

CHAPTER XII

TEXAS STANDS BY THE CONSTITUTION

THE proposal for a general consultation of all Texas had been made in August, 1835, and the expectation was that the delegates would meet on the fifteenth of October; but there was some confusion as to the place of meeting. The call issued by the inhabitants of Columbia had suggested Washington, on the Brazos. The people of San Felipe desired it to be held in their own village. However, the gathering of the Texan army at Gonzales interfered with any assembling of the delegates at the appointed date, inasmuch as many of them were in Austin's command; but ultimately the consultation convened at San Felipe, and by Thursday, November 5, all parts of Texas were represented.¹

The need of some recognized central authority was evidently great. Except for the ineffectual and generally nominal state government at Saltillo or Monclova, all legal authority had long resided with the several ayuntamientos; and if Texas was to attain any permanent results in the contest in which she was now embarked a working organization of some kind was a necessity. The most important business of the consultation was obviously to supply this need.

The consultation organized by electing Branch T. Archer, of Brazoria, as their president. Archer, like many of the better-educated men in Texas, was a physician. He was born in Virginia, had been speaker of the House of Delegates of that commonwealth, and had come to Texas in 1831.

The first question for the consultation to decide was whether they should proclaim the independence of Texas, or whether they should still hold themselves out as con-

¹ See *Tex. Hist. Quar.*, X, 142-146, for an account of the doubts and difficulties as to the place of meeting.

tending solely for the maintenance of the federal Constitution of 1824. A large proportion of the members of the consultation believed that independence sooner or later was inevitable; but a majority believed it inexpedient to take the step at once. They considered that they were not empowered to do so; that separation from Mexico was not in the contemplation of those who elected them; that a premature declaration of independence might alienate public opinion in the United States; and that a declaration in favor of the Constitution of 1824 "would neutralize the prejudices or enlist the sympathies and assistance of the Federal party of the interior."¹

Whether this attitude truly represented the wishes of the people of Texas is perhaps doubtful; although Austin, who was at first unfavorable to a declaration of independence, wrote, after the consultation adjourned:

"The majority of Texas, so far as an opinion can be formed from the acts of the people at their primary meetings, was decidedly in favor of declaring in positive, clear, and unequivocal terms for the federal constitution of 1824, and for the organization of a local government, either as a state of the Mexican confederation or provisionally until the authorities of the state of Coahuila and Texas could be restored. . . . Some individuals were also in favor of independence, though no public meetings whose proceedings I have seen expressed such an idea."²

It is perhaps not very important whether the people of Texas acted upon mere grounds of temporary expediency or whether they were really loyal to Mexico and believed that a continuance of their Mexican connection was right and desirable in the long run. They were all agreed, at any rate, that local self-government must be secured, and they all acted more or less consciously upon the belief that if they stood for the Constitution of 1824 they would find sympathy and support from the Mexicans themselves. As a matter of fact, however, the existence of a "Federal party

¹ William H. Wharton to Archer, Nov. 29, 1835; *Brown*, I, 428.

² Austin to Barrett, Dec. 3, 1835; *Comp. Hist.*, I, 566. And see Barker's "Stephen F. Austin and the Independence of Texas," *Tex. Hist. Quar.*, XIII, 280, 284.

of the interior" which had either the wish or the power to help Texas, was a mischievous delusion. There was no Federal party then in existence in any part of Mexico except Texas, for Santa Anna had by this time very effectually silenced it. And even if there had been, the universal feeling in Mexico was opposed to permitting Texas to set up as an autonomous state, even within the Mexican union. If the opponents of Santa Anna could have made use of Texas to overthrow his government, they would doubtless have been glad to do so; but no government could have existed in Mexico at that time which failed to insist on the supremacy of the church and the army in every part of the republic. The ideals of the inhabitants of Mexico and the inhabitants of Texas and their conceptions of civil and religious freedom, of law and of justice, were as different as the widely divergent races from which they sprang, and a complete or permanent union was impossible without such concessions and such a surrender of ideals as neither party was ready to make.

However, the views of those members of the Texas consultation who opposed independence prevailed. On November 7, 1835, a unanimous declaration was adopted setting forth that the people of Texas had taken up arms in defence of their rights and liberties, which were "threatened by encroachments of military despots," and in defence of "the republican principles of the federal Constitution of 1824." The right of "the present authorities of the nominal Mexican Republic" to govern within the limits of Texas was denied; the right of Texas, under the circumstances, to withdraw from the Mexican union, to establish an independent government, or to adopt such other measures as she might deem best calculated to secure her rights and liberties, was asserted; and it was declared that the people of Texas would continue faithful to Mexico, so long as that nation was governed by the Constitution of 1824.¹

¹ The full text of this declaration is in *Tex. Hist. Quar.*, XIII, 156. And see Eugene C. Barker's "The Texan Declaration of Causes for Taking Up Arms against Mexico," *ibid.*, XV, 173-185.

The next and most vital step was the creation of a provisional government. By a resolution unanimously adopted on November 11 a governor, lieutenant-governor, and council were created. The council was to consist of one representative from each municipality. The members were to "advise and assist the governor in the discharge of his functions," and to pass such laws "as in their opinion the emergency of the country requires, ever keeping in view the army in the field." The governor was to be "clothed with full and ample executive powers," and was to be commander-in-chief of the army and navy. The lieutenant-governor was to preside over the council, and perform the duties of the governor in case of the death, absence, or other inability of the latter. Provisional courts were to be created, which were to administer the common law of England in all criminal cases and to grant writs of habeas corpus. In general, the civil code and code of practice of Louisiana were to be followed, but all trials were to be by jury.¹

The consultation also adopted what were called "provisions for an army and military defence." There was to be a regular army composed of eleven hundred and twenty men enlisted for two years, and an indefinite number of volunteers. A major-general, chosen by the consultation, was to be "commander-in-chief of all the forces called into public service during the war," who was, however, to be "subject to the orders of the governor and council."²

The consultation next proceeded to elect the officers of the provisional government. Henry Smith, of Brazoria, received thirty-one votes for the office of governor, as against twenty-two cast for Austin, and Smith was accordingly declared duly elected. For lieutenant-governor James W. Robinson, of Nacogdoches, was unanimously chosen; Sam Houston, also of Nacogdoches, was unanimously elected commander-in-chief. Branch T. Archer (the chairman of the consultation), Stephen F. Austin, and William H. Whar-

¹ Text in Brown, I, 388-394.

² The full text is in *Journals of the Consultation Held at San Felipe de Austin, October 16, 1835* (Houston, 1838). Brown, I, 394, gives only extracts.

ton (then Austin's adjutant-general in front of Béxar) were appointed agents to the United States. Resolutions were adopted which were intended to propitiate the powerful Cherokee Indians in northeastern Texas.¹ By another resolution adopted just before final adjournment the governor and council were empowered to reassemble the consultation at any time before the following March, or "to cause a new election *in toto* for delegates to the convention of the first of March next"; and then, on November 14, 1835, the consultation adjourned.

Neither the governor nor the lieutenant-governor was in any way conspicuous. Smith was a native of Kentucky, Robinson was from Ohio. Both of them in later years emigrated to California, and both died there. Of the two Smith was the stronger man. At the time of his election as governor he was the jefe político of the department of the Brazos and was known as an earnest advocate of an immediate declaration of independence. His majority over Austin may perhaps be fairly regarded as giving a measure of the true feeling of the delegates on this subject.

But if the governor and lieutenant-governor were inconspicuous, the commander-in-chief made up for their defects, for conspicuousness was Houston's most striking characteristic. He was always an interesting and vigorous personality, full of gross faults and with some great merits. Wherever he went he attracted attention, for not only was he a perfect giant, tall and with an immense frame, but he had always, especially when the worse for liquor, a most stately and solemn demeanor. His eye for dramatic effects was unflinching and he had a life-long passion for picturesque costume.

"He was considerably over the ordinary height," a lady wrote who knew him some years later, "six feet four at least. He had a noble figure and handsome face, but he had forgotten Polonius's advice, 'Costly thy habit as thy purse can buy, but not express'd in fancy.' He rejoiced in a catamount skin waistcoat; it was very long-waisted, and his coat was left ostentatiously open to show it. Another waist-

¹ *Journals of the Consultation, etc.*, 51-52.

coat, which he alternated with the catamount, was of a glowing scarlet cloth. His manner was very swelling and formal. When he met a lady he took a step forward, then bowed very low, and in a deep voice said, 'Lady, I salute you.' It was an embarrassing kind of thing, for it was performed with the several motions of a fencing lesson."¹

Both of Houston's parents were of that sturdy Scotch-Irish race which played so important a part in the development of the Middle West. They both came of families which had been settled for several generations in Virginia; and it was near Lexington, in Rockbridge County, that Sam Houston was born, on March 2, 1793. When he was about thirteen years old his father died, leaving a remarkably capable widow and nine children. Rockbridge County, it appears, did not afford an adequate theatre for the display of the widow Houston's energies, and soon after her husband's death she moved, with her children, into eastern Tennessee, and settled in Blount County, south of Knoxville, on what was then the edge of the Indian country.

In Tennessee Sam Houston had a little schooling, helped in a country store, and finally ran off and lived for some time with the Cherokee Indians. When he was about eighteen years old he returned to civilization, and for a time taught in a school himself; but when the War of 1812 broke out he enlisted as a private in a Tennessee regiment of volunteers. His regiment never met the British, but under Jackson, in 1814, they took part in a bloody battle with the Creek Indians, when Houston was desperately wounded. After a long convalescence he received a commission in the regular army. By this time the war was over, and after serving as a lieutenant until May 17, 1818, Houston resigned to study law. Five years later he was elected to Congress, and served from 1823 to 1827 as a silent but steady follower of Andrew Jackson, and in 1827 he was elected governor of Tennessee.

For two years he went through the uneventful routine of the governor of a small Western state, and then suddenly, in April, 1829, he resigned his office and without a word went

¹ Mrs. Davis, in *Memoir of Jefferson Davis*, I, 282.

back to barbarism, and resumed his life with his old friends the Cherokees, now transplanted to Arkansas. That his dramatic departure was due to some disagreement with his wife is certain, but the assiduity of his biographers has failed to throw light upon the details of their quarrel.

For nearly four years he lived a restless and useless life, of which little was ever known. For a time he was an Indian trader. In 1830, and again in 1832, he was in Washington, and in the latter year was arrested for an outrageous assault on a member of Congress. He was known to the Indians as the Wanderer, or Big Drunk, or Drunken Sam.

Toward the end of 1832 Houston went to Texas with a commission from Jackson, nominally to confer with the border Indians, but perhaps, in reality, to get for Jackson some authentic information as to the state of affairs. He travelled as far as Béxar, and on his return to Natchitoches, in February, 1833, wrote that Texas was the finest country upon the globe and that he would probably go there to live. He did, in fact, go back there a few weeks later, and was one of the representatives from Nacogdoches at the San Felipe convention in April of the same year, where he served as chairman of the committee to draft the proposed state Constitution. The history of Houston for the next two years is a blank. He does not appear to have been living in Nacogdoches, but whether he had gone back among the Indians it is now impossible to state. However, it seems to be quite certain that he took no part in any of the public movements of those busy months.¹ In October, 1835, he was present at a meeting at San Augustine

¹ "The writer has examined hundreds of letters and public documents, both Texan and Mexican, on the development of the revolution, has collected, with few exceptions, the proceedings of all the public meetings and revolutionary committees, and has found nowhere a single reference to General Houston."—(E. C. Barker in *Amer. Hist. Review*, XII, 803.) In December, 1834, he was found by an English traveller at a small tavern in Washington, Hempstead County, Arkansas. Writing nine or ten years later, this author thought he had discovered signs of a conspiracy against Mexico at this remote spot.—(Featherstonehaugh, *Slave States*, II, 161.) Mrs. Jefferson Davis relates, on rather doubtful authority, that Houston headed a parade of Indian warriors at Fort Gibson, in the spring of 1834.—(*Memoir of Jefferson Davis*, I, 157.)

when a company of volunteers was raised, and a little later he was chosen to command the men of eastern Texas. When he came to San Felipe to attend the consultation his "appearance was anything but decent or respectable, and very much that of the broken-down sot and debauchee,"¹ but from this time forward he lived in the public eye, and lived, on the whole, an exemplary life. His permanent reformation seems to have been largely the work of a very estimable and pious young lady, whom he married in 1840, his first wife having secured a divorce long before.²

Late in October, 1835, and during the whole month of November, while the provisional government was coming into existence, as above described, and was endeavoring to create for Texas an efficient organization, the Texan volunteers were slowly and unskillfully trying to capture or drive out the Mexican force which, under General Cos, was holding the town of Béxar. This place, so often mentioned in the early history of Texas, had grown up near the presidio of San Antonio de Béxar and the neighboring mission of San Antonio de Valero, founded in 1718. In 1730 the town, with all the apparatus of ayuntamiento, alcaldes, and *regidores*, was established under the name of San Fernando de Béxar. Its most flourishing days under Spanish rule appear to have been shortly after the middle of the eighteenth century, when the adjacent missions and their Indian settlements were most prosperous.

In 1770 its population was said to have been reduced to eight hundred and sixty persons, owing chiefly to the incessant hostilities of the Indians. A few years later Father Morfi gave a melancholy picture of its dilapidated condition.³ Pike, who spent some days there in June, 1807, described it as containing perhaps two thousand inhabitants, "most of whom reside in miserable mud-wall houses, cov-

¹ Jones, *Republic of Texas*, 12.

² The second wife was a Miss Lea, of Marion, Alabama, and is described as being "a lady of good family, force of character, amiability, and considerable literary talent. She was aware of Houston's weaknesses in habits when she married him, and was confident that she could influence him for the better."—(Williams, *Sam Houston*, 248.)

³ Bancroft, *North Mex. States and Texas*, I, 618, 632, 653.

ered with thatched grass roofs." ¹ Almonte, in 1834, estimated the population of the town and neighboring district at 2,400, all Mexicans and having no negroes. ²

Béxar itself stood wholly on the western (right) bank of the river San Antonio. Two or three streets running approximately north and south crossed the one principal street, which ran nearly east and west. South of the main street was the military square, Plaza de Armas, while to the eastward of this, and separated from it by the parish church and a few other buildings was a second square, known as the Plaza de las Yslas, or, in later days, the Plaza de la Constitución. The houses facing the squares were generally solid stone structures, one or two stories high, with the usual flat roofs and parapets. All the rest of the town was made up of flimsy adobe huts.

Continuing easterly on the main street, the San Antonio River was crossed by a bridge, and about two hundred yards northeasterly from the bridge was the abandoned mission of San Antonio, better known as the Alamo. ³ In Pike's time this group of buildings served as barracks for the local presidial company. It was probably little changed in 1835, but General Cos had strengthened the walls of the old mission and mounted some small guns, thus making it the citadel of his miniature fortress. ⁴

Lower down the San Antonio River there were the remains of four other missions. The nearest was the Purísima Concepción de Acuña, distant about two miles and a half from the town and lying about half a mile east of the river. About two miles farther down was San José de Aguayo, whose solid masonry and delicate sculptures still excite, even in their decay, the wonder and admiration of the visitor, and which justly earned it the reputation of the finest mission in New Spain. Still farther down was San Juan Capistrano, of the same name as a more famous religious house in California; and, finally, about eight miles

¹ *Pike's Travels* (ed. 1895), II, 783.

² Filisola, *Guerra de Téjas*, II, 544.

³ As to the origin of the name Alamo (literally a poplar or cotton-wood tree) see *Tex. Hist. Quar.*, II, 245; III, 67.

⁴ Filisola, II, 179-184.

below Béxar, was San Francisco de la Espada, which even in 1835 was in almost total ruin. The Indian neophytes of all four establishments had long since disappeared.

The river near the town was not over sixty feet wide at any point, and was almost everywhere fordable. Irrigation ditches ran down on both sides of it, nearly parallel with its general course, and in the region of the missions the ground was fairly well cultivated.

Austin moved from his camp on Salado Creek to the Espada mission on Tuesday, October 27, and sent forward a party of ninety-two men under the command of James W. Fannin, with orders to select a suitable camp as near Béxar as possible. ¹ With Fannin went James W. Bowie, one of Austin's staff, who was doubtless selected for his local knowledge, for Bowie knew Béxar well, having married a daughter of Juan Martin de Veramendi, one of the principal residents of the town.

Close to the Concepción mission a bend of the winding San Antonio leaves on the east bank of the stream a level meadow in the shape of a rough semicircle, several feet below the level of the neighboring prairie. On the land side, the meadow is terminated by a rather steep bank or bluff about eight feet high, which forms the chord of the arc described by the river; and on this well-watered and grassy spot Fannin and his men bivouacked for the night.

Early on Wednesday morning there was a dense fog, but when it dispersed the Texans found themselves confronted by a superior force. They at once cut away the bushes and vines on the face of the bank, and at the steepest places they cut steps in the slope so that they might stand and fire over the top. The opposing force consisted of all General Cos's cavalry with a few infantry and one piece of artillery. Cos had made a reconnoissance in person the previous day, but had returned without meeting the Texans, although he heard from two of the inhabitants that Bowie had crossed the river near Concepción at three o'clock in the afternoon. In consequence, he had directed his cavalry to be ready to

¹ *Comp. Hist.*, I, 550.

start again at daylight, and soon after sunrise they reached the neighborhood and learned that there were a few rebels in the old mission. The commander of the detachment halted and sent back for artillery, whereupon Cos sent him one field-piece, escorted by the small detachment of infantry.

The delay in obtaining this field-piece was what had enabled the Texans to prepare their defence; but finally, at about eight o'clock in the morning, the whole of the Mexican force, numbering some two hundred and eighty men, was formed opposite the right of the Texan position, and advanced slowly. Their one gun was at the same time pushed forward.

This not very vigorous attempt to dislodge the invisible enemy failed. The Texan fire was reported to have been very deliberate (*muy pausado*), and it was at short range. The Mexican field-piece was only fired five times, so deadly was the execution of the Texan rifles. In ten minutes, says the Mexican historian, nearly all the supporting infantry were killed or wounded and the gun was abandoned. The remaining Mexican force retreated in disorder, leaving one officer and twelve men killed and three officers and thirty-two men wounded. The Texan loss was one man killed and three slightly wounded.¹

By noon on this same day the main body of the Texans had arrived at the Concepción mission, and the question of an immediate attack on Béxar was discussed, but Bowie strongly advised against the attempt, and Austin's own judgment, then and later, was that the position was too strong to be taken without "heavy battering cannon and ammunition."

It had been the expectation of the Texans that Cos would not allow himself to be besieged, and Austin therefore sent forward a flag of truce with a demand of surrender. Cos, however, refused to hold any communication with rebels, and sent word to the bearers of the flag who had been detained by his pickets that if they did not withdraw

¹ Filisola, II, 157-160. Bowie's report to Austin is given in *Comp. Hist.*, I, 550.

at once he would have them shot.¹ By this time Austin was convinced that "the fortifications are much stronger than has been supposed," and called a council of war, which decided that it was inexpedient to attempt an assault, and that such positions should be taken up, out of range of the enemy's guns, as would allow offensive operations to be carried on while waiting for "the large cannon."² About the first of November, therefore, the Texans encamped on the river half a mile above the plaza, and there for the next five weeks they stayed and accomplished nothing. Their mounted men were kept moving around the town, with a view to intercepting supplies, and there was some skirmishing; but there was nothing like a regular siege. Cos, on his part, was improving the time by building barricades in the streets and throwing up a redoubt on some waste land northwest of the plaza.³ Guns were also mounted on the roof of the parish church. Neither party attempted any offensive movement.

The Texans were constantly receiving reinforcements; but, on the other hand, their force was continually being depleted by reason of men quietly leaving the inactive army and returning to their farms. However, on the twenty-first of November, Austin having been strengthened by the arrival of a number of men and a twelve-pounder gun, announced his intention of making an assault on the town at daybreak the next morning; but as soon as his orders were issued he was coolly informed that a majority of the officers and men were opposed to the plan and would not attempt it.

Austin accepted these mutinous reports with extraordinary calmness, and issued a general order announcing that, as "the immediate commanders of the two divisions of the army" had informed him that "a majority of their respective divisions are opposed to the storming of Béjar," and as he had ascertained from other sources that "this majority is very large," the order for an attack was countermanded.

¹ *Ibid.*, 554.

² See Baker, *Texas Scrap-Book*, 646-652.

³ The barricades were built at the points where the streets came into the plaza. No flanking fire was provided, so that the barricades did not protect each other.—(Filisola, II, 195.)

A military commander whose movements were decided by a vote of his troops was clearly in an impossible position, and it must have been with a feeling of relief that Austin received the news that the provisional government of Texas had appointed him one of three commissioners to secure help from the people of the United States. On November 24 he left the army.

The timid and irresolute policy which had been displayed by the Texans before Béxar was not wholly due to Austin's physical and moral limitations.¹ The whole of his force probably felt convinced that they were not capable of meeting regular soldiers on equal terms, much less when the regulars were fighting in superior force behind fortifications; and in this view most men on the spot concurred. Anson Jones, afterward an important personage in Texas, records a noisy conversation between Doctor Archer and General Houston, the burden of which was abuse and denunciation of Austin for not breaking up the siege of Béxar and retiring east of the Colorado River.² Austin's friends believed also that intrigues had been going on to discredit him with his men and with the provisional government, but the evidence to that effect seems to be slight.³

As soon as Austin announced his retirement the Texans, according to a cherished custom, elected a new commander.⁴ He was Edward Burleson, a native of North Carolina, who had come to Texas in 1831 and settled on the Colorado River.⁵

¹ Austin's health was so poor at this time that he could hardly leave his tent.—(*Comp. Hist.*, I, 556.)

² Jones, 13. And see letter of Houston to Wylie Martin, Nov. 24, 1835, in Brown, I, 407.

³ *Comp. Hist.*, I, 559.

⁴ "We claim, and can never surrender but with life, the right to elect, and elect freely, our immediate commander."—(Resolutions of volunteers at Goliad, Nov. 21, 1835; Brown, I, 377.) The custom of electing officers was then universal in the U. S. In the spring of 1832 the Illinois volunteers assembled for the Black Hawk War elected Abraham Lincoln as their captain. "The method was simple: each candidate stood at some point in the field and the men went over to one or another, according to their several preferences. Three-fourths of the company to which Lincoln belonged ranged themselves with him, and long afterward he used to say that no other success in life had given him such pleasure as did this one."—(Morse's *Lincoln*, I, 35.)

⁵ Baker, 268.

The situation of the command was now daily becoming intolerable. Food was scarce, there were no proper tents and no supplies of clothing or shoes, and the winter, with its occasional severe northers, was drawing on. The volunteers were much dissatisfied. "Some prudence," Austin had written, "will be necessary to keep this army together," and when a vote, as usual, was taken, only four hundred and five men agreed to stay on. Among those who voted to stay were sixty-four men from New Orleans, constituting a company known as the Louisiana Grays. They had volunteered in New Orleans immediately on receipt of news that fighting was in prospect, had sailed for the river Brazos in October, bringing with them "an invaluable supply of munitions, provisions and military stores," and from Brazoria they had marched nearly two hundred miles to join Austin. They arrived at the camp of the besiegers on the evening of November 21, just as the proposed assault was abandoned, to their keen regret; for they were "willing and anxious for it to a man."¹

Burleson, in this difficult situation, summoned a council of war, which met on the evening of December 3, and concluded to raise the siege and go into winter-quarters either at Gonzales or Goliad. The necessary orders were issued on the next day, and by the evening all, or nearly all, the preparations to retire on the fifth had been made.

This time the men were greatly disappointed, for the impression had been gaining ground of late that the strength of Béxar had been exaggerated. This impression was fur-

¹ *Comp. Hist.*, I, 557. Another company of Louisiana Grays, which left New Orleans at the same time as the company above referred to, but travelled by way of Natchitoches, joined the Texans somewhat later. There was also a company from Mississippi under a Captain Peacock which took part in the siege of Béxar.—(Yoakum, II, 23, 24.) Among the members of the Grays was a certain Hermann Ehrenberg, who took an active part in the Texan War, and survived to write three books in which he described his adventures. These books, all published in his fatherland, are *Texas und die Revolution* (Leipzig, 1843), *Der Freiheitskampf in Texas* (1844), and *Fahrten und Schicksale eines Deutschen in Texas* (1845). They are said to have had a great influence on the subsequent large German immigration. See "Germans in Texas," by Gilbert G. Benjamin, in *German-American Annals*, N. S., VI, 315-340.