by a strong address setting forth their reasons at length, and expressing their reliance on the justice of the government of the United States for their adoption. If both fail, it will then remain for the Congress of Texas to amend the Resolutions as above suggested.

The President also directs me to instruct you to proceed with as little delay as possible to the seat of the government of Texas and to urge speedy and prompt action on the subject. Time is important, and not a day ought to be lost. The last hope on the part of any foreign power which may feel disposed to defeat annexation, will be to act upon the Government of Texas; and it can scarcely be doubted from the feelings expressed on the part of one of the leading European Powers against the measure, that no effort will be spared to induce Texas to reject the proposals contained in the Resolution. Your prudence, intelligence, activity and influence are confidently relied on to counteract the attempt.

President Polk adopted the decision of his predecessor; the instructions to Donelson signed by Secretary of State Buchanan on March 10, 1845, the day he took over the duties of his office, differed somewhat in their reasoning from those of March 3, 1845, but were to the same effect (D.S., 1 Instructions, Texas, 112-17; published correspondence, 35-38):

You will have received, ere this can reach you, the despatch of Mr Calhoun, the late Secretary of State, of the third instant, instructing you "to present to the government of Texas, as the basis of its admission, the proposals contained in the Resolution as it came from the House of Representatives." President Tyler having thus determined to adopt the two first of the series of Resolutions instead of the alternative presented by the third, it became the duty of the President to devote his attention to this important question at as early a moment as possible. This has been done, and his deliberations have resulted in a clear and firm conviction that it would be inexpedient to reverse the decision of his predecessor.

Whilst the President does not concur in the opinion of his predecessor, that under the third Resolution the terms of admission and cession which might be agreed upon by commissioners of the respective governments would necessarily be a Treaty which must, under the Constitution, be submitted to the Senate for their advice and consent, yet he is sensible that many of the sincere friends of Texas may entertain this opinion. Should that prove to be the case in the two Houses of Congress, members sincerely friendly to the admission of Texas would be compelled to vote against the adoption of such articles of Union under the conviction that they could only be constitutionally submitted to the Senate. This might create a division among the friends of the measure which would prove fatal to its success.

The President prefers the two first Resolutions, because they will, in his judgment, the most speedily and certainly secure the admission of Texas into the Union. These Resolutions pursue the usual course adopted by Congress in pre-

paring the way for the admission of new States, so far as the existing relations between the two Republics will permit. Should Texas assent to the terms and conditions proposed by them, the faith of the Government of the United States then becomes pledged for her admission into the Union, and the Act of Congress redeeming this pledge will follow as a necessary consequence. The President can perceive no good reason why this Union so long desired by the people of the two Republics may not be consummated within a brief period after the commencement of the next session of Congress. Nothing can prevent this happy result but the determination of Texas to change and modify the conditions presented by these Resolutions, and you cannot too earnestly warn the government of that Republic against the unhappy consequences which may flow from such a policy. Should any of these conditions appear to be unreasonable, she may rely with confidence upon the well known justice and liberality of her sister States to change or modify them after she shall have been restored to the bosom of our Republican family. The great object now to be accomplished, that which far transcends all other objects in importance, is her prompt admission into the Union. This once accomplished, all other subordinate questions can be easily and satisfactorily arranged between the parties. The President confidently trusts that the Government of Texas may take this view of the subject and not suffer the reünion between the two countries to be delayed or defeated by the interposition of minor questions which in the natural course of events will settle themselves hereafter.

Should Texas refuse her assent to the terms and conditions of the two first Resolutions or present new conditions for the acceptance of Congress, we are then again at sea and the success of the great measure may be placed in jeopardy. These new conditions may become the subject of earnest and angry debate before Congress,—the friends of the admission of Texas may be divided in opinion regarding them, and thus the great work of union may be almost indefinitely postponed. Should the Congress of the United States, after a debate which may be protracted until near the termination of the next session, reject all or any of the conditions which may be proposed by Texas, these must be again referred back for the decision of the Government of that Republic. This must produce long delay in her admission into the Union. Indeed nothing could be more tedious and embarrassing than such an exchange of conditions and propositions between the Legislative authorities of the two Governments, and nothing would have a stronger tendency to produce angry discussions which might end in estrangement. The two Governments might thus involve themselves in an inextricable labyrinth of confusion, and be finally compelled to commence the great work anew which may now so happily and so soon be completed. The confident expectation of the President that Texas would postpone all minor questions and consent to an immediate admission into the Union on the terms proposed, was one of the prevailing reasons for his preference of the two first Resolutions.

But cannot a mode be suggested entirely consistent with the immediate admission of Texas into the Union by which she may obtain all that she can reasonably desire? If it should be objected to that portion of the conditions proposed which necessarily deprives her of her revenue from customs without furnishing her the means of paying her debts incurred in the war of independence, that she would thus be forced into a condition of continued insolvency; this objection may be easily avoided. Both national honor and national justice forbid that the Government of the United States should place her in such a position. But the remedy for this evil is plainly pointed out by the relative condition of the two countries. Whilst the President cannot consent that this government should assume the debts of Texas, nothing is more easy than for her Convention to make a distinct and independent proposition to the Government of the United States, the almost certain acceptance of which by Congress would relieve her from this embarrassment.

The public lands of Texas ought unquestionably to belong to the United States. This is equally due to the prosperity of Texas and to that of the other States within whose limits there are public lands. Our land system has worked admirably in practice and has met the approbation of the world. Equal and exact justice to all the States requires that all the public lands should be subject to the control of the Federal Government and that they should be administered under an uniform system. Besides, the peace of the whole country as well as the security of Texas, demands that this Government alone should possess the power of

extinguishing the Indian title within her limits and have the absolute and exclusive control over the Comanches and other fierce and warlike tribes which now roam over her territory. The United States must incur the expense and bear the burden of our wars with these tribes, and they ought therefore to possess the power of preserving peace and regulating all our relations with them. In short, it is indispensable that our Indian policy should be extended over Texas.

Under these circumstances, why may not the Convention which will assemble to form a Constitution for Texas submit a distinct proposition to Congress to cede to the United States all her public lands and the exclusive jurisdiction over the Indians within her limits, in consideration of a fair and adequate sum of money. The amount may be the subject of future agreement. Whilst this would enable Texas to pay her debts, it would extend our land system and our Indian system to territory which they ought to embrace. Such a proposition would be so just and reasonable in itself, so consonant with the established policy of the United States and so beneficial to Texas, that scarcely a doubt exists but that it would receive the sanction of Congress. The President would strongly recommend it to Congress, in the confident hope that it would receive the approbation of that enlightened body. Presented as a distinct proposition, in no manner connected with the question of admission and after this question shall have been decided favorably, he does not apprehend that it would encounter any serious opposition. But if this were made a condition of admission, members who are honestly and conscientiously hostile to the measure might oppose it for the purpose of defeating or delaying the accomplishment of an object which they deem injurious to the country.

In every aspect in which the President has viewed this subject he believes that the paramount question of admission can be best settled and the just rights of Texas can be best secured by her acceptance, without qualification, of the terms and conditions proposed by the first two resolutions, and he therefore confidently expects that you will exert your well known ability and energy to secure this auspicious result by every honorable means within your power.

I herewith transmit to you the copy of a note, dated on the 6th instant, addressed to this Department by General Almonte, the Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic, together with a copy of my answer of this date. These notes require no comment. They will speak for themselves. You will perceive that they furnish a powerful additional reason, in support of the arguments already advanced, why Texas should consent to be admitted into the Union without proposing any embarrassing conditions which might render long delay inevitable.

The protest of the Mexican Minister and the reply thereto of Secretary of State Buchanan, mentioned in the final paragraph of the foregoing instructions, are quoted below in these notes.

Donelson received his instructions (both those of March 3 and of March 10) at New Orleans on March 24, 1845, and returned to Washington, Texas, where he arrived on Sunday, March 30. A new administration had been in office in Texas since December 9, 1844; Anson Jones, who had been Secretary of State under President Samuel Houston, had become President, and Ashbel Smith, Secretary of State; but Smith, while at the seat of Government of Texas on the arrival of Donelson, had been granted leave and departed for England on a special mission early in April 1845. During his absence Ebenezer Allen, Attorney General, was Acting Secretary of State of Texas.

Just before the arrival of Donelson at Washington, Texas, the *Chargés d'Affaires* of France and Great Britain, Comte de Saligny and Captain Charles Elliot, had invited the Government of Texas to accept the good offices of their two Governments "for an early and honorable settlement of their difficulties with Mexico, upon the basis

of the acknowledgment of the independence of Texas by that Republic"; the terms proposed by Texas (dated March 29, 1845) as a basis for negotiation were these (D.S., 2 Despatches, Texas, No. 31, June 23, 1845, enclosure 5, pamphlet entitled "Correspondence Relating to a Treaty of Peace between Mexico and Texas, upon the Basis of an Acknowledgment of the Independence of the Latter"; see published correspondence, 87-90):

1. Mexico consents to acknowledge the Independence of Texas.
2. Texas engages that she will stipulate in the treaty not to annex herself or become subject to any country whatever.
3. Limits and other conditions to be matter of arrangement in the final treaty.
4. Texas will be willing to remit disputed points respecting territory and other matters to the arbitration of umpires.

The episode and its results are described in Smith, *The Annexation of Texas*, 407-13, 421-41, 449-56, and in Rives, *The United States and Mexico, 1821-1848*, I, 704-10. The action of the Mexican Congress in favor of accepting the proposals for negotiation became definitive on May 17, 1845, but was in any case too late; for that action was not proclaimed in Texas until June 4, the day fixed for the election of delegates to a National Convention to act on the proposals of the United States; and by that time acceptance by Texas of the proposals of the United States was as certain as any future event could be. The proclamation of June 4, 1845, which also declared a cessation of hostilities, is printed in published correspondence, 81-82.

Under date of March 31 Donelson communicated the joint resolution of the Congress of the United States of March 1, 1845, to the Government of Texas with the following note (D.S., 2 Despatches, Texas, April 3, 1845, enclosure; published correspondence, 48-51). The original of the note of Donelson is in the Texas State Library; the text here printed has been collated with a facsimile thereof; the two variances between the text here and that of the cited archives copy which are slips of the scrivener of the latter are indicated in the footnotes; other variances are mentioned below; the print in published correspondence was from the archives copy, but has a few slight errors (the written copy of the joint resolution of March 1, 1845, which was the enclosure to Donelson's note, was not certified):

WASHINGTON, TEXAS,
31st March, 1845.

The undersigned, Chargé d'Affaires of the United States, has the honor to transmit herewith to the Hon. Ebenezer Allen, Attorney General of the Republic of Texas and Charged *ad interim* with the direction of the Department of Foreign Affairs, the joint resolution which has been recently adopted by the Congress of the United States, for the annexation of Texas to the Union.

This important measure has thus been brought to the consummation so confidently anticipated, by the undersigned in his communication of the 10th December last, to this Government: And he trusts that it may be received as a just response to the wishes of the people of Texas, alike honorable to both countries, and worthy of the reciprocally national interests which have so long demanded it.

It now remains for the Government and people of Texas, by their acceptance and ratification of the provisions contained in this joint resolution, to finish the great work of annexation; and to assume their station as an independent, equal, and sovereign member of the American Confederacy, as soon as the constitutional requirements usual in the admission of new states. can be complied with.

Anxious to execute the trust devolved upon him by the resolution referred to in the manner best calculated to secure its objects, and with the least inconvenience and delay to Texas, the President of the United States has instructed the undersigned to inform this Government that he has selected as the basis of the action yet necessary on the subject, the first and second sections of the resolution—leaving out of view the remaining or third section. This last section, as the Hon. Mr. Allen is aware, was added as an amendment, and leaves optional with the President a resort to the means it creates for an adjustment of the terms of annexation on a basis different from that offered in the first and second sections, which constituted the bill as it originally came to the Senate from the House of Representatives. It was doubtless intended to place in the hands of the President the means of obviating such objections as Texas might possibly make to the details of the propositions contained in the two preceding sections, but in doing so it complicates the process, and is otherwise productive of disadvantages so considerable as to induce the President not to rely upon it as the most appropriate or practicable mode of securing to Texas a speedy admission into the Union.

It is obvious, that if the discretionary power contemplated by the third section were resorted to, the action on the part of this Government, which can now settle the question of annexation would be deferred until the new negotiation to be made by commissioners, or ministers, on the part of the respective Governments, could be known. But this is not all. The negotiation thus made, even when ratified by Texas, would not be conclusive. It would still have to undergo a similar reference to the Government of the United States where it would again be liable to alteration or amendment, and this in its turn necessarily referrible back again to this Government, might involve the subject in inextricable confusion, and could not fail to be productive of danger to the measure, and of irritation to those friendly relations in other respects which so happily prevail between the two countries.

Such difficulties will be avoided by adhering to the proposals contained in the first and second sections. By those proposals, the door is at once opened for the admission of Texas into the Union in the manner that has been customary with the other territories of the United States, varied only by the peculiar relations which the two Republics have maintained as separate nations. If Texas now accepts those proposals, from that moment she becomes virtually a state of the Union, because the faith of the United States will be pledged for her admission, and the act of Congress necessary to redeem the pledge, is obliged to follow as soon as she presents a republican form of Government. All, then, that is necessary upon this basis, is for this Government, after expressing its assent to the proposals submitted to it, to call a convention of the people to clothe their deputies with the power necessary to amend their constitution, and adapt the Government created by it, to the new circumstances under which it will be placed by annexation to the Union.

On the grounds, therefore, of more directness and simplicity in the process, whereby time and much expenditure of money will be saved—and of the entire avoidance of all further risks resulting from possible differences attending efforts to obtain terms more suitable to the separate views of the respective Governments—it has been thought best, by the President of the United States, as before stated, to rest the question on the joint resolution, as it came from the House of Representatives, which contains propositions complete and ample, as an overture to Texas, and which, if adopted by her, places the reunion of the two countries beyond the possibility of defeat.

This great question, then, is in the hands of Texas. It depends upon herself, whether she will be restored to the bosom of the Republican family, and, taking her station with the other sisters of the confederacy, will cooperate with them in advancing the cause of free government; or whether, standing aloof from them, she is to run the hazards of a separate career, at a period in the affairs of the world, when the friends of a different system of Government are urged by the most powerful motives to resist the extension of the republican principle.

The undersigned doubts not that there are objections to the terms proposed, which, under ordinary circumstances, ought to be obviated before a basis which admits them is adopted. But the circumstances are not ordinary, and the objections, when weighed in the scale of importance, with the magnitude of the inter-

ests involved in the success of the measure, become secondary in their character, and may well be postponed, until the natural course of events removes them. If annexation should now be lost, it may never be recovered. A patriotic and intelligent people, in the pursuit of a measure of general utility, if they commit a partial mistake, or inflict temporary injury,¹ were never known to fail in making the proper reparation. If they have, in this instance, made proposals of union to Texas, on terms which deprive her of means that should be exclusively hers, to enable her to pay the debt contracted in the war for her independence, it has been accidental; and no assurance, from the undersigned, can be needed to give value to the anticipation that such an error will be corrected, whenever it is communicated to the Government of the United States.

It is objected, that Texas, in surrendering her revenue from customs, parts with the ability to put into efficient organization her state government. This objection must result from an undue examination of the expenditures which the United States, on the other hand, will make in the many improvements necessary on the sea coast of Texas, to protect and facilitate her commerce, in the removal of obstructions in her numerous bays and rivers, and in the military organization necessary to guard her extensive frontier against the inroads of a foreign enemy. When expenditures for these and many other internal objects are drawn from the Treasury of the Union, and not from that of Texas, it will be seen that the remaining means for the support of the state government will not only be as great as they now are, but rapidly increased by the influx of population; and the growing capacity resulting from the superabundance of their rich productions.

So, also, on the part of the United States, it was objected that the cession of the unappropriated lands, ought to have been made by Texas, for a fair consideration, to enable the Federal Government to extend her² Indian policy over the various tribes within her limits. The right to extinguish the Indian title to these lands, seems almost a necessary consequence of the obligation to regulate the trade and intercourse with them, and to keep them at peace with each other and with us; and the absence of any provision to this effect in the terms proposed, constituted a serious obstacle in the minds of many sincerely friendly to the measure. Yet so strong was the desire to put the question beyond the possibility of defeat; and to leave with Texas the means of discharging her national debt, that they nevertheless recorded their votes in its favor.

But reference is made to such objections, not to ascertain their justness or unjustness³ on this occasion; but to remark, on the part of the United States, that much was conceded to obtain the passage of the resolution. And it was also believed, that a like spirit would induce Texas to overlook minor considerations relying on that high sense of honor and magnanimity which governs both the people and the representatives of the United States to secure to her hereafter all that she can reasonably desire to place her on the most favorable footing with the other members of the Union. It was this belief that mainly induced the President of the United States, to give the instructions which have controlled this communication from the undersigned, adopting as the basis of action, for finishing the work of annexation, the joint resolution as it originally passed the House of Representatives.

With these observations, the question is now submitted to the Hon. Mr Allen, under the confident hope, that this Government will see the necessity of prompt and decisive action, whereby the measure may obtain the constitutional sanction of Texas. And the undersigned takes this occasion to renew to Mr Allen, an expression of the distinguished consideration, with which he has the honor to be

His very obt^h hb^l sev^t

A J DONELSON

HON. EBENEZER ALLEN,
Attorney General of Texas, &c., &c., &c.

¹ Written "injuries" in the archives copy.

² Written "their" in the archives copy.

³ In published correspondence this word is "invalidity", which is written in pencil over "unjustness" in the archives copy of the note.

In his subsequent writings Anson Jones stated that the foregoing note of Donelson of March 31, 1845, was not formally presented until nearly two weeks later (Jones, Letters Relating to the History of Annexation, 14; Jones, Memoranda and Official Correspondence, 103); Jones further intimated that "Major Donelson made various alterations in the original paper after the 1st of April, resuming it for that purpose" (*ibid.*). Those statements of Jones have been accepted by various authorities (Smith, *op. cit.*, 442, footnote 15; Middleton, "Donelson's Mission to Texas in Behalf of Annexation", in Southwestern Historical Quarterly, XXIV, 275, footnote 31); the evidence is to be examined.

Regarding the delivery of the note, Donelson specifically states that he presented it on the morning of its date, March 31; the final paragraph of the despatch of Donelson of April 1, 1845, as printed in the Senate document here cited as published correspondence (p. 48) is to the effect that a copy of the note of March 31 is enclosed, and Donelson adds: "I prepared it [the note] in the few hours I could command, the night of my arrival [March 30], and presented it the next morning [March 31]." There is nothing in Donelson's despatches to indicate that he deemed the delivery of the note on the day of its date as other than formal and definitive; and Donelson makes no mention of any changes in the text of his note subsequent to its presentation.

In the original of the despatch last cited, following the signature of Donelson, there is a paragraph which is not printed in published correspondence; that paragraph reads as follows (D.S., 2 Despatches, Texas):

I am disappointed in being able to send the copy referred to of my letter to this Government. The original draft, to save time, I sent to Gen^l Houston—and that to the Government which I expected to copy at the Department of State, I am just informed has been sent to M^r Allen who with Judge Ochletree the Secretary of the Treasury is at Montgomery. At this latter place then the whole subject is now under *caucus* consideration and by the return of the *express*, either mine or the Governments, something important may be anticipated.

Thus no copy of the note of March 31, 1845, was enclosed with the despatch of Donelson of April 1, for there were at the time only two examples of that note; the copy retained by Donelson had been sent to General Houston; the original, delivered to the Department of State, had been sent to Allen at Montgomery.

There is still another relevant paragraph of Donelson's correspondence which is not printed in published correspondence. This is the opening paragraph of his despatch of April 3 (D.S., 2 Despatches, Texas; see published correspondence, 51); that omitted paragraph reads as follows:

I have just obtained from the State Department here the copy of the communication referred to in my last despatch, which, for reasons, therein stated, I could not copy myself. I am looking hourly for the return of my express to Gen^l Houston, who with the act^g Sec^y of state, and the Sec^y of the Treasury, Judge Ocheltree, have had a day at least to deliberate upon the proposals offered by the United States.

Accordingly, it was the copy of the note of March 31 which Donelson received on April 3 from the Department of State of Texas (and which had been made from the original) which he enclosed with his despatch of that date. That copy, written in a clerkly hand very different from the writing of Donelson and very different from the writing of the original note, is not only now with his despatch of April 3 (which was received on April 21), but is marked "With Mr Donelson's letter of 3^d Apl."

There are available for examination and comparison three manuscripts of the note of March 31, 1845: first, a facsimile of the original thereof in eight pages (the source text of the print here); secondly, the copy with the despatch of Donelson of April 3, 1845, here referred to as the archives copy; and thirdly, a facsimile of the record copy in a manuscript volume entitled "Foreign Letters to Department, 1844, 5 and 6", II, 69-73, which is in the Texas State Library.

Certain of the corrections and interlineations in the original note were obviously made when it was first written and before its delivery. These (perhaps eight in number) need not here be considered. Of the other changes two were undoubtedly made after the writing of the copy of April 3, and these perhaps comprise all the "various alterations" referred to by Anson Jones. They are as follows:

Paragraph	As first written	As altered
Five.....	thus concluded.....	thus made
Twelve.....	an equal.....	the most favorable

Besides those two changes there are three others which possibly were made after the delivery of the note on March 31, 1845; but if so, the time of their making was the brief period between the return of the original note from Montgomery (presumably on April 2) and the time when the copy of April 3 was sent forward by Donelson. As possibilities they are here listed; the state of the available manuscripts rather supports the view that only one of the three (paragraph 9) is a probability:

Paragraph	As first written	As altered
Six.....	adopt.....	adapt
Nine.....	assertion.....	anticipation
Twelve.....	justice and injustice.....	justness or unjustness

In any case the "various alterations" were of very little consequence. Donelson may have deemed them too minor to mention in a despatch.

SUBSEQUENT PROCEEDINGS

What may perhaps be regarded as the first step toward action by Texas on the annexation proposals of the United States contained in sections 1 and 2 of the joint resolution of March 1, 1845, was the issu-

ance of a proclamation by the President of Texas on April 3, 1845, for the filling of two vacancies in the Texan Congress by elections on April 26 in Fort Bend and Bexar Counties (D.S., 2 Despatches, Texas, No. 18, April 12, 1845; the text of the proclamation is in the Texas National Register, Washington, Texas, April 24, 1845, a copy of which is with despatch No. 21, of April 29, 1845); under section 3 of Article 1 of the Texan Constitution of 1836 the members of the House of Representatives were "chosen annually, on the first Monday of September", and held "their offices one year from the date of their election"; so the terms of those to be elected on April 26 were to expire on the following September 1 (see Thorpe, *The Federal and State Constitutions*, VI, 3532).

Sections 1 and 2 of the joint resolution of March 1, 1845, required the assent of Texas to admission into the Union; various conditions were laid down; *inter alia* "the consent of the existing government" was to be given; a constitution was to be adopted "by deputies in Convention assembled" and "by the people of said republic of Texas" and was to be "transmitted to the President of the United States, to be laid before Congress for its final action" by January 1, 1846.

The independent Republic of Texas was to end its separate existence and to become a part of the United States of America; the treaty method of accomplishing that result, which perhaps might be called the normal method, had failed, for reasons extrinsic to Texas; very naturally, the then existing constitution and laws of Texas contained no provisions appropriate for the required action; resort to first principles was necessary.

At the outset there was, not unnaturally, some doubt and hesitation in the minds of the officials of Texas as to the procedure to be adopted. President Jones is reported as saying "that his past impression had been in favor of a call of Congress, but that he did not know but under the circumstances of the case, as now presented, a more judicious course would be a reference of the subject at once to the people for the purpose of obtaining the convention to effect the changes which would be necessary for admission into the Union. He however added that the gravity of the subject required him not to act in haste, and that although he had a decided opinion he would dwell awhile on it until he was aided by the advice of his Cabinet" (D.S., 2 Despatches, Texas, April 1, 1845, from Andrew J. Donelson; published correspondence, 47-48).

On the other hand, the Attorney General of Texas, Ebenezer Allen, expressed the extraordinary view (which he very soon abandoned) "that he was decidedly opposed to a call of Congress, alleging that the whole subject was extraconstitutional, and one which the President could as well dispose of, as Congress" (*ibid.*). Donelson himself was willing either that the President of Texas "would call Congress at an early day, or designate a day for the people to choose Delegates to a convention to decide upon the terms of admission, and if adopted, to make the necessary Constitutional changes in the Government", and he drafted a note in that sense as a reply to his communication of the American proposals (in the same despatch, but omitted in published correspondence).

Moreover, Donelson found that the views of the members of the Government of Texas on the merits of the offer of the United States were at least lukewarm and probably even hostile thereto. "It is very likely that President Jones and many of the high officials in Texas would have preferred independence to annexation" (Rives, *op. cit.*, I, 710). In his despatch of April 3 Donelson wrote, "Affairs do not wear the encouraging aspect I would desire, but there are no conclusive indications against the acceptance of the proposals" (D.S., 2 Despatches, Texas; published correspondence, 51-52); and he found that General Samuel Houston, whom he visited at Montgomery, was "adverse to the basis selected for the admission of Texas into the Union". Houston would have preferred negotiations under the alternative provisions of section 3 of the joint resolution of March 1, 1845. Donelson left Houston "under a full conviction that if the adoption of our proposals depended upon his vote, it would be lost" (D.S., 2 Despatches, Texas, No. 18, April 12, 1845; the relevant portion of the despatch is omitted in published correspondence, 52).

However, the official attitude of President Jones toward the proposals of the United States remained perfectly correct. His decision as to the procedure was both to call an extra session of the Texan Congress and to call a convention; and the decision to call an extra session of Congress was reached with very little delay. Donelson was informed of it on April 12, 1845, just thirteen days after his arrival at the seat of Government. In his despatch of that date Donelson wrote (*ibid.*):

Returned to this place I have had to day a long and interesting interview with President Jones. He informs me that although he is of the same opinion with Gen^l Houston in his belief that the United States should have offered Texas more liberal terms, he will interpose no obstacle to their submission to Congress and the people—and that he will call Congress at an early day in order that they may apportion the Districts for the election of the deputies to the convention which will be necessary to test the ratification of the proposals and to make the corresponding changes in the Govt.

Despite the apparent difficulties, it cannot be said that the fate of the proposals of the United States depended on the negotiations between Donelson and the officials of the Texan Government. Indeed, such negotiations as were had were of comparatively minor importance. The circumstances of the time, the history of the previous ten years, the terms of the American offer, the very nature of the question presented, the crucial importance of the answer, all these made a decision by the body of the people¹ of Texas imperative; any executive decision was precluded (see generally Smith, *The Annexation of Texas*, ch. XX, 432-61; Middleton, "Donelson's Mission to Texas in Behalf of Annexation", in *Southwestern Historical Quarterly*, XXIV, 247-91; and Middleton, "The Texas Convention of 1845", in *ibid.*, XXV, 26-62).

¹ The population of Texas in 1845, exclusive of Indians, was perhaps about 100,000 (Wooten, *A Comprehensive History of Texas*, II, 760). The vote on annexation on October 13, 1845 (incomplete), was 4,254 for and 267 against, a ratio of nearly 16 to 1.

The proclamation for the meeting of the Congress of Texas on June 16, 1845, at Washington, Texas, was issued on April 15, as follows (D.S., 2 Despatches, Texas, No. 19, April 16, 1845, enclosure, broadside; published correspondence, 54-55):

By the President of the Republic of Texas.

A PROCLAMATION.

WHEREAS, since the close of the last session of Congress, a Joint Resolution respecting the Annexation of Texas to the United States has, by their Congress been adopted, authorizing the President of the United States to select the alternative of two certain propositions contained in the said Joint Resolution as the basis for consummating the proposed annexation:

And whereas, the President of the United States has selected the *first* and *second* sections of the Resolution as such basis, and notified this Government thereof, which sections are as follows, viz:

[Here follows the text of sections 1 and 2 of the joint resolution of March 1, 1845]

And whereas, the premises, requiring the solemn deliberation and action of the Representatives of the people, form an extraordinary occasion for convening the Congress of the Republic,

Therefore, be it known, that I, ANSON JONES, President of the Republic of Texas, by virtue of the power vested in me by the Constitution, do, by these presents, require that the Senators and Representatives to Congress of this Republic, shall assemble in special session, at the Town of Washington, in the County of Washington, on *Monday, the sixteenth day of June* next ensuing, then and there to receive such communications as may be made to them, and to consult and determine on such measures as in their wisdom may be deemed meet for the welfare of Texas.

In testimony whereof, I have caused the Great seal of the Republic to be hereunto affixed. Done at the Town of Washington, this
(L.S.) fifteenth day of April, in the year of our Lord one thousand eight hundred and forty-five, and of the Independence of the Republic the tenth.

ANSON JONES.

By the President,
EBEN'R ALLEN.
Acting Secretary of State.

In the absence of any express provision of law for the calling of a convention, President Jones acted by issuing a proclamation on May 5, 1845, in which he went no further than to "recommend to the citizens of Texas" the election on June 4, 1845, of deputies to a National Convention of Texas, with a specific apportionment of delegates or deputies by counties. The difficult problem of representation in the Convention was thus solved by that instrument and was not, as had been previously suggested, left to the Congress of Texas for decision; and as will be seen from the text of the proclamation, which follows, the date of the meeting of the Convention (July 4, 1845) and its purposes, were similarly and merely recommended (published correspondence, 63-64):

By the President of the Republic of Texas.

A PROCLAMATION.

Whereas the people of Texas have evinced a decided wish that prompt and definite action should be had upon the proposition for annexation recently submitted by the government of the United States to this government, and that a convention should be assembled for this purpose; and

Whereas it is competent for the people alone to decide finally upon the proposition for annexation, and, "by deputies in convention assembled," to adopt a constitution with a view to the admission of Texas as one of the States of the American Union; and

Whereas no authority is given by the constitution of this republic to any branch of the government to call a convention and to change the organic law—this being a right reserved to the people themselves, and which they alone can properly exercise—

Therefore, be it known that I, Anson Jones, President of the republic of Texas, desirous of giving direction and effect to the public will, already so fully expressed, do *recommend* to the citizens of Texas that an election for "deputies" to a convention be held in the different counties of the republic on Wednesday, the fourth day of June next, upon the following basis, viz: Each county in the republic to elect one deputy, irrespective of the number of voters it contained at the last annual elections; each county voting at that time three hundred, and less than six hundred, to elect two deputies; each county voting at that time six hundred, and less than nine hundred, to elect three deputies; and each county voting at that time nine hundred and upwards, to elect four deputies; which basis will give to the county of Austin two, Bastrop one, Bexar two, Brazoria two, Brazos one, Bowie one, Colorado one, Fayette two, Fannin two, Fort Bend one, Goliad one, Galveston two, Gonzales one, Harris, three, Harrison three, Houston two, Jackson one, Jasper one, Jefferson one, Lamar two, Liberty two, Matagorda one, Montgomery four, Milam one, Nacogdoches three, Red River three, Robertson two, Rusk one, Refugio one, Sabine one, San Augustine two, Shelby two, San Patricio one, Travis one, Victoria one, and Washington three deputies; and that the said deputies so elected do assemble in convention at the city of Austin, on the "fourth of July" next, for the purpose of considering the proposition for the annexation of Texas to the United States, and any other proposition which may be made concerning the nationality of the republic, and, should they judge it expedient and proper, to adopt, provisionally, a constitution to be submitted to the people for their ratification, with the view to the admission of Texas, as a State, into the American Union, in accordance with the terms of the proposition for annexation already submitted to this government by that of the United States. And the chief justices of the respective counties aforesaid will give due notice of the said elections, appoint a presiding officer in the several precincts, who will appoint the judges and clerks of said elections, and have the same conducted according to the constitution and laws regulating elections, and make due return thereof.

In testimony whereof, I have caused the great seal of the republic to be hereunto affixed.

Done at Washington, this fifth day of May, in the year of our Lord
[L.S.] one thousand eight hundred and forty-five, and of the independence
of the republic the tenth.

ANSON JONES.

By the President:

EBENEZER ALLEN,

Attorney General and acting Secretary of State.

On June 4, 1845, deputies to the National Convention were elected; on the same day President Jones proclaimed the acceptance by the Government of Mexico of the conditions preliminary to a treaty of peace and declared a cessation of hostilities (the proclamation is printed in published correspondence, 81-82).

On June 16, 1845, the President of Texas submitted to the Texan Congress the annexation proposals of the United States and communicated the proclamation of June 4 (for the text of the presidential message, see *ibid.*, 74-76); two days later the declaration of the Government of Mexico of May 19, 1845, was submitted to the Senate of Texas, which, on June 21, unannouncedly rejected the proposed "pre-

liminary Treaty with Mexico" (D.S., 2 Despatches, Texas, No. 31, June 23, 1845; the presidential message of June 18, 1845, to the Senate of Texas, with the accompanying papers, is in the pamphlet cited above, enclosure 5 to that despatch; see published correspondence, 87-90).

The joint resolution of the Congress of Texas, unanimously passed on June 21 and approved on June 23, 1845, the text of which is the second of the four documents printed above (following the headnote), consented to the terms of the joint resolution of the Congress of the United States of March 1, 1845, and consented also to the proclamation of President Jones of May 5, 1845, for a National Convention (D.S., 2 Despatches, Texas, No. 31, June 23, 1845, enclosure 2); the covering note transmitting that joint resolution on the date of its approval, follows (*ibid.*, enclosure 1; published correspondence, 84):

DEPARTMENT OF STATE,
Washington, 23^d June 1845.

The Undersigned Attorney General of the Republic of Texas, charged, *ad interim*, with the direction of the Department of State, by order of His Excellency, the President, has the honor of transmitting to the Hon. Mr Donelson, Chargé d'Affaires of the United States near this Government, the enclosed copy of a Joint Resolution, adopted by both Houses of the Congress of Texas, on the 21st. Inst., and this day received and approved by the President—declaring the consent of the existing government of this Republic, to the terms of the proposition for annexation tendered by the United States through the Hon. Mr Donelson, on the 31st. of March Ultimo, to the Government and People of Texas.

To all true friends of the great cause of annexation, and especially to the Hon. Mr Donelson, whose energies and talents have been so ably and faithfully devoted to the success of that cause through the several stages of its recently triumphant progress, it must be peculiarly gratifying to observe the harmony and unanimity with which this Resolution has passed the two houses of Congress and received the Executive approval.

Rejecting the idea of separate nationality, although commended to their choice by the proffered recognition of their independence by Mexico, and the countenance of powerful European Sovereignities, the people of this country have thus evinced by most decided manifestations, their strong but natural preference for the advantages of a voluntary incorporation into the American Union,—and their strong attachment to the free institutions of that great and glorious Republic.

Among the features of this Resolution, it must be gratifying to the Hon. Mr Donelson and his Government to observe that provision, whereby the acts of the Convention, to meet on the 4th proximo, are clothed with all the sanctions, which can result from the concurring approval and consent of the Executive and the Representatives of the people; and not less gratifying, the undersigned trusts, will be the assurance necessarily resulting from the premises, that the various steps yet to be taken on the part of this Republic to perfect, so far as depends upon her, the measure of annexation upon the proposed basis, will be adopted with the same promptness and fidelity, which have distinguished her preceeding movements in the great cause; and in that confiding spirit of firm reliance upon the magnanimity and generosity of the United States, which has ever characterized the policy of her Government and the dispositions of her people.

The undersigned renews to Mr Donelson, the assurances of his high regard and remains

His most Obedient Servant

EBN^r ALLEN.

HON. A. J. DONELSON
Chargé d'Affaires of the U. States etc etc etc

The ordinance adopted by the Convention of Texas on July 4, 1845, the text of which is the third of the four documents printed above (following the headnote), passed with "but one dissenting voice" and was signed unanimously (D.S., 2 Despatches, Texas, No. 31 [33], July 6, 1845); a certified copy was transmitted to Donelson by the President of the Convention, General Thomas J. Rusk, under date of July 5, and by Donelson to Secretary of State Buchanan (*ibid.*, enclosures). The note of transmittal to Donelson reads thus (*ibid.*, enclosure; published correspondence, 98):

Hon^l A J DONELSON

Chargé d'Affaires of United States &c &c &c &c

SIR The undersigned President of the Convention assembled at this place for the purpose of forming a State Constitution for the State of Texas, preparatory to her admission as one of the States of the United States of America, by order of said Convention, has the honor herewith to transmit to you a properly certified copy of an Ordinance adopted by the Convention on Yesterday (July 4th 1845).

I have the honor to be with the highest respect Mr Donelson's Obedient Servant

THO J RUSK

CITY OF AUSTIN REPUBLIC OF TEXAS July 5th 1845

On July 7, 1845, the Convention of Texas adopted a resolution requesting the stationing of United States troops in Texas; a certified copy thereof was transmitted to Donelson by Thomas J. Rusk, President of the Convention, with a covering note of the same date; the texts which follow are from *ibid.*, No. 34, July 7, 1845, enclosures (published correspondence, 100-1):

CONVENTION ROOM
Austin, Texas July 7th 1845

His Excellency A J DONELSON

Chargé d'Affaires of United States &c &c &c

SIR By order of the Convention I have the honor herewith to transmit to your Excellency the enclosed copy of a Resolution adopted by the Honorable Convention this day

Very respectfully Your Excellencys most obedient servant

THO J RUSK *President.*

Resolution Relative to the introduction of the United States forces into Texas.

Be it resolved by the Deputies of the people in Convention assembled, That the President of the United States of America is hereby authorized and requested to occupy and establish posts without delay upon the frontier and exposed positions of this Republic, and to introduce for such purpose and defence of the territory and people of Texas, such forces as may be necessary and advisable for the Same.

Adopted in Convention at the city of Austin Republic of Texas July 7th 1845.

THO J RUSK

Attest

JA^s H RAYMOND

Secretary of the Convention.

The Convention of Texas on August 27, 1845, unanimously adopted a constitution for the State of Texas; the text of that instrument is in published correspondence, 117-37, and also in House Document

No. 16, 29th Congress, 1st session, serial 482. Sections 5 and 6 of Article 13 contained these provisions:

SEC. 5. Immediately after the adjournment of this convention, the President of the republic shall issue his proclamation directing the chief justices of the several counties of this republic, and the several chief justices and their associates are hereby required, to cause polls to be opened in their respective counties, at the established precincts, on the second Monday of October next, for the purpose of taking the sense of the people of Texas in regard to the adoption or rejection of this constitution; and the votes of all persons entitled to vote under the existing laws or this constitution shall be received. Each voter shall express his opinion, by declaring by a "*viva voce*" vote for "the constitution accepted," or "the constitution rejected;" or some words clearly expressing the intention of the voter; and, at the same time, the vote shall be taken in like manner for and against annexation. The election shall be conducted in conformity with the existing laws regulating elections; and the chief justices of the several counties shall carefully and promptly make duplicate returns of said polls; one of which shall be transmitted to the secretary of state of the republic of Texas, and the other deposited in the clerk's office of the county court.

SEC. 6. Upon the receipt of said returns, or on the second Monday of November¹ next, if the returns be not sooner made, it shall be the duty of the President, in presence of such officers of his cabinet as may be present, and of all persons who may choose to attend, to compare the votes given for the ratification or rejection of this constitution; and, if it shall appear from the returns that a majority of all the votes given is for the adoption of the constitution, then it shall be the duty of the President to make proclamation of that fact; and thenceforth this constitution shall be ordained and established as the constitution of the State, to go into operation and be of force and effect from and after the organization of the State government under this constitution; and the President of this republic is authorized and required to transmit to the President of the United States duplicate copies of this constitution, properly authenticated, together with certified statements of the number of votes given for the ratification thereof, and the number for rejection—one of which copies shall be transmitted by mail, and one copy by a special messenger, in sufficient time to reach the seat of government of the United States early in December next.

By the first quoted of those two sections of the Texas Constitution the voting under the proclamation which was directed to be issued was to take place on "the second Monday of October next", or October 13, 1845. Each voter was to express his opinion for the acceptance or rejection of the constitution and also for or against "annexation". Moreover, section 13 of Article 13 of the constitution expressly directed that the ordinance of July 4, 1845, "shall be attached to this constitution, and form a part of the same". The question of annexation could not have been more clearly put before the people of Texas.

The proclamation of the President of Texas issued pursuant to Article 13, section 5, of the Texas Constitution was dated August 28, 1845, and reads as follows (from a facsimile of the original in the Texas State Library):

By the President of the Republic of Texas.

A PROCLAMATION.

Whereas, the Convention of Deputies assembled at the City of Austin on the fourth day of July, ultimo, in accordance with the provisions of a Joint Resolution adopted by the Congress of the United States, presenting to the Govern-

¹ November 10, 1845.

ment and people of Texas, an overture for annexation, and in accordance with the Executive Proclamation issued on the fifth of May last, did, on the twenty-seventh day of August instant, adopt the subjoined Constitution, conformably to the terms and requirements of the Joint Resolution aforesaid, for the organization and Government of the State of Texas: and

Whereas, the Convention did, on the 27th. instant, adopt an ordinance in relation to Colonization Contracts, which is also subjoined—

Now, therefore, be it known, that I, Anson Jones, President of the Republic of Texas, in accordance with the provisions of the fifth section of the thirteenth Article of the Constitution aforesaid, do require and direct the Chief Justices—or, in their absence, the Associate Justices, of the several Counties of the Republic, to cause polls to be opened at the established precincts in their respective, counties on the second Monday, (the 13th day) of October next, for the purpose of taking the sense of the people of Texas in regard to the ADOPTION OR REJECTION of the said Constitution; also, for the purpose of taking the expression of their opinions FOR or AGAINST annexation: the election to be conducted, the votes taken, and returns made in conformity with the existing laws regulating elections, and the rules prescribed in the fifth section aforesaid, the votes of the electors will, also, then and there be taken on the adoption or rejection of the aforesaid ordinance, and returns thereof made in conformity with the third section of the same.

In testimony whereof, I have caused the Great Seal of the Republic to be hereunto affixed.

Done at the City of Austin, this twenty-eighth day of August, in [Seal] the year of our Lord, one thousand eight hundred and forty five, and of the Independence of the Republic the tenth.

ANSON JONES

By the President:

EBN ALLEN

Secretary of State.

The vote was accordingly had on October 13, 1845; on the following November 10 two proclamations were issued by the President of Texas, Anson Jones. One of these called for elections on December 15 of State officers and members of the State Legislature (House Document No. 16, 29th Congress, 1st session, serial 482, pp. 25–26); the other, the text of which follows, proclaimed the adoption of the State Constitution (*ibid.*, 27; text here collated with a facsimile of the original in the Texas State Library):

By the President of the Republic of Texas

A PROCLAMATION.

Whereas, in accordance with a proclamation issued on the 28th day of August¹ last, polls were opened in the established precincts of the several Counties of this Republic, on Monday the 13th of October, ultimo, for the purpose of taking the sense of the people of Texas in regard to the ratification or rejection of the Constitution, adopted by the Convention of Deputies, at the City of Austin, on the 28th day of August¹ last; and,

Whereas, by Article Thirteenth of the said Constitution, it is made the duty of the Executive on or before the second Monday of November, Instant, to compare the votes given for the ratification or rejection of the same, and to proclaim the result;

Therefore, be it known, that I, Anson Jones, President of the Republic of Texas, having this day examined and compared the returns of votes given for the adoption and rejection of said Constitution, do hereby declare and proclaim,

¹ In the original appears "September" crossed out, with "August" above; the copy sent to Congress by President Polk on December 9, 1845, has "September"; so does the print cited; the word should be "August".

that a majority of all the votes polled, is for the adoption of the same, and that henceforth the said Constitution is ordained and established by the people of Texas for their governance, to go into operation and to be of force and effect, from and after the organization of the State Government under it.

In testimony whereof, I have hereunto caused the Great Seal of the Republic to be affixed.

Done at the City of Austin, this tenth day of November, in the year of [Seal] our Lord one thousand eight hundred and forty-five, and of the Independence of the Republic, the tenth.

ANSON JONES

By the President:

JOSEPH C. ELDRIDGE

Act'g Secretary of State.

One error of date in the text of the foregoing proclamation is to be noted; the adoption of the Texas Constitution by the Convention at Austin was on August 27 (not 28), 1845.

The first annual message of President Polk to Congress, under date of December 2, 1845 (Richardson, IV, 385-416), contained this paragraph regarding the proceedings for annexation (pp. 386-87):

In pursuance of the joint resolution of Congress "for annexing Texas to the United States," my predecessor, on the 3d day of March, 1845, elected to submit the first and second sections of that resolution to the Republic of Texas as an overture on the part of the United States for her admission as a State into our Union. This election I approved, and accordingly the chargé d'affaires of the United States in Texas, under instructions of the 10th of March, 1845, presented these sections of the resolution for the acceptance of that Republic. The executive government, the Congress, and the people of Texas in convention have successively complied with all the terms and conditions of the joint resolution. A constitution for the government of the State of Texas, formed by a convention of deputies, is herewith laid before Congress. It is well known, also, that the people of Texas at the polls have accepted the terms of annexation and ratified the constitution. I communicate to Congress the correspondence between the Secretary of State and our chargé d'affaires in Texas, and also the correspondence of the latter with the authorities of Texas, together with the official documents transmitted by him to his own Government. The terms of annexation which were offered by the United States having been accepted by Texas, the public faith of both parties is solemnly pledged to the compact of their union. Nothing remains to consummate the event but the passage of an act by Congress to admit the State of Texas into the Union upon an equal footing with the original States. Strong reasons exist why this should be done at an early period of the session. It will be observed that by the constitution of Texas the existing government is only continued temporarily till Congress can act, and that the third Monday of the present month is the day appointed for holding the first general election. On that day a governor, a lieutenant-governor, and both branches of the legislature will be chosen by the people. The President of Texas is required, immediately after the receipt of official information that the new State has been admitted into our Union by Congress, to convene the legislature, and upon its meeting the existing government will be superseded and the State government organized. Questions deeply interesting to Texas, in common with the other States, the extension of our revenue laws and judicial system over her people and territory, as well as measures of a local character, will claim the early attention of Congress, and therefore upon every principle of republican government she ought to be represented in that body without unnecessary delay. I can not too earnestly recommend prompt action on this important subject. As soon as the act to admit Texas as a State shall be passed the union of the two Republics will be consummated by their own voluntary consent.

The papers accompanying the presidential message just cited are printed in Senate Document No. 1, 29th Congress, 1st session, serial 470, and also in House Document No. 2 of that Congress and session, serial 480.

On December 9, 1845, the following presidential message was sent to Congress (Richardson, IV, 416; also, with the accompanying papers, in House Document No. 16, 29th Congress, 1st session, serial 482):

I communicate herewith a letter received from the President of the existing Government of the State of Texas, transmitting duplicate copies of the constitution formed by the deputies of the people of Texas in convention assembled, accompanied by official information that the said constitution had been ratified, confirmed, and adopted by the people of Texas themselves, in accordance with the joint resolution for annexing Texas to the United States, and in order that Texas might be admitted as one of the States of that Union.

The papers communicated with the foregoing presidential message were a letter of Anson Jones to President Polk of November 10, 1845, and its enclosures. Those enclosures were (a) duplicate certified copies of the Constitution of Texas; (b) copies of the two Texan proclamations of November 10, 1845, which have been previously mentioned in these notes; (c) a letter of Joseph C. Eldredge, Acting Secretary of State of Texas, dated November 10, 1845, transmitting (d) a certificate of the same date signed by Eldredge. The letter stated in the message of President Polk to be from "the President of the existing Government of the State of Texas", and the communication signed by Joseph C. Eldredge, Acting Secretary of State of the Republic of Texas, with the certificate of the vote therewith transmitted, follow (*ibid.*):

EXECUTIVE DEPARTMENT
City of Austin, Nov. 10th 1845

SIR. I have the honor to transmit you, herewith, a copy of the "Constitution of the State of Texas," with the proper evidence of its adoption by the people of this Republic, to be laid before the Congress of the United States for its final action in accordance with the provisions of the "Joint Resolution for annexing Texas to the United States."

I have the honor to be with the highest respect Your most obt^l Servant
ANSON JONES

To His Excellency JAMES K. POLK
President of the United States.

REPUBLIC OF TEXAS,
Department of State November 10th 1845

SIR: I have the honor to transmit you herewith, an authenticated statement, of the results of elections held in this Republic, on the 13th October ultimo, for the ratification or rejection of "Annexation" and the Constitution adopted by the Convention for the "State of Texas"; so far as returns of said elections have been made to this Department.

I have the honor to be With great respect Your Obedient Servant
JOSEPH C. ELDRIDGE
Acting Secretary of State

To His Excellency JAMES K. POLK
President of the United States.

[Enclosure]

REPUBLIC OF TEXAS, *Department of State.*

The undersigned, Acting Secretary of State, hereby certifies, that at an election held in the several Counties of the Republic, on the thirteenth day of October, ultimo, for taking the sense of the people of Texas in regard to the ratification or rejection of Annexation in accordance with the "Joint Resolution for annexing Texas" and for the adoption or rejection of the "Constitution of the State of Texas," adopted in Convention on the 28th [27th], August, ultimo; it appears from returns of elections received at this Department up to the date hereof, that Four thousand, two hundred and fifty four (4,254) votes were polled in favor of Annexation: and two hundred and sixty seven (267) against it: for the adoption of the Constitution, Four thousand, one hundred and seventy four (4,174) votes and for its rejection, Three hundred and twelve (312) votes.

In testimony whereof, I have hereunto affixed my hand and official [Seal] seal at the city of Austin, this tenth day of November. A.D. 1845.

JOSEPH C. ELDRIDGE

The letter and enclosures from President Jones to President Polk had been received by the latter on "Saturday evening", December 6 (D.S., Miscellaneous Letters, November-December 1845, Polk to Buchanan, December 8); those papers (transmitted to the House of Representatives) are now in the Library of Congress; it is with the examples in those House papers that the foregoing texts of the letters of Anson Jones and Eldredge and of the certificate of the latter have been collated; the letter and certificate of Eldredge are each headed "(Duplicate)", and the two proclamations of November 10, 1845, are each headed "[Copy—The printed original sent to the Senate.]".

The "Joint Resolution for the admission of the state of Texas into the Union", the text of which is the last of the four documents printed above (following the headnote), became law on December 29, 1845 (9 Statutes at Large, 108); on the same day "An Act to extend the Laws of the United States over the State of Texas, and for other Purposes" was approved (*ibid.*, 1-2); authenticated copies of the two statutes were sent on the same evening by special messenger with a covering letter from President Polk "to President Jones of Texas" (Diary of James K. Polk, I, 148); annexation was complete; organization of the State Government followed (see Middleton, "The Texas Convention of 1845", in *Southwestern Historical Quarterly*, XXV, 59-60).

THE PROCEDURE IN TEXAS

The steps taken in Texas for annexation (which have been mentioned above) subsequent to the communication on March 31, 1845, of the joint resolution of the Congress of the United States of March 1, 1845, pursuant to the decision of President Tyler, followed by President Polk, to proceed under sections 1 and 2 of that joint resolution, were these:

(a) The proclamation of the President of Texas, dated April 3, 1845, for the filling of vacancies in the Congress of Texas.

(b) The proclamation of the President of Texas, dated April 15, 1845, for the meeting in extra session of the Congress of Texas at Washington, Texas, on June 16, 1845.

(c) The proclamation of the President of Texas, dated May 5, 1845, for the election on June 4, 1845, of deputies to a National Convention and calling the National Convention to meet on July 4, 1845, at Austin, Texas.

(d) The election on June 4, 1845, of deputies to the National Convention of Texas.

(e) The proclamation of the President of Texas, dated June 4, 1845, of the acceptance by the Government of Mexico of the conditions preliminary to a treaty of peace, and declaring a cessation of hostilities.

(f) The message of the President of Texas of June 16, 1845, to the Texas Congress, submitting the annexation proposals of the United States and communicating the proclamation of June 4, 1845.

(g) The message of the President of Texas of June 18, 1845, to the Texas Senate, submitting the declaration of the Government of Mexico of May 19, 1845.

(h) The rejection by the Senate of Texas on June 21, 1845, of the proposed agreement with Mexico.

(i) The joint resolution of the Congress of Texas, approved June 23, 1845, consenting to sections 1 and 2 of the joint resolution of the Congress of the United States of March 1, 1845, and also to the proclamation of the President of Texas of May 5, 1845.

(j) The communication to the Government of the United States of the joint resolution of the Congress of Texas of June 23, 1845.

(k) The ordinance of the Convention of Texas of July 4, 1845, assenting to sections 1 and 2 of the joint resolution of the Congress of the United States of March 1, 1845.

(l) The communication to the Government of the United States of the ordinance of the Convention of Texas of July 4, 1845.

(m) The resolution of the Convention of Texas of July 7, 1845, requesting the stationing of United States troops in Texas.

(n) The communication to the Government of the United States of the resolution of the Convention of Texas of July 7, 1845.

(o) The adoption by the Convention of Texas on August 27, 1845, of a constitution for the State of Texas.

(p) The proclamation of the President of Texas, dated August 28, 1845, calling for the voting of the people of Texas on the proposed constitution and on annexation, on October 13, 1845.

(q) The vote of the people of Texas on the proposed constitution and on annexation, on October 13, 1845.

(r) The proclamation of the President of Texas, dated November 10, 1845, of the adoption of the constitution.

(s) The proclamation of the President of Texas, dated November 10, 1845, calling for elections on December 15, 1845, of State officers and members of the State Legislature.

(t) The communication to the President of the United States of the constitution adopted for Texas and of the vote of the people of Texas on adoption thereof and on annexation.

THE INTERMEDIATE STATUS

The ordinance of the Convention of Texas of July 4, 1845, together with the joint resolution of the Congress of Texas of the previous June 23, constituted as complete assent to the proposals of the United States for annexation as representative institutions could give; the Executive, the Congress, and the Convention, with almost literal unanimity, had all formally rejected independence and had formally accepted annexation and admission of the State of Texas into the Union; and the Convention, on July 7, 1845, had invited the introduction into Texas of the armed forces of the United States.

However, under the terms of sections 1 and 2 of the joint resolution of the Congress of the United States of March 1, 1845, certain other

steps were required; a constitution of the State of Texas was to be framed, was to be adopted by the people, and was to be transmitted to the President of the United States, to be laid before Congress, whereupon "final action" was to be taken; time was required for these proceedings, which were not consummated until December 29, 1845; and although there was and could be no doubt that they would all be duly accomplished, such proceedings could hardly be regarded as formalities; a vote of the people adopting a State constitution is by no means a formality, even if its result be a foregone conclusion.

The status of Texas intermediate July 4 and December 29, 1845, was *sui generis*; it was one within a twilight zone between independence and statehood.

The views of the Government of the United States as to the then status of Texas were expressed in connection with the possible necessity of defense of Texas (in view of the position of Mexico) and in connection with the reception of diplomatic representatives of Texas at Washington.

Diplomatic relations between the United States and Mexico had been suspended; upon the passage of the joint resolution of March 1, 1845, the Mexican Minister at Washington, General Juan N. Almonte, had, under date of March 6, protested in the name of his Government and requested his passports in the following terms (D.S., 4 Notes from the Mexican Legation, translation; published correspondence, 38-39):

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic, has the honor to address the Honorable John C. Calhoun, Secretary of State of the United States of America, with the object of making known to him the profound regret with which he has seen that the general Congress of the Union has passed a law giving its consent and admitting (*prestando su consentimiento y admitiendo*) into the American confederacy the Mexican Province of Texas.

The undersigned had flattered himself with the idea that on this question the good judgment and sound counsels of the citizens most distinguished and most intimately acquainted with the conduct of the public affairs of this Republic would have prevailed in the deliberations of the Legislative body and of the Executive of the Union. Unfortunately, however, it has been otherwise; and, contrary to his hopes and his most sincere prayers, he sees consummated, on the part of the American Government, an act of aggression the most unjust which can be found recorded in the annals of modern history, namely, that of despoiling a friendly nation like Mexico of a considerable portion of her territory.

For these reasons the undersigned, in compliance with his instructions, finds himself required to protest, as he does in fact protest, in the most solemn manner, in the name of his Government, against the law passed on the 28th of the last month by the general Congress of the United States and approved on the 1st of the present month by the President of these States, whereby the Province of Texas, an integrant portion of the Mexican territory, is agreed and admitted (*se consiente y admite*) into the American Union. The undersigned, moreover, protests in the name of his Government that the said law can in no wise invalidate the rights on which Mexico relies to recover the above-mentioned Province of Texas, of which she now holds herself unjustly despoiled; and that she will maintain and uphold those rights at all times by every means which may be in her power.

The undersigned will say in conclusion, to the Honorable Secretary of State of the United States, in order that he may be pleased to communicate it to the President of these States, that in consequence of this law against which he has just protested, his mission near this Government has ceased from this day.

Wherefore the undersigned prays the Honorable Secretary of State to be pleased to deliver him his passports, as he has made arrangements to leave this city without delay, for New York.

On March 10 Secretary of State Buchanan thus replied to the Mexican protest (D.S., 6 Notes to the Mexican Legation, 185-86; published correspondence, 39):

The Undersigned, Secretary of State of the United States, has received the note of General Almonte, the Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic of the 6th instant, addressed to his predecessor, the Hon. John C. Calhoun, protesting, in the name of his Government, against the resolution of the late Congress for annexing Texas to the United States: and he has submitted the same to the President.

In answer, the Undersigned is instructed to say, that the admission of Texas as one of the States of this Union, having received the sanction both of the legislative and Executive Departments of the government, is now irrevocably decided, so far as the United States are concerned. Nothing but the refusal of Texas to ratify the terms and conditions on which her admission depends, can defeat this object. It is, therefore, too late at present to re-open a discussion which has already been exhausted, and again to prove that Texas has long since achieved her independence of Mexico, and now stands before the world, both *de jure* and *de facto*, as a sovereign and independent State amid the family of nations. Sustaining this character and having manifested a strong desire to become one of the members of our Confederacy, neither Mexico nor any other nation will have just cause of complaint against the United States for admitting her into this Union.

The President nevertheless sincerely regrets that the Government of Mexico should have taken offence at these proceedings; and he earnestly trusts that it may hereafter be disposed to view them in a more favorable and friendly light. Whilst entering upon the duties of the Presidential office, he cheerfully declares in advance, that his most strenuous efforts shall be devoted to the amicable adjustment of every cause of complaint between the two Governments, and to the cultivation of the kindest and most friendly relations between the sister Republics.

The Mexican Minister of Foreign Relations, Luis Gonzaga Cuevas, had likewise written to the American Minister to Mexico, Wilson Shannon, under date of March 28, 1845, that "diplomatic relations between the two countries cannot be continued" (D.S., 12 Despatches, Mexico, No. 10, April 6, 1845, enclosure 1, translation; see Rives, *op. cit.*, I, 699-702).

In the instructions to Donelson of May 23, 1845 (D.S., 1 Instructions, Texas, 119-21; published correspondence, 40-41), this was written:

Anticipating the receipt of the note to be addressed to you by the Acting Secretary of State of Texas to which your letter of the 6th instant refers, I shall proceed to present you the views of the President on the subject to which it relates. You state its substance to be "an earnest expression of the wish of the Government of Texas, that as soon as their assent is given to the terms contained in the Joint Resolution for their admission as a State, the troops of the United States may be marched to some suitable point on the Western frontier for the purpose of guarding the inhabitants against Mexican or Indian incursion" and of being employed within the territory of Texas for this purpose, should occasion require.

I am instructed by the President to inform you that, as soon as the Existing Government and the Convention of Texas shall have accepted the terms proposed to them in the two first sections of the "Joint Resolution for annexing Texas to the United States," he will then consider it to be both his right and his duty to employ the army in defending that State against the attacks of any foreign Power.

This shall be done promptly and efficiently, should any emergency render it necessary. In order to be prepared for such a contingency, a force of three thousand men shall immediately be placed upon the border, prepared to enter Texas and to act without a moment's delay. It would be the most crying injustice towards the people of Texas for the United States to stand by and refuse to extend a helping hand to sustain them against an invasion brought upon them by their free determination to annex their own glorious Republic to the American Union, in compliance with a solemn Resolution of Congress.

It would be useless to inquire what would be the precise condition of Texas during the intermediate period, after she shall have accepted the terms of the Joint Resolution, but before her actual admission into the Union. In many respects she will be in a position similar to that occupied by Mississippi, Illinois and other States, after they had complied with the previous conditions required by Acts of Congress, but before they had been formally received into the family of States. Like them, Texas will then have conformed to every preliminary requisition of Congress; and like them, Texas, in execution of the public faith, will be admitted as a matter of course by the passage of a brief Bill for that purpose, with a preamble reciting the facts which render this inevitable. That no obstacle can prevent this happy consummation, is as certain as that Congress have never yet violated any of their engagements.

Under these circumstances, Texas, before her formal admission into the Union will, in the opinion of the President, have become in fact one of our States, at least in such a degree as to render it obligatory on him to defend her against foreign invasion.

More detailed and elaborate were the instructions of June 15, 1845 (D.S., 1 Instructions, Texas, 123-27; published correspondence, 42-45, with two paragraphs omitted):

It appears from them [Donelson's despatches] that Mexico has already seven thousand troops on the Rio Grande,—that Captain Elliott [British Chargé d'Affaires to Texas] has declared to many of the citizens of Texas "that a rejection of the proposals now offered by him for the independence of Texas will be followed immediately by an invasion from Mexico," and "that as soon as he is informed that he cannot defeat annexation, he will be apt to find means of conveying secret intelligence to the commander of the Mexican troops on the Rio Grande, who it is reasonable to conclude will be prepared at once to resume the war upon Texas." You, also, express the opinion that "a war with Mexico is inevitable.

Under these circumstances, you very properly ask the question, "should Mexico take possession of the country between the Nueces and the Rio Grande, or come still further East within the Texan territory, before a Convention can express the requisite ratification of our proposals, are the United States to stand still and see the country thus invaded without interposing protection!

In answer to this important question, I shall proceed to present to you the views of the President upon the subject.

There are many reasons why it is preferable that Texas should drive the intruders from her territory until after the Convention shall have accepted the terms of our Joint Resolution. Of her ability and her will to perform this service, no man acquainted with her history can doubt. Her citizens are brave, they can endure the climate at this hot season of the year, and it will redound to their glory to ask no aid in defending her territory until this duty shall clearly devolve upon the United States. Besides, it is impossible that our troops can now reach the scene of action in time to render her any assistance in expelling the intruders before the 4th of July, the day of the meeting of the Convention. The expenses of such an expedition must eventually be borne by the United States. If an attempt should be made to dismember the territory of Texas as it existed when the Joint Resolution for annexation passed Congress, at the moment when her people and authorities are deliberating upon these proposals, most certainly the strongest obligation would be imposed upon the American Congress to indemnify her for the charges of repelling the invasion. In performing this duty, she will be acting for the benefit of our whole country and preserving her territory in the same condition it was when we offered to receive her into the American Union. The

President cannot doubt for a moment but that after annexation, the troops employed in this service will be placed upon precisely the same footing as troops would be who had been regularly called out under the authority of the Act of Congress to repel an invasion of any of the existing States.

Should the Congress of Texas consent to the terms of annexation, and the Convention be prevented from holding its session on the fourth of July, or be afterwards disturbed in its peaceful deliberations by an actual invasion of their territory by Mexico;—in either event, the President would feel himself bound at once to repel such an invasion. An unanimous or nearly an unanimous vote of her Congress in favor of annexation, would afford conclusive evidence that the people of Texas are anxious for the reünion of the two Republics. Under such circumstances, it would degrade the character of the United States to suffer this great measure to be defeated against the will of the people of both countries, by the machinations of foreign Governments and the control they exercise over Mexico. The moment that the Convention of Texas shall ratify the terms of annexation, the substantial engagements of both parties will then have been completed; and nothing would remain to be done but her mere formal admission as a State into the Union, in obedience to these solemn engagements. Now if the will of the people of Texas should be rendered manifest by the vote of her Congress, and a Mexican invasion, instigated by foreign nations for the express purpose of defeating annexation should prevent the Convention from assembling or disturb it afterwards in its peaceful deliberations, the President would have had no difficulty in acting as he would have done had the Convention been permitted to assemble and adopt our Joint Resolution and in ordering the troops of the United States to repel such an invasion. This contingency the President trusts, however, may not occur; and if it should, the Convention ought to meet at the earliest practicable moment and proceed to ratify the Resolutions of our Congress and adopt a Constitution.

The President will immediately send an express to General Taylor, the commanding officer at Fort Jesup, with an order to him from the Secretary of War to march the troops collected at that post to the Sabine. There shall be as little delay as possible in this movement. The moment that the Convention of Texas shall have accepted and ratified the terms of annexation proposed by the American Congress, the President, for the purposes of defence, will consider her territory as belonging to the United States. You are, therefore, hereby authorized in that event forthwith to send an express to our commanding officer on the Sabine, communicating to him the information, and he will be directed to move to such points as yourself and the authorities of Texas shall deem most expedient. Captain Stockton will be ordered with the fleet now under his command (and other vessels of war will be attached to it) to repair to the mouth of the Sabine for the purpose of transporting the American troops to the positions where they shall, in your opinion and that of these authorities, be most required.

Similar orders will be issued both to our commanding officer on the Sabine and to Captain Stockton, to be executed in case the Convention shall be prevented from assembling or be disturbed in its peaceful deliberations by a Mexican invasion, after the Texan Congress shall have accepted the terms of annexation proposed by the American Congress.

I herewith transmit to you copies of orders just received and this day issued by the Navy Department to Commodore R. F. Stockton, commanding the squadron off Galvezton, and of orders from the War Department to Brigadier General Z. Taylor, commanding the first Department at Fort Jesup.

I also transmit copies of orders dated to-day and this moment received from the Treasury Department to Captains Foster and Prince of the United States revenue marine.

I regret that I have not time before the departure of the messenger, to express to you as I could desire, the feelings of indignation which the conduct of Captain Elliott has excited throughout this country. These are not confined to any party, but pervade the whole community. One of its good effects has been to render us, to a very great extent, an united people on the question of annexation. It is scarcely possible that his conduct can be approved by his government. Without entering upon the inquiry how far the British government had a right to interfere in preventing the people of Texas from consenting to annexation, no

impartial man can doubt but that Captain Elliott in his efforts has transcended all reasonable bounds. To assume the character of a secret negotiator of the government of Texas with Mexico, in a hostile spirit towards the United States; to conceal his agency in this matter by pretending that he had left Galveston for Charleston, when his destination was Vera Cruz; and then to prevail upon Mexico to consent to the independence of Texas on condition that Texas should never annex herself to the United States; these acts taken together are at war with all the modern usages of diplomacy and with the character of the British government, which is generally bold and frank if not always just in its policy towards foreign nations. He has not even for a moment succeeded in his efforts at concealment, and he will find that his transparent cunning will only tend to make him ridiculous. But what is far worse on his part, by obtaining the consent of Mexico to the independence of Texas, he has deprived that power of the only miserable pretext which it had for a war against the United States, whilst he has fomented among the Mexican people a spirit of hostility against us which may plunge that ill-fated country into such a war.

The final instructions, of August 7, 1845, authorized Texan volunteers to be mustered into the service of the United States, while stating that the President of the United States had no authority to call out the militia of Texas. These passages are extracted therefrom (D.S., 1 Instructions, Texas, 128-31; not in published correspondence):

Intelligence has reached the President, which has an appearance of authenticity, not to be disregarded, that the Mexicans are approaching the frontier of Texas in considerable force; that General Paredes with seven thousand men is at San Luis Potosi, and that General Arista, with three thousand, principally cavalry, is in position on or near the Rio del Norte; and that these troops are destined for the invasion of Texas, with or without a declaration of war against the United States.

The Government and people of Texas by their Delegates in Convention, having accepted the conditions of annexation proposed in the first and second sections of the joint Resolution of the Congress of the United States on that subject, the President considers it to be his constitutional duty to repel a hostile invasion of Texas, with all the means at his disposal.

The troops under General Taylor have proceeded to the points on the frontier of Texas, at which it was supposed they could act most efficiently in the attainment of this object. Orders have been also given to Commodore Conner to employ the naval forces under his command, in coöperation with the troops. The regular force which could be transferred on this duty with the reinforcements which will immediately be ordered to report to the officer commanding, may not be sufficient to resist so imposing a force as that, which, it is believed, is about to invade Texas.

The President has no authority to call out the militia of Texas, but he has entire confidence in the patriotism and bravery of those gallant men, nor does he doubt their enthusiastic readiness to coöperate with their brethren from the United States in repelling the invaders of their own soil. Their coöperation may become necessary. In view of this necessity, the President instructs you to place yourself without delay, in communication with the government of Texas, and to propose, that volunteers may be invited to join the United States troops under the command of General Taylor, organized and officered by officers of their own selection, to be mustered into the service of the United States in such numbers as the United States commanding general may deem necessary. The information received by the President, is believed to be authentic, and is such that he cannot disregard, but the superior opportunities enjoyed by the government of Texas and by General Taylor on the frontier, may satisfy them that the danger of invasion is not imminent. In that event, it is not desired that volunteers should be called from their homes into actual service.

Apprehending that there may be a deficiency of arms and ammunition in Texas, the President has ordered them to be placed in depôt at Galveston, subject to General Taylor's orders, in sufficient quantity for ten thousand men. They

will be furnished to the Texan volunteers under such regulations as may issue from the War Department for their return when the men are discharged. Rations will be issued to the volunteers while mustered in service of the United States. But there is no appropriation from which the President can have these troops paid. There is, however, no reason to doubt, that troops thus employed will be placed by Congress upon precisely the same footing as troops would be who had been regularly called out to repel an invasion of any of the existing States.

You will make it known to the Government of Texas that it is not the wish or purpose of the President to limit the number of men which that government may deem necessary to defend the country; but to guard against misunderstandings which may fatally disturb the harmony of coöperation, it is deemed most advisable that no volunteers shall be mustered into the service of the United States, except such as may be required and approved by the commander of our troops on that service. All others will act under the authority of Texas.

On September 1, 1845, William D. Lee wrote to the Secretary of State that he had been appointed Acting Chargé d'Affaires of the Government of Texas near the Government of the United States and requested an appointment in order to present his credentials (D.S., 1 Communications from Agents of Texas). To this communication Secretary of State Buchanan replied under date of September 6, declining to receive Lee and suggesting that he might remain in Washington as "an agent of Texas", to which suggestion Lee replied two days later that he had no authority to act in such capacity (*ibid.*). From the note of Secretary of State Buchanan the following is extracted (D.S., 6 Notes to the Texan Legation, 82-83):

Your note has been submitted to The President, who, after a careful examination of the subject, has directed me to inform you, that, in his opinion, the State of Texas has now become so intimately identified with the other States of the Union, that it would not be proper to receive a Chargé d'Affaires from its Government and thus treat it as a foreign nation. The moment that the Convention of Texas had ratified the terms of annexation proposed by the Congress of the United States, the substantial engagements of both parties were completed, and nothing then remained to be done but her mere formal admission into the Union in compliance with these engagements. The President has, accordingly, directed the troops of the United States to march into her territory, and has determined to defend it against the forces of Mexico. Under these circumstances, Texas has already in his judgement, become in fact, if not in form, one of our States, at least so far as to render it obligatory on him to protect her against foreign invasion. It would, therefore, it appears to him, be inconsistent with these relations to receive a public minister from her Government as though she were still a stranger.

It is certain, however, that the Government of Texas yet retains all the powers that it formerly possessed except such as would be inconsistent with the engagements of the respective parties to consummate annexation. It is still both the right and duty of that Government to repel a Mexican invasion, and should such an event occur, it would be extremely convenient, if not absolutely necessary, to have an agent of Texas in the City of Washington. Other circumstances might be adverted to which would render this highly proper. Whilst, therefore, the President cannot receive you in a diplomatic character, he will be much gratified should you determine to remain in this City as an agent of Texas. In that capacity, you may render essential service to both countries.

In arriving at these conclusions the President requests me to assure you of his sincere regard for the President of Texas and his regret that he has not been able to comply with his wishes in regard to your reception.

The opinion of Buchanan had been in favor of the reception of Lee; but his view had been overruled; the subject was considered at a

Cabinet meeting of the same date as the foregoing note of September 6, 1845; the interesting discussion had and the decision made are thus reported (Diary of James K. Polk, I, 17-20):

The President laid before the Cabinet a letter [of] appointment from the President of Texas (by Mr. Allen, Secretary of State of Texas) to Mr. Lee as acting Chargé d'affaires of Texas to the U. States. He also laid before the Cabinet the instructions of the President of Texas to Mr. Lee which had been furnished by Mr. Lee to Mr. Buchanan. . . . During Mr. Buchanan's absence of half an hour the President read to the Cabinet Mr. Lee's letter of appointment, and instructions. The President expressed his opinion to be against receiving Mr. Lee in his diplomatic character, and the Cabinet were engaged in conversation on the subject when Mr. Buchanan returned. The President informed Mr. Buchanan that the papers had been read to the Cabinet. Mr. Buchanan had, on presenting Mr. Lee's application to the President to be accredited as Chargé d'affaires of Texas to the United States two days ago, intimated the opinion that Texas was so far to be regarded as an independent Nation as to make it proper to receive Mr. Lee as her accredited Minister to this Government. The President in a short note to Mr. Buchanan had expressed a different opinion. The President repeated that opinion in substance as follows. He said after what had transpired he could not regard Texas as a foreign State. Texas by her Congress and Convention had, in the most solemn forms, accepted the terms of annexation offered to her by the U. States; that from that moment the compact of Union between Texas & the U. States was complete, and that he considered Texas as being now virtually a part of our own country. We had so treated Texas by sending our squadron to the Gulf and our army to her Western border, to defend her territory & people against the threatened Mexican invasion. If we now receive a foreign Minister from Texas, we recognize her as a foreign State, and it would be difficult to justify the sending our army into her territory to defend her, claiming it to be a part of our own country. The President asked Mr. Buchanan if we received and accredited this Minister, if we could make a Treaty with him. To which Mr. B. replied we could, but it could only last until the act of Congress was passed admitting Texas as one of the States of the Union. The President remarked, if we received this Minister, we must to all intents and purposes admit that Texas was a foreign State, and so regarding her, if we could make a Treaty for a limited time with her there would be nothing to restrain us from making any other Treaty with her; and that, in either case, it would be wholly inconsistent with the ground which the Cabinet had unanimously taken when it was ordered to send our army into Texas to defend her, regarding her as a part of our own country & the faith of the country pledged to protect and defend her. All the Cabinet concurred with the President in these views; the Secretary of War expressing himself strongly on the subject. Mr. Buchanan said although his opinion was unchanged he would not insist upon it. A conversation of some length took place, when it was agreed that the Minister (Mr. Lee) could not be received & accredited as chargé d'affaires. The President, with the concurrence of the Cabinet, directed that Mr. Buchanan should address a letter to Mr. Lee, in courteous & friendly terms, explaining to him why he could not be recognized in the official character of chargé de affaires but that the Government would confer with him as the agent of Texas, as they would with the agent of one of the States of the Union having business at Washington; that any information he desired to communicate would be received, and in turn any information deemed important to Texas or relating to annexation would be communicated to him.

An elaborate argument on the subject was subsequently addressed to the Secretary of State by Colonel David S. Kaufman, who had been appointed Chargé d'Affaires of the Republic of Texas (D.S., 1 Communications from Agents of Texas). The text of that note appears below. No answer to it was written; practical considerations were of more weight than the juridical aspects of the question which Kaufman presented:

LEGATION OF TEXAS
Washington 23^d Sept. 1845.

The undersigned has the honor to inform the Hon: Mr Buchanan, Secretary of State of the United States, that he has been appointed by his Excellency the President of Texas, Chargé d'Affaires of the Government of Texas near the Government of the United States, and, but for the tenor of Mr Buchanan's note of the Sixth Inst. addressed to my immediate predecessor, the Hon: W. D. Lee, the undersigned would ask for the appointment of a time when he might have the honor of presenting his letter of credence.

In your communication of the date above alluded to, you state, that, it is the opinion of the President, that, "the *State of Texas* has now become so intimately identified with the other States of the Union that it would not be proper to receive a Chargé d'Affaires from its Government and thus treat it as a foreign Nation."

After the expression of an opinion thus decided, on the part of his Excellency, it might be considered indelicate in the undersigned to urge a reconsideration of the question, and it would place his Government in a position that he would not have it occupy. He will not do so of his own responsibility. On this subject he will await the instructions of his Government.

The decision thus made, in regard to the reception of my immediate predecessor however, seems to place the government which I have the honor to represent in so singular an attitude before the world, *The attitude of ignorance of its present relations with the United States*, that I feel it due to it, as well as to myself, to vindicate it from that charge.

The kind, friendly, and confidential relations which exist between the two Governments, to be blended shortly in "a more perfect Union", will I trust authorize me to do so with a frankness and freedom that I might not otherwise indulge in; at the same time assuring the Hon Mr Buchanan, that, whatever may be the course his Government may finally pursue in regard to this matter, as far as Texas is concerned, it can throw no impediment in the way of the final consummation of the great American question of Annexation.

By the provisions of "a joint resolution for annexing Texas to the United States", the first and second sections of which were selected and presented to the consideration of the Government of Texas, certain duties were required to be performed by the "existing Government" of Texas, by "Deputies in Convention" assembled, and by "the people" themselves in their original sovereign capacity. The *existing Government* of Texas was to give *its consent* to the proposed change, The *deputies in Convention* were to form a Constitution of a Republican Character, and the *People* themselves were to approve said Constitution, and the evidence of their approval of the same was to be sent to the President of the United States, on or before the first day of January 1846, to be by him laid before your Congress for its final action.

All these conditions have to be complied with on the part of the *Government*, the *Convention*, and the *people* of Texas before it can be said with propriety that Texas has "ratified the terms of Annexation proposed by the Congress of the United States."

Now how many of these "Powers of the State" have performed the duties required of them preliminary to a *further* action on the part of the United States Congress? But *one* of the *three*. The existing Government has given its consent but as far as we are informed, the Convention has not yet adopted a State Constitution, and *certain it is* that the People, *in whom and whom alone*, not only by the theory of all popular governments, but by an express provision of our Constitution, is vested the right to abolish one form of Government and erect another in its stead, have not yet ratified that Constitution.

"All political power is inherent in the *people* and they have at all times an inalienable right to alter their Government in such manner as they may think proper" Declaration of rights—Constitution of Texas.

It may be argued that the People have in this instance effected the Change through their Deputies or Representatives in Convention assembled, but this argument is untenable, as the joint resolution above referred to plainly draws a distinction between "the Deputies in Convention" assembled "and the *people* of said Republic of Texas." If the universal practice of submitting amendments of the Constitutions of States of the American Union to the People for their

ratification or rejection, be right or expedient, how much more so is it when not only the whole Constitution of Texas is proposed to be changed, but her Nationality itself merged in that of another.

But the joint resolution on this point is explicit, and it is the "Law of Union" for both Governments.

It is true as remarked by Mr Buchanan that "the Convention had (has) ratified the terms of Annexation proposed by the Congress of the United States."

Composed as that honorable body is, of so much of the talent, integrity, and patriotism of the Land, they have done, and will do every thing in their power to consummate so desirable an object. They have "Ordnained and declared that they assent to and accept the proposals contained in the first and second sections" of the joint resolution above referred to. Now so far as the first and 2nd sections are concerned, the ordinance of the Convention was unnecessary and supererogatory. It travelled out of the record, although it did much good in quieting the public mind by the extraordinary and gratifying unanimity evinced in favor of this interesting measure. A simple reading of said Sections will however satisfy every mind that this was not a duty prescribed by them. The formation of a State Constitution is all that they require.

This view of the question, I have no doubt has been, or will be sustained by the Convention itself, for I see in the public prints, that a Committee of that body has recommended that the question, not only of the adoption of the Constitution, but also of Annexation be referred to the People themselves at the Ballot Box, a recommendation which I have no doubt has already been concurred in. More or Less could not have been expected from such a body.

It cannot be said that the People, by electing deputies favorable to annexation, deprived or meant to deprive themselves of a final decision of this question at the Polls. They had not the power to do so by the said joint resolution, nor had they the inclination. This same People, have on the first of this month, elected members for the tenth Congress of Texas, a proceeding which would have been superfluous—not to say treasonable if they had not reserved to themselves the right of finally deciding the question of a Change of Government. Although the first and second Sections do not literally provide for the submission of the question of annexation to the People, yet a decision of that question is substantially involved in the vote upon the adoption of the Constitution. Let us suppose, for instance, that the People should not adopt the Constitution submitted to them, or if adopted, that the same should not be transmitted to the President of the United States on or before the first day of January 1846, would the terms of our admission be complied with, notwithstanding the said Ordinance of the Convention? Clearly not. Indeed the said joint resolution provides that these proceedings shall be had by the Government, the Convention, and the People, before the first day of January 1846, "in order that the same (Texas) may be admitted as one of the States of the Union." It recognizes no intermediate, no territorial State. The moment Texas loses her separate sovereignty she assumes the rank of a sovereign state of the American Confederacy. Your Government requires of Texas no pupilage, no probation. Her sovereignty is never lost. It will only flow in a different channel.

Texas is as yet an Independent Republic. Her Government has given her consent to Annexation and the Convention are in the process of the performance of the duties required of them. During these proceedings, past present and to come, Texas maintains her independent and separate attitude, and will continue to do so until the final consummation of the measure of annexation. Her President continues to discharge his duties, Her courts are now in session by virtue of Authority from the *Republic of Texas*, and a congress was elected at the usual annual Election. Her revenue from imposts as well as direct taxes are still collected as usual, and her gallant army, small though it be, continues ready to defend the Country from aggressions. It is true that the United States has sent a portion of its Army into that Country, but it was by the invitation of the Representatives of the *owners of the soil, the People of Texas*.

The invitation of the Convention was given three days after the ordinance accepting the terms &c showing conclusively, that the Convention did not conceive that the acceptance by it of the terms of annexation *ipso facto* brought Texas into the Union. Their presence in no way impairs the sovereignty of

Texas. They were there at Nacogdoches in 1836, and yet in that case the sovereignty of Texas was not questioned. In that case as in the present they were there by the consent of the People and for purposes of self defence. The People of the United States have the right to form a more perfect Union with Texas. If she has the right to form a compact of any character with her as an independent power, she has the right to form a *constitutional* compact.

If England and France had a right to form Compacts with her, so has the United States, and no one has a right to question that power, and if they have a right to form this Constitutional Compact, they have a clear right to combine their strength (as is now done) to prevent their rights from being impaired. Indeed when the *Treaty* form of annexation was attempted the Government of the United States obligated itself to protect Texas from invasion *pending the negotiation*, and now the United States are ready to protect Texas from invasion during the proceedings necessary to consummate the measure on her part, in order to enable her to complete the work without molestation.

The undersigned sincerely trusts that the foregoing remarks will be received by the Hon: Secretary of State of the United States in the spirit with which they are written, and knows that the utmost harmony and friendship will continue to exist between the two Governments until the now "Lone Star" becomes "one of the *many*" that glitter in the American Constellation.

The undersigned would in conclusion take occasion to remark that the promptitude, energy, and patriotism, with which his Excellency the President of the United States has acted in forwarding the measure of Annexation, have earned for him the admiration and gratitude of the people of Texas.

The undersigned avails himself of this occasion to assure Mr Buchanan of his very high Consideration and has the honor to subscribe himself his

Very Obedient Servant

DAVID S. KAUFMAN

To the Hon: JAMES BUCHANAN
Secretary of State

THE UNITED STATES AND TEXAS

The question of Texas may be said to have first become one of interest to the United States with the cession of Louisiana in 1803; the limits of the Province of Louisiana to the west had never been determined; the United States acquired whatever rights France had; and whether Texas was within Louisiana was a matter of political controversy for decades ("Reannexation of Texas" was a slogan of 1844) and has since been the subject of elaborate historical criticism (see Ficklen, "Was Texas Included in the Louisiana Purchase?" in Publications of the Southern History Association, V, 351-87; Paullin, Atlas of the Historical Geography of the United States, 66-68, and plate 95A; Marshall, A History of the Western Boundary of the Louisiana Purchase, 1819-1841, *passim*, and the writings there cited; also, Rives, The United States and Mexico, 1821-1848, I, 1-26). While the Florida Treaty of February 22, 1819, with Spain (Document 41) did not fix or purport to fix the limits of Louisiana, it did determine the frontiers of the United States and Spain on this continent west of the Mississippi; Texas was then definitively within Spanish America; but that treaty of 1819 had hardly gone into force before Mexico became independent and Texas part of Mexican territory.

During the administrations of John Quincy Adams and Andrew Jackson (1825-29 and 1829-37) the acquisition of Texas by arrangement with Mexico was a leading policy of the United States, though

one which was proved to have had no chance of success. The independence of Texas (1836) was recognized by the United States in 1837 and later by other powers, including Great Britain and France, though not by Mexico (as to the recognition of Texas by European powers, and treaties negotiated, see Rives, *op. cit.*, I, 472). In 1838 two international agreements were made by the United States with Texas, one regarding claims (Document 84) and one for a partial demarcation of boundary (Document 85); a treaty of commerce with Texas, signed on July 30, 1842, failed because the Senate struck out two articles (see Executive Journal, VI, 188-89).

Proposals by Texas for annexation during the administration of Martin Van Buren (1837-41) and again during the first years of the administration of John Tyler (1841-45) were declined; President Tyler, however, was none the less determined on annexation; the negotiations were renewed under his direction in October 1843; the note of the Plenipotentiaries of Texas who signed the treaty of April 12, 1844 (Isaac Van Zandt and J. Pinckney Henderson) includes a summary of the policy of Texas in the matter of annexation as well as a statement of the public lands and debts (D.S., 1 Communications from Agents of Texas, April 15, 1844):

LEGATION OF TEXAS,
Washington City, April 15th, 1844.

The undersigned, &c. &c., in reply to the inquiries of Mr Calhoun, Secretary of State of the United States, have the honor to submit the following:

In 1836, after the declaration of the independence of Texas, in pursuance of the orders of the convention and the expression of the popular will, the President *ad interim*, by his proclamation, ordered an election to be held throughout the Republic, for the ratification or rejection of the constitution which had been adopted by the convention, and for the expression by the people of their wishes in regard to the Annexation of Texas to the United States. The result was, that upon a full poll but ninety three votes were given against the Annexation.

Following up this declared wish of the people, the first Congress that assembled, thereafter, passed an act empowering the President to appoint a minister to present the question to the Government of the United States. The proposition having been declined, it was deemed prudent, in order to facilitate negotiations with other countries, not to press the question of Annexation further, and therefore it was withdrawn.

Subsequently, in 1842, instructions were given for the informal renewal of the negotiations; which, not having been met by a reciprocal action on the part of the United States, were, in August last, again withdrawn, and the attention of the Government of Texas directed to other objects calculated, in its opinion, to secure its safety and advance its prosperity—for the attainment of which reasonable assurances had been received.

Afterwards, on the 16th October last, the proposition for the formation of a treaty of Annexation was made by this Government, through the late Secretary of State, Mr Upshur, to the Government of Texas. At that time—no arrangement having been concluded, inconsistent with such a step, and the Congress having expressed their approbation of the measure, and every expression of public sentiment fully indicating that the people of Texas were yet desirous to consummate a measure, believed to be promotive of the mutual welfare of both countries, and without which, from motives of policy or necessity, they might be compelled to adopt measures which, it is to be feared, would engender a feeling of unfriendly rivalry, productive of discord and strife and dangerous to their mutual peace and quiet—the President of Texas determined to accede to the proposition, and accordingly empowered the undersigned to adjust the terms of the treaty just concluded.

The undersigned have the most abiding confidence that, should the Annexation be consummated, the same will receive the hearty and full concurrence of the people of Texas. And believing that the fate of this treaty, be the decision whatever it may, will forever decide the question of Annexation—a question, the continued agitation of which has prevented their Government from pursuing vigorously any other policy—they feel the highest gratification that this opportunity has thus been offered. They will not anticipate nor speculate upon the consequences of a rejection. Satisfied, however, that the language, institutions and locality of the two countries have fitted them for becoming members of the same great political family, or fated them to a conflict of interest, which may result in evil consequences, they trust that it may be so determined as to secure the blessings of liberty to both and promote the happiness of mankind.

Upon the subject of the public lands, the undersigned submit a summary statement made from a late report of the Commissioner of the General Land Office to the President of Texas. He estimates the aggregate at

.....	203, 520, 000 acres,
Lands appropriated at.....	67, 408, 673 “

Remainder, unappropriated, at.....	136, 111, 327 “
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In a report of a committee of the House of Representatives of the Congress of Texas, made to that body on the 12th January, 1841, the debt and liabilities of the Republic are stated to be as follows:

Funded debt bearing 10 per cent. interest.....	\$1, 650, 000
Bonds sold and pledged, bearing 10 per cent. interest.....	1, 350, 000
Treasury notes without interest.....	3, 000, 000
Debts of various descriptions, say audited drafts and other claims without interest.....	1, 000, 000
Total.....	\$7, 000, 000

This report includes the interest then accrued and a number of unaudited claims, supposed to be valid, which were not computed in the report of the Secretary of the Treasury to the same Congress, which report shows the public debt as less than five millions of dollars.

Since the date above referred to, no further general estimate has been made at the Treasury Department. It is known, however, that the revenues of the Government have nearly equalled its expenditures. So that the debt has not been materially increased, except from the interest which has since accrued.

The undersigned avail themselves of this occasion to offer to Mr Calhoun assurances of their distinguished consideration.

ISAAC VAN ZANDT
J PINCKNEY HENDERSON

The writings on the various phases of diplomatic history during the years which preceded the annexation of Texas are numerous; there are valuable bibliographies in the works of two leading authorities: Justin H. Smith, *The Annexation of Texas*; and George Lockhart Rives, *The United States and Mexico, 1821-1848*.

A historical diagram of Texas is at page 143 of this volume; relevant plates and text in Paullin, *Atlas of the Historical Geography of the United States*, are cited at page 142.

