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On motion of Mr. Lipscomb,\* the Convention adjourned until half-past 8 o'clock, to-morrow morning.

Tuesday, Aug. 5th, 1845.

Half-past 8 o'clock, A. M.

The Convention met pursuant to adjournment, and was opened with prayer by the Chaplain.

Mr. Davis, from the select committee, to whom was referred the communication of the Commissioner of the General Land Office, of the 31st ult., made the following report :

Committee Room, August 4, 1845.

To the Hon. T. J. Rusk,

*President of the Convention :*

The select committee, to whom was referred the communication of the Commissioner of the General Land Office, upon the subject of that Department, have had the same under consideration, and a majority of the committee have instructed me to make the following report :

[Signed] JAMES DAVIS,  
Chairman.

By reference to the communication referred to, it appears that the expenses of the General Land Office, at present, are as follows:

Salary of Commissioner,	\$1,500
“ Chief Clerk,	1,050
“ Spanish Clerk,	1,050
“ Draftsman,	1,050
8 Assistant Clerks, \$850 00 each;	6,800
For County Maps and connecting Surveys,	1,000
Contingent expenses,	200
Stationary,	200
Patents,	1,000
Surveying Land Scrip,	500
	\$14,350

All of which expenses are now paid by the government, which seems to be an unfair appropriation, when we consider that those who obtain patents are the only persons benefited.

The great reduction of the resources of the country, consequent upon the change from the present to a State government, imperatively demands that the Land Office should support itself. When the contem-

plated change takes place, the impost duties will be cut off, and we shall have to rely solely upon direct taxation for the support of the State government.

It is the confident opinion of the Commissioner of the General Land Office, that a reasonable sum paid by each individual obtaining a patent, would amply defray all the expenses of the Land Office Department, in which opinion your committee concur.

The impossibility of the General Land Office, under the present arrangement, to supply the demand for patents, as well as the great inconvenience and expense attendant upon persons having business in the Land Office, owing to the large extent of territory embraced in the State of Texas, imperiously demands a change of the system.

Your committee have given the subject that deliberation its importance demands, and concur in the suggestion of the Commissioner of the General Land Office: "That the territory embraced in each county should be created a land section." The sections thus created, should be divided according to territory, into land districts: that there should be appointed, by the Commissioner of the General Land Office, one draftsman and one surveyor, whose duty it shall be to examine the field-notes of all surveys situated within the limits of their respective districts, and correct all errors that they may discover in the same; to run all divisional and connecting lines—complete maps; and do all other things that will tend to the perfecting of the land business of their respective districts, in accordance with the instructions of the Commissioner of the General Land Office, and return the same to the General Land Office, to be patented; and as soon as patented, they shall be sent to the land districts, to which they respectively belong, to be delivered to the patentee.

By the adoption of such a system, the great and increasing demand for patents, owing to the annexation of Texas to the United States, might be supplied. The owners of land are desirous to sell; and in consequence of the supposed great uncertainty of land titles in Texas, it might facilitate sales, to have patents.

The committee have instructed me to report the following section to be incorporated in the Constitution; and recommend its adoption:

"The Legislature shall, at its first session, so re-organize the Land Office Department, as to make it support itself, without becoming a charge to the State; and shall establish a number of land offices—not less than four nor more than six—until the year eighteen hundred and fifty, under such rules and regulations as shall be prescribed by law."

Mr. Jewett, one of the committee, filed his dissent from the report of the majority, as follows:

Committee Room, Aug. 4th, 1845.

To the Hon. THOMAS J. RUSK,

*President of the Convention:*

The undersigned, one of the select committee to which was referred the communication of the Commissioner of the General Land Office, upon the subject of that Department, respectfully dissents from that part of the report of the majority of the committee which recommends the insertion of an article in the State Constitution, providing that "The Legislature shall, at its first session, so re-organize the Land Office Department, as to make it support itself, without becoming a charge to the State."

The undersigned considers it the more judicious policy to entrust this subject to the sound discretion of the Legislature, than to enjoin as a mandate upon that body, to adopt at its first session, this radical change in conducting the business of the Land Office. The effect of the proposed change is important; and with the information before the Convention, its operation upon the different sections of the country, cannot be duly understood.

The attention of the Legislature will, doubtless, be directed to the subject at an early period; and it may be confidently expected that the necessary laws will be passed, to provide for such change in conducting the business of the Land Office, as the public interest may require.

[Signed]

HENRY J. JEWETT,

One of the Committee

The reports were ordered to lay on the table, to come up among the orders of the day.

Mr. Darnell moved to re-consider the vote of yesterday, referring the 18th section of the General Provisions to the committee on the judiciary; which motion was carried and vote re-considered.

Mr. Evans moved to re-consider the two votes of yesterday—one calling for the previous question on the 20th section of the General Provisions, and one adopting said section.

Mr. Cazneau moved to lay the motion on the table. Lost.

The question was then taken on the re consideration and lost.

Mr. Davis offered the following resolution:

*Resolved*, That the Convention, for the remainder of the session, shall meet each day (Sundays excepted) at half-past 8 o'clock, A. M.;

shall adjourn at half-past 12 o'clock, P. M.; shall meet again at half-past 2 o'clock, P. M.; and shall again adjourn at 6 o'clock, P. M.

Mr. Lipscomb moved to amend the resolution by meeting at half-past 8 o'clock, A. M., and adjourn at half-past 3 o'clock, P. M.

Mr. Young moved to amend the amendment, by reading, to meet at half-past 8 o'clock, A. M., and adjourn at half-past 6, P. M., which motion was carried.

Mr. Gage moved to lay the resolution on the table.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. Anderson, Evans, Gage, Jones, Kinney, M'Neill, Miller and White—8.

Noes—Messrs. President, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, M'Gowan, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—46.

So the motion was lost.

Mr. Parker moved to refer the resolution to a select committee.

Upon which the ayes and noes were called, and are as follows:

Ayes—Messrs. Caldwell, Evans, Gage, Hemphill, Lumpkin, McNeill, Parker, Rains and White—9.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, Lipscomb, M'Gowan, Miller, Moore, Navarro, Power, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—47.

So the motion to refer was lost.

Mr. Gage moved the indefinite postponement of the resolution; which motion was lost.

The amendment of Mr. Lipscomb, as amended by Mr. Young, was adopted.

Mr. Armstrong of J., moved the previous question; which motion was carried.

The main question being the adoption of the resolution as amended the ayes and noes being called, stood thus :

Ayes—Messrs. President, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Howard, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R.R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Ochiltree, Van Zandt and Young—50.

Noes—Messrs. Anderson, Forbes, Gage, McNeill, Tarrant and White—6.

So the resolution was adopted.

Mr. Forbes offered the following resolution :

*Whereas*, a resolution has been adopted, requiring the Convention to meet at half past 8 o'clock, A. M., and sit until half-past 6 o'clock, P. M.; therefore be it

*Resolved*, That the meals of the members be served in the adjoining hall,

Which resolution was laid on the table, one day, for consideration.

On motion of Mr. Burroughs, the Convention took up the

### ORDERS OF THE DAY.

The resolution of Mr. Evans, of yesterday, proposing the appointment of a committee of five to enquire into the land system of Texas, and report to the Convention, was taken up.

Mr. Cunningham moved to amend by adding "also the number of acres which have been patented by the government of Texas, and in what counties the same is situated." Adopted.

The motion of Mr. Howard, to refer the 21st section of the General Provisions, and the 4th section of the schedule, to the Committee on the Judiciary, was taken up; and, on motion of Mr. Jewett, laid on the table for the present.

Mr. Cunningham offered the following additional section, to come in between the 20th and 21st sections; which, he said, was nothing more than the 8th section of the old Constitution of Texas :

"All persons who left the country for the purpose of evading a participation in the revolution of 1836, or who refused to participate in it, or who aided or assisted the Mexican enemy, shall forfeit all rights of citizenship, and such lands as they may hold in this State."

Mr. Rusk moved to refer the section to the Committee on the Judiciary.

Mr. *Hemphill* remarked that the circumstances of the country were different at present from what they were at the time of the adoption of the old Constitution. Then very few gentlemen thought our boundaries would extend beyond the old province of Texas, since that time they had been extended much further. If we should adopt the provision, without making any distinction with regard to the old and the new boundaries of the country, we should subject a vast number of people to rules to which they ought not to be subjected, and who were not reached by the Convention at the time they adopted this section. He thought it a right belonging to all countries to confiscate the property of traitors, and put them to death if taken. - But the provision now introduced, he thought, covered too much ground. If not annexed, it would have been necessary for this Republic to have made a treaty with Mexico, or to have fought and driven off the enemy. If we made a treaty, we should probably have made provision for the protection of those who fled, in their property. Now, all questions of a similar character were left to the Government of the United States.

Mr. *Anderson* said: I hope the section will not be referred to the Judiciary Committee. It will not receive that deliberation which will be required; and the House is as well prepared now to act upon it, as it would be after such reference. I differ with gentlemen as to any effect which it would have upon a treaty between the United States and Mexico. Any right not laid down and defined in the joint resolutions, is reserved to the people of Texas. Those who left the country, and refused to participate in the revolution, and those who gave aid and comfort to the enemy, have now, under the old Constitution, forfeited all their rights and claims upon the government of Texas. She had the right to make such a provision; to discuss her right over this property would be to discuss a self-evident proposition. The United States does not require us to come into the Union with less rights than we had. How can this affect a treaty between Mexico and the United States? Is Mexico so formidable to the United States, that she would be compelled to relinquish any rights of one of her States; that in any future reconciliation the rights of this country must be sacrificed? Not so; but the reverse is the fact. I, for one, shall vote for the section, on the ground that Texas once had a right, and I see no reason for divesting her of a right; but I see an additional reason for perpetuating it, in the prostrate condition of the State, unless we adopt a section which will bring into the treasury of the country the proceeds of these forfeited claims. If it should be conclusively proved that this action is in violation of the Constitution of the United States, I will vote against it; but until that is done, I go for policy and expediency.

Mr. *Caldwell* said: I think this is a matter which ought not to be precipitately acted upon, but ought to be referred, or laid over for deliberation. At present I am clearly of opinion, though perhaps upon reflection that opinion may be changed, that the State of Texas, upon the adoption of this section, must yield now and forever all pretensions to the country between the Nueces and the Rio Grande. I have no idea in the world that we shall ever get that country, if we adopt this resolution. How many individuals are there of the large population in the vicinity of the Rio Grande, from Santa Fé down, who have not for the last ten years been aiding and assisting the forces kept there? Our own soldiers have been captured there by our own citizens. The inhabitants of that region scarcely know that we claim that country. We have never offered them any protection. They have aided the enemy, they have sold them provisions; that is the way in which they have lived. Are we to place this country in such a position as inevitably to lose that portion of our territory? The United States will not make any effort to treat for it, if compelled to move the whole population across the Rio Grande; they cannot do it unless they undertake to secure to those citizens the rights which they have never abandoned. Texas has never made any demand upon them in any way; are they to forfeit their rights because this government has never been able to exercise jurisdiction over them? In conclusion, I hope we shall desist from a mode of legislation which seems calculated to embarrass the United States in obtaining that territory for us. I doubt very much whether the annexation resolutions would be adopted by the people of Texas, if they believed that the country between the Nueces and Rio Grande was to be sacrificed. I would prefer the reference, that the subject may be inquired into.

Mr. *Young* said: It looks a little strange to me to see so many gentlemen pouncing down upon this section. If it is one of so innocent and inoffensive a character, why does it rustle up this opposition? If the object is, to put these beautiful gentlemen on a better footing than they were under the Constitution of the Republic of Texas, for one I am not prepared to go with them. By the Constitution, all persons who left the country for the purpose of evading a participation in the struggle, or refused to participate in it, or gave aid and assistance to the enemy, forfeited all rights of citizenship, and such lands as they might hold in the Republic. Let me ask, what became of the citizens in the neighborhood of San Augustine and Nacogdoches, who, for fear of being overtaken, stepped over the Sabine? What disposition was made of them, when they came up and asked for this league and labor? It was only necessary for the District Attorney to prove that they had left the country to avoid a participation in the struggle, and the jurors said they were not entitled to their land. What disposition then should be made of the claims of these people on the Rio Grande? Why, says the gen-

tleman himself, they gave the enemy assistance; they gave them beef and corn. And did not some of them take a command in the armies of Mexico—some of those now holding lands in the Republic of Texas? I ask if it is fair to make a distinction between these classes of people? Here the white man comes, and asks to be put in possession of what he conceives to be his rights; and the laws of the country say he has no rights; this very section of the Constitution excludes him. But the Mexican is to stand upon a different footing. He has done nothing else but going back to his mother country for peace and protection; and further, he has kept from participating in the war. Yet it is said that he stands upon a different footing. Because he was a native born citizen of Mexico, and is entitled to privileges which others cannot claim. A celebrated gentleman, named Seguin, has not only abandoned us, but actually turned out with those gentlemen who assisted in destroying the people of Texas. Yet you say, do not insist upon a forfeiture against him, because it may perhaps affect a treaty between the United States and Mexico. Sir, we are to be governed alone by the resolutions passed by the United States Congress. If Mexico, like all other civilized countries, had treated after a reasonable war, we might have been disposed to make the provision alluded to. But now, we do not care anything about it. We are not disposed, however, to do anything wrong, though we have the power to do so. These people have thrown off their allegiance; they have said they did not want the protection offered by our government, that they did not look upon it as a sufficient guaranty; and therefore they would relinquish all claims upon it, and take protection under their own flag. It is true, this may operate harshly upon some individuals who have slept upon their rights, and have not obtained the certificates they are entitled to. But they are few in number; they have slept upon their rights and continued to sleep, until they have lost all their chances. Now, sir, without the term "forfeiture" being placed in here, these persons may by chance obtain from the Legislature a statute for their relief; but it may be obtained, even with it, in a different way. In the case of those persons who can make a competent and fair showing that they were here and performed the duties required of every citizen, that they have always been ready and willing to do so, but have only forfeited their lands by sleeping upon their rights, I believe there will be sufficient power in the State Legislature to grant the proper relief. But I am opposed, and seriously opposed, to paying any individual, or giving him one foot of the public domain, who has absented himself from the country, or given relief or comfort to the enemy. It is argued by the gentleman from Bastrop, that these people are peculiarly situated; that at the formation of the Constitution of the Republic, they did not consider themselves citizens of Texas, and from his argument it would seem doubtful whether they are really in the Republic of Texas. Then this clause will not extend to them; if they are not in the Republic, if they are not citizens, they cannot be affected. But I do contend against

the claims of persons who lived within the proper limits of Coahuila and Texas, and who abandoned their country and actually joined the armies of the enemy, and committed perhaps as much depredation upon Texas as any Mexican in the nation.

Mr. Brown said: It seems very difficult for this body to obtain any rule of action upon this subject. I cannot agree with either side. I am willing to go thus far and no farther: I am willing to reaffirm the law as it aforesaid was; but beyond this I will not go a step. I am willing that the forfeitures which ought to have accrued to this government, in consequence of the delinquency of those who fled from the country, or took part against us in the revolution, should accrue to the new government. I think I should have gone no farther in giving my support to the 20th section, if the amendment had been adopted; for there was no proposal to take away from the Legislature the power of reinvesting these rights hereafter, it should become necessary; the whole effect was to declare that by the Constitution they should not be reinvested. To that extent it had my support. I cannot support the proposition before the House at this time. It goes beyond the old Constitution, and proposes to declare forfeitures for acts which have occurred since the adoption of that instrument. It will not, however, affect any treaty to be made between the United States and Mexico: the State of Texas will have the ownership over this property. This is a bugbear which ought not to have a place in the discussion of this subject. I wish the law as it stands may continue in force, and that matters formerly in suspense should so remain, to this extent; that no individual should acquire any of these forfeited rights: but I am willing that the government should acquire them. I do not think, when this subject is fairly considered, that any thing can be plainer than that this Convention ought not to relinquish any rights of forfeiture, and that they ought not to inure to any but the government; nor do I think that this body ought to be in haste to bring about these forfeitures. I think it should be left to the Legislature, where it belongs, of all bodies the best able to determine when these rights should be suspended, and when they should be exercised. But the proposition of the gentleman from Victoria goes far beyond any thing contained in the Constitution of 1836. An individual case has been stated, of a man who held at one time a high place in our esteem; a man who, if I remembers aright, had once appeared in battle under our flag, and sat in the councils of the country; one who has forsaken the country, and attached himself to another at war with us. But, sir, that is a single case: it is not a fact sufficient to authorize a general rule. And, sir, if it were, for aught I know, a man who has forsaken his own country forever, where he has property, and forsaken it with the prospect of having to relinquish that property forever, may pass his title to some body else; and per adventure, by passing the resolution offered by the gentleman from Victoria, we might deprive some

honest and good citizen of his rights. Suppose that any man from the East, West, North or South, had bought of John Seguin. The old provision went into effect in 1836: this goes into effect in 1845: that is precisely the difference. Between these periods there have been no cases, to my knowledge, which require the interposition of this Convention; at all events, they are so few, and so insignificant, as scarcely to deserve it.

Mr. *Henderson* said: This question involves more interest than some gentlemen seem disposed to allow it. I think the true inquiry is, will the passage of this law embarrass future negotiations between the U. States and Mexico? If it does, and I conceive the United States' government will so regard it, I presume that every gentleman upon this floor is ready to say that it would be unwise to enact it; and I agree with my friend from Bastrop, in the opinion that it will have that effect: that it will throw embarrassments in the way of the negotiations which the United States must enter into with Mexico on the subject of our boundary. How stands that question? By our acceptance of the very resolutions of the United States' Congress, which have called us together, we have passed out of our hands all power over that subject. And if we adopt this clause, we shall be saying to the United States, we adopt your resolutions, with the reservation that we claim the right to confiscate the property of all the citizens who have lived in this disputed territory. Would it not be a question intimately and necessarily connected with that of boundary, whether these lands belonging to citizens of Mexico, should be confiscated, or restored to their original owners? This is not a bare question of revenue, a mere matter of dollars and cents. If it were, I would ask this House, in what single instance has the government of Texas been benefitted by these declared forfeitures? Where is there a single instance in which this clause of the Constitution has been enforced to the benefit of the government; or when will there be such, if we judge from the past action of the Legislature of the country? Have they adopted any means by which forfeitures can be declared or enforced? Individuals may have been benefitted, and this may throw land into the possession of individuals, but I venture to declare that it never will throw one dollar into the treasury of Texas; nor will the government gain one foot of land by it, unless the whole nature of the people and the course of our legislation are changed. Then let us leave this matter as it is: it is sufficiently provided for by the 20th section; let us leave things just as they are, but let us do nothing to restrain the United States when they enter into negotiations with Mexico upon the subject of boundary. If we reserve to ourselves the whole control over the question, not only shall we not produce the effect which gentlemen seem to desire by enriching our treasury, but shall embarrass future negotiations and delay the settlement of difficulties with Mexico, if we do not throw an insuperable barrier in the way of the

adoption of our Constitution by the government of the United States.— Viewing the question in this light, and entertaining these opinions, I think at least we should refer this section, that it may be more maturely considered, and acted upon with more deliberation.

Mr. *Young* said: Why does the gentleman from San Augustine want this section referred? Why not bring it up here at once, and let these gentlemen vote against it? I am perfectly willing that every man in this House should vote against it but myself. I call upon the liberality of the House to bring the question fairly up. I want the ayes and noes, that God and my country may see how each man votes.

Mr. President *Rusk* said: I have as little objection as any man to record my aye or no. But I do not pretend to the quickness of perception characterising some gentlemen, who are prepared at once to cast a vote upon a question involving so many important considerations. The question before the House is the one with which it was attempted to embarrass the 20th section. Now, that 20th section preserves the laws relating to forfeiture in force and effect, precisely as they have been for the last ten years; they are as much in force as they were on the 20th March, 1836, and will so continue to be until altered by a future Legislature. If the country is to get rich then by means of these forfeitures, it can do it now; if we want to punish those individuals who have taken a hand against us, we can do it now. Going a step further, I am ready to vote for the 4th section of the schedule, with some little amendment. I do not intend to let gentlemen put me in the position of throwing away these lands, when I vote against this section, which I think embraces nothing, which does not carry out the principles of justice, but I think will operate serious injustice, and, I am afraid, injure the cause of Texas. What is the great object avowed by gentlemen? That Texas may become rich. A set of Mexicans have taken arms against us, and the whole indignation of this Convention is aroused to punish them and enrich the treasury. Now there was a similar provision in the Constitution of 1836. Has the public treasury been enriched by these forfeitures? I attempted in my place in the Congress of 1837, to bring about a declaration upon the subject, but nobody would sustain me; I could not get these riches into the coffers of the country. Sir, this is a mere idle shadow; I have come to the conclusion of the old gentleman shearing a hog, that it is great cry and little wool. It may do for the ayes and noes: it may do for bunkum; but I have never yet seen a dollar accrue to the government from this source; and I will further make the assertion, that every dollar we shall ever derive from it will cost us five.

Gentlemen say they are not afraid that the United States government will reject our Constitution. I am not so bold as that. I see a gentleman of age and learning, one who stands proud and pre-eminent for honesty and integrity, a man as fully identified with Texas as any gentle-

man upon this floor, rise in his place, and tell you, that if your Constitution should contain such articles as these which are attempted to be crammed into it, were he a Senator in the United States Congress, he would feel conscientiously bound to vote against the reception of a Constitution of that description.

These people, it is said, took up arms against us. Yes, sir, they took up arms against us, and I have probably as good appreciation of the Mexican character as any gentleman here; I have seen it in its bad phases, and I have seen it in its good phases. I recollect, when the tocsin of war was heard in the land, that almost every citizen of San Antonio turned out his cattle and sacrificed every thing he had to support the army. Thousands upon thousands were thus contributed, and I doubt if ever one dollar of it has been paid back. I recollect many a Mexican in those days who stood by us, and battled bravely with us against their own countrymen in favor of the principles of civil and religious liberty. At Victoria the same thing occurred; the same thing at Gohad. It is very true that many joined the enemy. There are bad men among them as well as others; and many of them who were true patriots, and ever in favor of the true principles of liberty, were forced to join the enemy. Santa Anna, a bold and renowned military chieftain, was in possession of their towns and country; they were helpless and immediately under his control; and if they refused to obey his dictates, at a nod from him, their lives would be taken, and their families turned out upon the world. Will this Convention, now in a time of peace and quiet, when the country is rejoicing in prosperity and about to enter the glorious American Union, descend from its high functions, to wreak the vengeance of the State upon these poor people? It strikes me that the provision in your Constitution has a very limited application: there were but few there who could have forfeited their lands in 1836. We were obliged to drive them away, giving them the choice of places to which to remove. They deliberated upon it: if they went back into the interior settlements, they would have no way to make a living. Some chose to return back, and a great many perished; some went to Matamoros, and a great many of them were killed. In truth, the whole western frontier presented, in 1835, a flourishing population, which was not then against us; all were in favor of civil liberty and religious toleration. What does that frontier present now? A scene of desolation, distress and degradation, brought about by the war. And would it be chivalric and generous in us, to take advantage now of our power, and take away these lands, even supposing that they had been thus forfeited? What would it benefit Texas? How was it in 1837, when the facts and circumstances were all before the community when the proof was at hand; and what would be the operation of this now? But these laws should be put in operation, is spoken of as a thing absurdly necessary for the country, its welfare and safety. In 1837, it was thought so little of that the Congress of that day refused to appoint officers to inquire into the

cases in order to declare forfeitures. It was as much needed then, men were as keen then upon the subject of revenue as they are now, or ever will be. What would be the practical operation of this law? Suppose you send an officer to make the necessary investigation at Bexar, or any where else, eight or ten leagues of land, very fine land are pointed out, information is filed against as many individuals; and after a great expenditure, after a labored effort, a case goes to the jury, when some gentleman walks up and says, I have got a patent for this land. I imagine this would happen with regard to most of the important lands. The government would then be under the necessity of spending a great deal of money in a contest with her own citizens.

The government of the United States, the people of the United States, have not acted upon this principle of forfeiture; they have punished their enemies upon the field of battle, and when a war was over, they have indulged those noble feelings of the heart, for which I hope, Americans will always be distinguished, and never punished in cold blood. The first thing that Mexico will do, as a matter of pride, when she comes to negotiate about limits, will be to insist that these citizens who were forced to leave their homes during our revolution, shall not be deprived of their rights; and the United States, with this in the Constitution, can make no such arrangement. In adopting this article, we are undertaking to prevent the United States from settling these matters upon such principles as she may think right and proper. I trust it may be referred to the committee; if forced to vote upon it now, I shall vote against it.

Mr. Young said: I have had the misfortune, since I have had the honor of a seat in this House, to incur the displeasure of some gentlemen. I am truly sorry for it; I regret to differ from them; yet I look upon it as a right guaranteed to me, as a right in all civilized assemblies guaranteed to every free man, to have and express his own opinions. I look upon it as a little ungenerous to accuse me so harshly. Now, I have been charged here, and still stand charged of going in for bunkum; though, if I understand the meaning of the term, I am in for bunkum, and I believe that every individual who has the honor to represent the free citizens of Texas, should be in for bunkum daily. I believe it my duty and my solemn duty, when I go home, to be able to give as much satisfaction to the people who sent me here as the case will admit of. The question here is, whether we shall adopt that clause in relation to forfeitures and escheats adopted in the Constitution of Texas. Gentlemen have argued that the consequences would be very serious, at least with regard to one portion of the country, that lying immediately upon and adjacent to the Rio Grande. For various reasons, it does look a little hard upon those people. The gentleman tells you they were between two extremes, and were ordered away. And why? He did not tell you the reason. It is because they were giving comfort and assist-

ance to the enemy. The general saw the part they were playing, and was determined to put a stop to it. They had to come up and say whether they would take the part of Texas or of Mexico; and the result was that most of them went back to Mexico; it was natural for them to do so. Those who came into the interior of Texas, do not come within the provisions of the act. These people abandoned the country; they had the right to do so; and the Convention had the right to adopt this clause in the Constitution, they did so, and the people of Texas adopted it. There were other citizens of Texas, who left the country with a view to avoid a participation in the war. This section is not intended to single out any particular portion of the country. These people took advantage of the opportunity afforded them, and went into the interior of Mexico, whereby they forfeited their claims here. The war has gone on; in our struggle for independence, the Mexicans have been trying to put us down, and the American people have given us all the assistance they possibly could. And now it is said we must leave this matter open in order to provide for particular Mexican gentlemen, who have left the country when their assistance was most important to us, while for these individuals who came into the country from the United States, prepared with their rifles to defend the land of their adoption, we are to make no sort of provision. Now, I ask if this is right? Is it right to pay the individual who has violated the laws and left the country in her necessity, while we refuse to pay the individual who has come to our assistance. The proposition of the gentleman from Victoria is nothing more nor less than a revival of that section in the Constitution. It is argued that the adoption of this clause will probably prevent our annexation to the United States. I cannot for my life see how it can have that effect. It has been all this time in our Constitution; it is so still. The Resolutions of the United States Congress were passed with this section in our Constitution. Why then will they refuse now to adopt this Constitution, if we insert it here? As to the remarks of the gentleman from Washington, alluded to by the gentleman from Nacogdoches, they were made in allusion to the 21st section, which is a very different thing from this. According to my notion this section ought to go down, and I want at least the House to vote upon it. As for referring it, the question has been sufficiently debated, and I think the longer it is discussed, the less we shall know about it. If the majority of this Convention are opposed to it, they can as easily say no as yes. I can see no objection to taking the question here.

Mr. Kinney said: My position, Mr. President, is very different from that of the gentleman from Red River, very different indeed. I, sir, do not go in for "bunkum;" and if I did, I should not expect to gain any thing by making a speech, because I am, I believe as much out of my element in speech making as I could possibly be. I am here, sir, to contend for those things which I think right and just; I came here with a view to

assist in making such a Constitution as I believe will be for the interest of the great mass of the people. I go farther, I would not, sir, go in for individual interest, with as much disposition as I have to advance my own interest, I would not destroy the rights and privileges of others, if I know myself. I wish I had it in my power to give the views I entertain with regard to this subject with the clearness and conclusiveness of the gentleman from Nacogdoches. I believe he takes the right view of the matter: I believe he understands the situation of the country as well as any living man. He has been here a long time; he has participated in all our toils and struggles in the contest for independence, from the beginning up to this day, and has attained a reputation among the people to which few can aspire.

The question here seems to be about the right of taking from individuals who have assisted the Mexican enemy, their property or their lands, by confiscation. Sir, there are a great many things to be taken into consideration in this matter. We must look at the peculiar position which these individuals may have occupied; they may have been placed in a situation where they were obliged to give assistance to the enemy for their own security and safety, when they did not feel any disposition to do so. I have been in such a situation myself; and when Mr. Mexican came, I treated him with a great deal of politeness, particularly if he had me in his power; when Mr. American came, I did the same with him; and when Mr. Indian came, I was also very frequently disposed to make a compromise with him. My situation has been very peculiar, and I cannot see whose rights I have infringed upon. Those people spoken of by the gentleman from Red River may have marched as far as the Sabine, or a little this side of it, with their rifles on their shoulders, to fight the battles of Texas; they may have done some very good fighting there; but I have never seen any of them in the country where I reside. I would like to make some remarks for the information of the House; if I had the power to treat the subject as it deserves, I would do it fully. But I will state some cases which have come under my own observation; and one which refers to myself. In 1840, some gentlemen who lived a little further in the interior than I did, thinking perhaps that my situation on the Western frontier might not be of any advantage to them, denounced me as a traitor, asserting that Mexicans had come to my table and drank my coffee. I did not deny it: I was invited here to Austin, upon a charge of treason; I came up and answered to the charge; and, so far as I know, I believe I was very honorably acquitted. However, after this I went on a mission to Mexico, and during my absence the same thing occurred again. Some individuals thought Kinney's Rancho a very desirable location, and as I had the reputation of being a traitor before now, was the time to renew the accusation. During my absence, it was reported that I had been executed in Mexico, and some individuals went and made a location on my land, and I believe they have received their patents. Now, sir, I suppose if I had not

been back in time to defend myself, if I had remained a prisoner, or had been shot for the service I was trying to do to Texas, my lands would have been forfeited. There are many similar cases. I recollect an instance of an individual who was killed at the commencement of the Revolution, at the town of the Mission. His family had no means of supporting themselves there, and amidst the desolation of war they were driven from their home; their houses were plundered and burned, and they had to seek a habitation elsewhere. The widow went to the States, and is now residing at Mobile. After her departure, some white gentleman, I suppose of the class referred to by the gentleman from Red River, got a certificate and located it upon this widow's land. This gentleman, when remonstrated with, said that she had left the country and forfeited her claims; that he was here to fight for the country, which she could not do; she was a widow, and had no friends to contend for her claims, and he would hold the land. I believe I could enumerate many such cases.

I consider this a very unjust thing, and I do believe, with the gentleman from Nacogdoches, that the insertion of such a clause in our Constitution will prevent its being accepted. It is said by some that might makes right. I have known so many instances where I have been obliged to knock under myself; and I have no doubt but the position of many of the citizens of Texas is the same as my own. I ask you, sir, what jurisdiction Texas has extended over the country between the Nueces and the Rio Grande, where has there any civil authority been exercised under the government of Texas, to give this country the right to it? When Messrs. Williams and Hackley went to Mexico, this question was asked by the Mexican Commissioner. There is Mr. Kinney, he has occupied it, was the reply. We know that very well, said the Mexican. But he has been paying no duties, they rejoined. A fool he is for it, said the Mexican; what protection has Texas ever given him to claim that country under him? I will not ask you, what protection have I ever enjoyed from Texas? I have been permitted to stay there by the Mexicans, and not in consequence of the protection afforded by Texas.

Though there are so many who are anxious to drive away these people and confiscate their property, I have never seen them in the West, fighting the battles of their country. I have been there long upon the frontier, and I cannot sit still and see the families of those who weltered in their blood, in defence of their country, despoiled of their rights; I know many and many a widow and orphan, whose husbands and fathers were slain in the cause of Texas, who have gone now to the United States for security and to gain a subsistence; and their lands have been located by those white gentlemen, or somebody else. I am for giving all their rights. If Mexicans, let them be called white or black, have rights with us, let them have those rights. I will say here, that I have had as good and faithful soldiers who were Mexicans, as I have had of the Americans.

I hope nothing will get into the Constitution, interfering with the rights of any individual. I want to leave this matter open; I want the evidence brought up, that a fair investigation may be made, and no snap judgment taken against any individuals. I would rather see the whole of Texas sunk, than to see these old settlers, who have fought the battles of the country, and given her the character and position which she now enjoys in the world, deprived of their rights. Might does not always make right. It is not right and just to pursue this course towards those who have been placed in this peculiar situation; who have not been able to defend themselves, while it has been out of our power to give them protection. In such a case as this, we have not the right to confiscate their property, to take from them their homes, the lands they were born upon and lived upon up to the time of the Revolution, without giving them a showing, and without considering their situation. And I hope and trust that nothing will be done by this body which shall affect this interest, without giving them a legal hearing. However glaring the case may be, I shall be opposed to depriving any individual of his rights, or annulling any contract, without a hearing. A mere report does not satisfy me that we have the right to confiscate the property of another. I therefore hope the section will be referred and duly considered. I will go as far as any one to promote what I think the interest of Texas.

I believe that where a man owns eleven leagues of land, some people may have interest enough in getting part of his lands, to procure sufficient evidence against him, when perhaps he may only have left to place his family in security. I believe this clause would affect as many people in other parts of the country as in the West; for I know a great many white gentlemen have taken the *Eastern* shoot, quite as many as those who have gone West. When the people of Carlo's Ranch were ordered to leave by the officers of Government, they were told that it would not affect their rights at all. I know many of these who went East, and have gone back to their homes again. Others went to the Rio Grande, and they have been anxious since then to return to their homes. Would it be right to confiscate their property? It must be considered that they left their homes by order of the officers of Government. I trust the section will be referred.

Mr. *Horton* said: I rise in the first place to remark that my friend from Liberty, as will be recollected by the Convention, gave notice that he should offer an amendment, which, if presented, would have superseded the necessity of some of the argument advanced by the gentleman from Nacogdoches, as well as of any remarks on my part. But I feel myself called upon to say a few words in addition to the remarks of the gentleman from Nacogdoches; though so far as I am capable of comprehending the subject, he has covered all the ground susceptible of being occupied. He did not, however, go far enough, in my judgment, with regard to the situation of the Mexicans in the West. He observed that he

issued an order in 1836, commanding this class of individuals to leave that section of the country; which I know to be the fact. In the spring of 1842, Col. Owen, in command of our troops at that time, issued a similar peremptory order. In the fall of the same year, I had command at the station below, and, at the instance of the President of the Republic, I gave a peremptory order to the citizens living at Carlo's Rancho, to remove immediately from that section, either westward or eastward. The objection made by Carlos was, that he had been told, if he left the country his lands would be forfeited. I replied to him, that the law would not bear upon him, because he was only complying with a peremptory order received from one who had authority to give it, and unless he did remove, with all those living around him, if I found them in the neighborhood after the lapse of a few days, I should treat them as the common enemy of the country. I presumed that in consequence of this order they left the country. I do not intend here, by any means, to advocate Carlos's conduct. But this provision, going farther West, included the lands between the Nueces and the Rio Grande. I would ask gentlemen what protection we have ever given to the people residing in that section of the country? What is their peculiar situation? When the Americans have gone there, they have preyed upon them; they have been necessarily compelled, by force or otherwise, to give up such property as they had. So *vice versa*, when the Mexicans have come in, they have been necessarily compelled to furnish them the means of support. Mr. President, I presume, if a number of individuals upon this floor knew the situation of these people as well as myself and others, they would not make this clamor against them. Since 1837 they have been preyed upon by our own countrymen. I am ashamed to say it, but I speak the truth before high heaven, bands of robbers have driven off their cattle by hundreds and thousands, to this portion of the country, to the Brazos and further east. The cry is that they have taken up arms against this country. Against whom have they taken up arms? Against a set of robbers, sir. Who would blame them, situated as they are, for protecting their property and persons? Not only have they been despoiled of their property but, I am ashamed to repeat it, such violations as have been committed upon females there, fix a blot upon the American character. And is their property to be confiscated under these circumstances? There are some individuals among them, it is true, but very few, whose property ought to be confiscated. But let us not make this provision general. I would ask, Mr. President, who are to be benefited by the forfeiture or confiscation of these lands? As the gentleman from Nacogdoches has already stated, when they are confiscated and put up at public auction to be sold, up steps some gentleman and tells you that he has a patent for the land. It would make a much better showing before the world, if the amendment of the gentleman from Liberty could be engrafed upon it; but under all circumstances I shall vote against the section, either with it or without it. I think am-

ple provision is made in the preceding section for all cases which require it.

Mr. *Cunningham* said: I introduced this section only for the purpose of calling for the ayes and noes. I believe that every member here is satisfied that the 8th clause of the Constitution of the Republic is not provided for in the section alluded to; since the word "forfeited," intended to embrace it, was stricken out. If, sir, we adopt this Constitution, and repeal the old one, we repeal that clause which forfeits the lands of traitors to the Republic of Texas. It is to prevent that, or at least, to show the opinion of the Convention in relation to that subject, that I introduced this resolution this morning. I hope it will draw out a fair expression of opinion. I am sorry that the gentleman from Nacogdoches made this motion to refer to a committee; I am satisfied it is not necessary to do that to kill the section, and when the question comes up, I shall call for the ayes and noes upon it as a test question. The gentleman from Nacogdoches has given his recollections of 1836, and the gentlemen from Matagorda and San Patricio theirs of 1842. I cannot contradict one word of what they have said; all I complain of is, that they did not tell you all. I, too, was there on both occasions, not indeed as a commanding officer, not as one having authority, saying to this man, go, and he goeth, and to another come, and he cometh; but as a ragged soldier. I had my eyes open, however. One of the gentlemen tells you that he ordered off the people of Victoria and Goliad, and that some went East, and some West. But, sir, were the citizens of Goliad and Victoria all there when he arrived? How many did he find there when he came with his army? Where were the rest, sir? Gone with the army of the enemy. When he arrived, I think there were not more than sixty or seventy persons in the town of Goliad, which in 1835 contained a population of eight hundred. Where were the seven hundred and fifty? They had left the country with the Mexican army, and gone beyond the Rio Grande. Why had they done so? Because they had taken up arms against the Republic of Texas; they had imbrued their hands in the blood of our people; they had perpetrated one of the most diabolical murders ever known in history. I think the gentleman from Nacogdoches will admit that a large proportion of the inhabitants had left when he arrived. Sir, I shall never forget the day when I heard the gentleman himself depict in the most eloquent terms, over the grave of Fannin's men, the atrocities committed by these people. The situation of things is not changed with us, though it may be with him. He has been removed far from the field of this cold blooded murder; we have lived upon the ground, and have visited that grave often and often. We have seen those citizens who were accused of perpetrating this murder; it is upon those persons we wish the vengeance of the laws to be enforced. The gentleman from Matagorda has also given us some reminiscences of 1842. I, too, sir, was there. The gentleman tells you that he or-

dared the people of Carlos's Ranch to leave; but he did not tell you why. I will tell you. In 1842, when General Woll moved upon Texas by the upper route, General Ampudia also came into Texas by the lower route, and was prevented by high water from arriving at Victoria, as Wall did at San Antonio. At this time the owner of Carlos's Ranch went beyond the Nueces to meet Ampudia. When these people were taken prisoners, they were told they need not go West, unless they chose; that though they had forfeited their lands, they might come into the interior and still preserve them. Not one came this way, but every man of them took up the line of march for the Rio Grande. But if it were not so, if the circumstances were otherwise, if they had been driven off without the commission of any crime, if the allegations against them cannot be proved in the courts of justice, their lands cannot be forfeited. This cannot operate against those who are innocent. The gentleman from San Patricio tells you of the widow and the orphan. Now, sir, these are not hurt; this section will not injure a solitary widow, or impoverish a single orphan; it will not affect the gentleman from San Patricio himself. If gentlemen wish to smother it, they can take their course, I do not intend it shall be, if one voice can prevent it. I pledge you my word that it shall go forth to the people, with the opinion of this Convention upon it. One word more, in relation to the remarks of the gentleman from Matagorda. He tells you that the people of the Rio Grande have suffered largely by the cow-drivers of Texas. They have suffered, sir, but how? The people of Goliad and Victoria, when they left their homes, drove their cattle, and with them the stock of the people of Western Texas, to the banks of the Little Colorado. And these very men, under Savriego, joined the Mexican army and committed depredations upon the people of Texas, until the latter commenced upon them. Savriego was defeated and driven away, and the cows which belonged to the Western people were driven back. These men are not such bad men; I know very many of the men engaged in this business, who are honorable men. I hope this matter will be tested on the question of reference.

Mr. Navarro (as interpreted by Geo. Fisher, Esq.) said: I do not rise, Mr. President, to make a speech, but to express before this Convention, and the whole people of Texas, that I have listened with attention to, and have heard with pleasure the remarks made by the gentleman from Nacogdoches, Gen. Rusk. The eloquent speech of that gentleman, in relation to the matter now under discussion, is founded upon the rock of eternal truth, as regards general rules, because they are expedient, suitable, and consistent with the rules of national polity; and more than all this, because, in my humble opinion, they do honor to the magnanimity of that gentleman, and to the generous character of the Anglo-Saxon race, from which he claims his descent. The reasonings of that gentleman please, in my humble estimation, in their equitable sense.

that blot which from time to time has soiled the rich drapery of the Mexican character, and provide amply for the exigencies of Texas for the time to come.

Therefore, Mr. President, and for want of an adequate mastery to the task, to embellish, nay, even to add any one single reason to the support of the premises so forcibly demonstrated, and so graphically depicted by the gentleman from Nacogdoches, I declare in behalf of my constituents of the county of Buxar, in the face of this Convention, and before the civilized world, that I adhere to the doctrine laid down by the said gentleman, and will vote with him on this question, and thus give an evidence of the old and so generally accepted maxim that "*facts speak louder than words*."

Mr. Horton said: It is true that the individuals alluded to by the gentleman from Victoria had assembled in a body, and elected a captain; and it is also true that a communication from Gen. Woll had been brought to them, which no doubt had its effect in calling them together. But they made another allegation, stating to me that it was to defend themselves against the violence of persons residing at Victoria and that neighborhood. I must say, however, that I did not believe it, neither do I believe it now. As to Savriego having driven off cattle belonging to individuals residing in the western portion of Texas, I would only say, to the gentleman, that Savriego did not commence the operation of *grab* first, sir. He had a quantity of goods at Goliad, at the time when Goliad was taken. These goods were locked up in the store, and he had the promise of the commanding officer (who endeavored, I believe, to keep his promise) that they should be taken care of, and in due time restored. The Colonel commanding gave him a permit to go at large; and during this time the storehouse was broken open and pillaged of every thing in it. And I suppose Savriego thought that if he could get a little back he would be right. Still, I do not approve his course; his general conduct proved him a very bad man. But, at the same time, I do not think that two wrongs make a right. And sir, our people exceeded the limits of the law of Scripture, requiring a fourfold payment. They got more than fourfold; they made a clean sweep, without regard to the fact, that the individual had taken a part for us, or against us. Could you expect Mexicans, under these circumstances, to fight for this country? In the change of government, they were promised a better. And how was this promise realized? They were stripped of every thing they had upon earth, and then called upon to defend the country. We are told by the gentleman from Nacogdoches, that, from the last of February to the first of May, that whole region of country was in possession of the enemy, and all communication was cut off. Now, I believe it is a generally received maxim, and a pretty good one, that no law is to be looked upon as being a law, as having the weight and force of a law, until it is promulgated. If this is correct, I cannot believe that the law

alluded to will affect these people. I know that there are some individuals, but few, whose property ought to be confiscated, but I cannot support a provision intended to take from any that which clearly and rightfully belongs to them. I have done.

The ayes and noes were then called upon the reference, and stood as follows:

**Ayes**—Messrs. President, Baylor, Caldwell, Cazneau, Darnell, Davis, Evans, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Howard, Hunter, Irion, Jones, Kinney, Love, Lusk, Lipscomb, Miller, Moore, Navarro, Parker, Power, Runnels and Standefer—28.

**Noes**—Messrs. Anderson, Armstrong of R., Bache, Bagby, Brashear, Brown, Burroughs, Clark, Cunningham, Hemphill, Horton, Holland, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, M'Gowan, M'Neill, Scott, Smyth, Tarrant, Ochiltree, Van Zandt, White and Young—26.

So the section was referred.

Mr. Hicks moved that the House adjourn for one hour. Lost.

Mr. Moore moved to take a recess of two hours.

Mr. Parker moved, as a substitute to Mr. Moore's motion, to take a recess till 3 o'clock, p. m.

The chair decided the motion of Mr. Parker's to be in order: from which decision Mr. Anderson appealed, and the Chair was sustained by the Convention.

On motion of Mr. Ochiltree, a call of the House was made; and on motion of Mr. Everts, a further call was suspended.

Mr. Everts moved a reconsideration of the vote adopting the resolution to meet at half past 8 o'clock, a. m., and adjourn at half-past 6, p. m.; upon which Mr. Darnell moved the previous question, which was carried.

The main question being the reconsideration of the vote adopting the resolution.

The ayes and noes being called thereupon, stood as follows:

**Ayes**—Messrs. President, Anderson, Bagby, Baylor, Brashear, Brown, Caldwell, Cazneau, Cunningham, Darnell, Everts, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jewett, Kinney, Latimer of R. R., Lumpkin, Lipscomb, M'Neill, Miller, Navarro, Parker, Rains, Runnels, Standefer and White—32.

**Noes**—Messrs. Bache, Burroughs, Clark, Davis, Evans, Gage,

Howard, Hunter, Jones, Latimer of L., Lewis, Love, Lusk M'Gowan, Moore, Power, Smyth, Tarrant, Ochiltree, Van Zandt and Young—21.

So the vote adopting the resolution was reconsidered.

On motion of Mr. Brown, the Convention adjourned until 4 o'clock.  
P. M.

4 o'clock, P. M.

The Convention met pursuant to adjournment.

Roll called, quorum present.

The President of the Convention announced a communication from the Commissioner of the General Land office, which was read, and is as follows:

GENERAL LAND OFFICE, AUSTIN, }  
August 5th, 1845. }

To the Hon. THOS. J. RUSK,  
*President of the Convention:*

Sir:—In compliance of a resolution with your honorable body, requiring me to report to the Convention, certain information, a copy of which resolution I received in a note from James H. Raymond, Esq., I have the honor to transmit herewith a statement, in which I have answered, as far as the records of this office enabled me to, the requirements of your resolution: in addition to which, I will remark, that I have no means of knowing the whole amount of scrip that has been issued by our government; but think that the amount yet out, or that has not been returned to this office, is about one-eighth of the quantity which I have shown to be in this office at the present time: the same is the case in relation to bounty-land warrants—not being able to inform you of the exact number issued by the department of war, or to state the precise quantity of land they contain. I have reported the same as near the truth as possible to be obtained from the data in my possession.

I have the honor to be,

Very respectfully,

Your obedient servant,

THOS. W. WARD.

## STATEMENT.

Superficial extent of Texas, as comprised within the limits defined by statute of 1st Texian Congress, page 133,	897,319 sq. m. of 254,284,160 acres.
Total amount of land issued by the various Boards of Land Commissioners,	43,543,970 "
Total amount recommended, from the above, as good and lawful claims by the Commissioners appointed to detect fraudulent certificates,	19,212,206 "
Total amount issued by Department of War, as bounty and donation claims,	6,300,000 "
Total amount of Land Scrip sold by the Government of the Republic of Texas,	368,787 "
Total amount of legal claims to lands issued by the authorities of Texas,	25,880,993 "
Total amount issued by the various Boards of Land Commissioners, and supposed to be fraudulent,	24,331,764 "
Total amount of land issued by the authorities of Mexico, a portion of which is supposed to be invalid,	22,080,000 "
Total amount of public domain subject to location, and unsurveyed,	181,991,403 "

On motion of Mr. Hemphill, 500 copies were ordered to be printed.

On motion of Mr. Hemphill, the communication of the Commissioner of the General Land Office, and accompanying resolutions, were referred to the committee contemplated by the resolution of Mr. Evans. Messrs. Evans, Everts, Smyth, Hemphill and Anderson were appointed said committee.

Mr. Everts offered the following as an additional section, to come in after the 20th section of the report:

"All claims, locations, surveys, grants and titles to land which are declared null and void by the Constitution of the Republic of Texas, are, and the same shall remain forever, null and void," which was read, when

Mr. Everts made the following remarks:

It seems to me, Mr. President, that on yesterday, when forfeiture became the subject of discussion, the importance of this matter was overlooked. I am not satisfied with the 20th section as it stands. I am not prepared, however, to say but that it does cover, perhaps, all the grounds contemplated by this. That section reads: "The rights of property, and of action, which have been acquired under the Constitution and laws of the Republic of Texas, shall not be divested: nor shall any rights or

actions which have been divested, barred, or declared null and void, by the Constitution and laws of the Republic of Texas, be re-invested, by this Constitution: but the same shall remain precisely in the situation which they were before the adoption of this Constitution." The portion of the country which I represent, as well as all the Red River country East of the Trinity, is covered with claims to lands, which are believed to be spurious. It is said that a great portion, the larger portion indeed of the enormous grants made to J. T. Mason and others, under the laws of Coahuila and Texas, have been located in that region of country. A large portion of the lands located, contrary to the laws of Texas, after the closing of the land office by the Constitution at the commencement of the revolution, are located in that region. And it is said that a good many claims, meritorious in themselves, have been located contrary to the Mexican law on the twenty border leagues adjoining the United States. The people of that part of the country, have many of them opposed annexation, on account of their fears that these claims might, by some means or other, be brought into a situation to interfere with their head-rights subsequently laid, and that they might thus be ousted from the possessions which they think they have honestly and justly acquired. That the whole of that country is shingled over two or three claims deep, there can be no doubt. The people know that by annexation, Texas does surrender a large portion of judiciary power; and that these claims, like many others, must and will be investigated in the Courts of the United States. The principal opposition to annexation, had its origin in these fears. When I was before that people as a candidate, these questions were discussed by my colleague and myself. We then told the people, that the same laws and the same rule of decision which would govern these cases in the Courts of Texas, would govern them in the Supreme or Circuit Courts of the United States. But to quiet all fears, and allay all the feeling upon that subject, we solemnly pledged ourselves to use our utmost endeavors to place an article in the General Provisions of the Constitution, which would cover these cases completely and fully. Now I would not risk my reputation as a lawyer, if I have any, by contending that these claims are not, to use a common expression, killed off by the 20th section; but as there may be just grounds for doubt upon the subject, I therefore introduce this section for the purpose of making that plain, and leaving nothing for the construction of the courts in any quarter or any country. If it is objected that the same question is covered by the 20th section, and that this is only explanatory of what is contained in that; then, sir, I say it will do no harm to place it in the Constitution in such language and terms as the people of the country can fully appreciate, comprehend and understand. I think something is due to the people upon this subject. In framing a Constitution to be ratified and approved by them, I wish not only that their rights should be secured, but that they should be secured in the estimation of the people. It may indeed be said out of doors, that the terms

*survey, land claim*, or any thing of the sort, should not appear in this Constitution. But it seems to me, that the same thing is covered and hidden in the 20th section; and I believe that those who may oppose our annexation on account of this, those in the United States who have an interest in establishing these fraudulent land claims, will scan every word in this Convention, and are as well able to see and understand any thing affecting their interests, whether this clause be put in, or the 20th section left as it is. It will make no difference at all. Is there a member upon this floor, who can for a moment suppose, that John T. Mason and other land speculators, who are perhaps as well acquainted as any of us with the situation of land matters in the Republic of Texas, will not understand and take ground against the Constitution, as well with regard to the 20th section, as to that which I propose? Certainly they will. I believe, sir, that annexation will take place. I believe that the Constitution would be received, with this clause in it. And I do not believe, sir, that the Congress of the United States will feel disposed to reject the Constitution on account of the eminent domain question. They have no control over it now. They do not propose to interfere at all with our land system. They say that the eminent domain of Texas shall remain forever in Texas, to dispose of as she may think fit. Then it does seem to me that the Congress of the United States could have no right whatever, justly or legitimately, to interfere and reject us on account of any thing in this Constitution, which we may see proper to place here upon the subject. Will they not know there that a portion of these claims are declared null and void by our Constitution as it now exists? Will they not see in our General Provisions, that all laws and parts of laws not inconsistent with this Constitution, are to remain in force? They will, sir. I must beg leave to differ from the gentlemen who entertain fears upon the subject: and if there is one single right unsecured by the 20th section, which ought to be secured to the people of Texas, I feel that I shall not be doing my duty, that I shall not be redeeming a solemn pledge, unless I endeavor to secure; fully and completely, every one of these rights. I wish them not only to be secured, but I wish it to be done in such language as cannot be misinterpreted or misunderstood, either by the people, or the courts of justice. I do hope, then, that this section will be adopted by the Convention.

Mr. *Hemphill* said: I can see no objection to the section. It only declares that the condition of these lands shall forever continue the same. The apprehensions, I presume, entertained by gentlemen whose constituents feel an interest in the matter, originate in the supposition, that, although these claims may not be revived by the Constitution, yet they may be revived in some way by the Legislature, if the law on the subject contained in the Constitution of 1836 be suppressed or passed over, or that like any other law, it may be repealed. I think it nothing more than reasonable that this Convention should quiet the fears of all the

people of Texas, and place every thing in such a condition as to keep all the public lands in precisely the same situation as now, and that all these claims which are null and void shall so remain forever. However great the advantages of annexation, and great they are, we ought not to secure them by taking away any of the rights of the people of Texas, or placing them in a different situation from that which they occupy at the present time. I do not think lawyers are under the apprehension that any right can be divested by a subsequent Legislature: but if the people entertain fears upon the subject, we ought to quiet them, we ought to give them confidence. I consider that as one of the principal duties of this Convention. This section cannot possibly affect injuriously a single right of any person in the country. It only preserves rights as they are now; it gives no man an increased right, and takes none away. It cannot possibly, as the gentleman from Fannin well remarks, excite against us any opposition in the United States. All the opposition which could be arrayed against us in consequence of a direct provision of this kind, would be arrayed against those which cover the matter in a more indirect manner. This would put an end to all controversy in relation to the subject. I think it is the desire of the people that we should close up all these claims, covering a vast amount of lands obtained by fraud. I have understood that, after the closing of the land office, something like two hundred leagues under one of the colonization contracts were thus obtained; whether surveyed or not, I do not know. I do not know how many claims have been located contrary to the acts of the Convention or Congress afterwards, but they cover a vast quantity of land, supposed by the Commissioner of the General Land Office to exceed twenty millions of acres. We ought to put such a provision in this Constitution, as will render them of no force and effect whatever. The provision in our existing Constitution was well understood in the United States previously to the passage of the annexation resolutions; and there seemed to be no objection upon this account: all the dispute was in relation to that portion of our lands now vacant, whether the United States should take them and pay our debt, or whether we shall retain them and pay our debt. I think the Convention would do nothing more than right in adopting the section.

The additional section, was adopted.

In the 22d section, 2d line, Mr. Hicks moved to strike out all after the word "families."

Mr. Love moved to strike out the whole section.

Mr. Davis offered the following as an addition to the 22d section:

And no married man shall be permitted to sell his homestead of not to exceed one hundred and sixty acres of land, without the consent of his

wife; given in such a manner as may be hereafter provided by the Legislature."

He said he thought it necessary to make some such provision to compel the head of a family to retain something. Even if a worthless fellow, a little land and a homestead would provide a living for his family. He hoped the section would not be stricken out, but retained with the amendment which he proposed.

Mr. *Ochiltree* moved to amend, so as to include a town lot. Accepted by Mr. Davis, and the question was announced upon Mr. Davis' amendment, with the addition of the words "or a town lot, not to exceed 200 dollars in value."

Mr. *McGowan* suggested that there was no town lot in a town of any consequence, which would not be worth more than three hundred dollars. He would prefer the amendment as it stood, believing it would cover the case as far as desirable, leaving it open in some degree to the action of the Legislature hereafter.

Mr. *McNeill* said he should like to see some value placed upon the land and the town lot. There was as much difference in the price of land in different places, as in that of town lots.

Mr. *Davis* said: "The spirit of the age is opposed to taking a woman's bed from under her, if she has a trifling and worthless husband. I hope this Convention will have some feelings of humanity in view of the distress which attends a helpless woman and her children."

Mr. *Ochiltree*, with leave, withdrew his amendment.

The question was put on the original amendment offered by Mr. Davis, and the ayes and noes being called, stood as follows:

Ayes—Messrs. President, Armstrong of R., Baylor, Brashear, Burroughs, Cazneau, Clark, Darnell, Davis, Evans, Hemphill, Henderson, Hogg, Holland, Horton, Howard, Jewett, Jones, Kinney, Latimer of L., Lewis, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Standifer, Tarrant, Ochiltree and Young—35.

Noes—Messrs. Anderson, Bagby, Bache, Brown, Caldwell, Cunningham, Everts, Forbes, Gage, Hicks, Irion, Latimer of R. R., Love, Lumpkin, McNeill, Scott, Smyth and White—18

So the section was adopted.

Mr. Love withdrew his motion to strike out.

Mr. Cazneau renewed the motion to strike out as amended.

On motion of Mr. Evans, the words "have power to," in the 1st line of the 22d section, were stricken out.

Mr. Jones offered a proviso: "Provided always, that the property exempted shall not exceed in value the sum of \_\_\_\_\_ dollars"; and proposed to amend the amendment by inserting 6,000 dollars.

Mr. Van Zandt moved the rejection of the amendment. He said he was willing to leave these things to the discretion of the Legislature. He would therefore move to leave it blank.

Mr. Jones hoped the motion would not prevail. He said he was not particularly married to the section itself; and after it was placed in the best form possible, he should vote for striking out. He believed that the Legislature would have full power to exempt from execution any property they might think proper. But if it was to appear in the Constitution, he wished it to appear there in the best possible shape.

Mr. Davis said it would not operate against creditors; as they will prove what property is reserved.

Mr. Van Zandt said it would act prospectively, and as a check to the credit system. He understood that in Alabama, those who had only 160 acres of land, were considered the most punctual people in the country; because they relied for their credit entirely upon their punctuality.

Mr. Anderson said he hoped the section as amended would not be adopted. He was opposed to the latter portion of it. If there should be a law to protect the head of families, it should be equal in its operation; if not equal in its operation, it would not be right and just. One tract of 160 acres would be worth five times the price of another; you would have one worth 1,600, and another worth 320 dollars. It would be contrary, as he conceived, to the spirit and genius of our Constitution, to authorize a reservation which would operate thus unequally and unjustly. He was willing to leave the matter with the Legislature. We could not adopt here a system which would embrace every particular case. If the object was to check the credit system, single men as well as the heads of families should be protected from the griping hand of the law.

Mr. Davis would say to the gentleman that the Convention was not legislating here for the heads of families, but for women and children.

Mr. Jones said he concurred with the gentleman from Gonzales in every particular. He had introduced the proviso for the purpose of making the section equal in its bearing upon all. He would go farther than the gentleman from Gonzales. The improvements upon some tracts of 160 acres would be worth 50,000 dollars while those upon others with the land would not be worth five hundred.

Mr. *Ochiltree* said: Gentlemen seem to be fighting windmills. If the object is to prevent any thing like a distinction, I am perfectly willing to vote for the amendment offered by the gentleman from Austin. But I hope and trust that gentleman will not insist upon striking out a clause so pregnant with humanity. We wish only to insert such a provision, that if the husband even by his criminal prodigality is reduced to necessity, his wife and little ones may not be turned out of their homes, to satisfy the remorseless cravings of a heartless creditor. That is all we want, all that we intend. I believe that the voice of the whole country will sustain it. I hope the House will not be driven from its support because some tracts of 160 acres may be worth thousands, and others not worth fifty dollars. This article does not cut off legislative action. The section is mandatory in its terms, and does not prohibit the Legislature from imposing such restrictions as to justice or equity may pertain.

Mr. *Jewett* said he conceived it would have a direct tendency to promote annexation of the women to the men; he was therefore bound to give it his support.

Mr. *Moore* said he trusted the motion of the gentleman from Austin would prevail; and that but a small amount would be inserted, say 2,000 or 1,000 dollars. He thought if we limited the land, we should limit the amount. He would move to fill the blank with 2,000.

Mr. *Van Zandt* said: I would call the attention of the House to this fact. This 160 acres of land may not be of much value now. But in a short time it will be worth a good deal more. Now if we should secure to an individual 160 acres not exceeding 500 dollars in value, and he should live upon it and raise his family upon it, in after times, perhaps, when his children have grown to a greater age, and have more need of the land, it may have become valuable, and exceed 1,000 dollars in value, and it would seem just as hard a case then to take it from the family as now. An individual, when he credits another, will have regard, not to the supposed increased value of the property, but to the amount he may actually have at the time, and may depend upon to pay his debt. I believe that the Legislature has the power to regulate the matter entirely, and that we should not clog their action here.

The motion to fill the blank with two thousand dollars was lost; and a motion was made to fill it with one thousand.

Mr. *Caldwell* said he hoped it would not be filled at all. It would have the effect of preventing an individual from improving his land, for fear of increasing its value beyond the amount specified, and thereby deprive himself of a home altogether.

Mr. *Henderson* would ask in what condition it would place the owner of 160 acres, if he should expend 150,000 dollars upon it? Was it

not a necessary to avoid that difficulty, as the one which had been suggested? He was willing to secure the heads of families or single persons, if possible, a certain amount of property, but did not feel himself at liberty to vote for a section which would enable the heads of families or other individuals to practice stupendous frauds, upon the public.

Mr. *Caldwell* said: I did not say that I was in favor of the section or the amendment. We have had laws upon our statute books exempting property from execution; and I have never seen any difficulty really in preventing property from being sold. There is no danger that any individual will be oppressed. The great difficulty here is to collect at all, or get the money at all in any species of debt. I do not think the poor or the indebted is in any danger; and I think it wholly unnecessary to provide for them under this Constitution. But if we are to pass such a provision, I do not see why we may not as well say 160 acres without fixing a minimum at all.

The motion to insert 1000 dollars was lost.

Mr. *Hunter* moved to insert 5,000 dollars.

Mr. *President Risk* said: I shall vote against the amendment, because I look upon it as offered for the purpose of embarrassing the section as it stands. If it is wise, and proper, and salutary to enact these laws exempting from execution and sale, a certain amount of property or the homestead, then it is wise and proper for the Convention to make them permanent, and not leave them subject to the whim and caprice of the Legislature. The only question, then, it seems to me, is whether or not this is calculated to be beneficial to the community. The time has been, when a woman's bed could not be exempted from sale under execution, when the last article of provision or comfort must be carried away from the family, and disposed of to satisfy the gormandizing appetite of speculation. It is one of the evils attendant upon the credit system, by which thousands have suffered the extremity of penury and want. I believe that the credit system is a great injury to any country, and is productive of very little good. Where one individual or family is benefited to any extent, thousands upon thousands suffer. So far as this operates as a check upon the credit system, it is so far good. There is no use in saying that a man may act fraudulently, because, before a man will extend credit to an individual, he will examine well into his land, and will know the property which is exempt from his gripe. There is then no fraud; the creditor does it with his eyes open. All will acknowledge the evil of credit when they are in debt and cannot pay. I am glad to see society acknowledging this, and abandoning the system, so far as circumstances permit. It seems to me that this provision will have a salutary and beneficial effect. This coun-

try must be an agricultural country. To develop its resources, we ought to give permanence to the titles of the individuals who occupy the soil; we ought to place them beyond the reach of any contingencies arising from misfortune or mismanagement. We shall thereby greatly encourage industry and improvement, and develop the agricultural resources of the country. It will encourage a family in improving its homestead, when it is placed in such a condition that the husband cannot dispose of it without the consent of the wife. I shall vote against the motion, with a view to offer a substitute for the latter part of the section.

The motion to insert 5000 dollars was lost.

A motion to insert 500 dollars was lost.

Mr. Ochiltree moved to fill the blank with 600 dollars.

Mr. *Forbes* said he was willing to go as far as suggested by the gentleman from Nacogdoches; but he was not willing to exempt from forced sale an amount of property, which may be a larger fortune than any man in Texas now possesses. And he thought that, while gentlemen were so anxious to provide for the women and children who occupy a homestead, they should have some consideration for those who have none. The persons who sometimes enjoy such property, enjoy it at the expense of those who have none. He was not willing to sustain a measure which would give a man a competence, whilst his creditor is in want.

Mr. Ochiltree and Mr. Jones withdrew their amendments, and

Mr. Rusk offered the following as a substitute to a part of the 22d section, including the amendment of Mr. Davis: strike out all after the word "families," in 2d line, and insert the following: "The homestead of a family not to exceed two hundred acres of land, (not included in a town or city) or any town or city lot, in value not to exceed two thousand dollars, shall not be subject to forced sale, for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the Legislature may hereafter point out."

Mr. *Forbes* offered the following, as an amendment to the amendment:

"And further, provided the one hundred and sixty acres of land shall not exceed in value, six hundred dollars."

Mr. *Lewis* said: I hope that no particular value will be attached to the land. There are the most serious objections to it. If by a course of labor and industry any piece of land, however sterile, should be increas-

ed in value beyond 2,000 dollars, the very object of that industry would be defeated. I think it the duty of the Convention to make some provision of the kind proposed." And for this reason in particular, that under no law in existence in this country, is the wife entitled to dower, and in none of the States, except where the civil law prevails, is she stripped of it. In this country, though she may have wended her way here through the mud and mire, with a view to secure a portion of land, yet when her husband dies, her land is swept from her. Then we should provide for her here. I trust the amendment will not prevail.

The amendment offered by Mr. Forbes was lost.

The question being on the substitute offered by Mr. Rusk.

Mr. *McGowan* said: He would offer a little amendment to that. He would like to have it read "lot or lots"; and that would include the homestead of the family. He was perfectly satisfied with the amount named in the substitute.

Mr. Rusk accepted the amendment, and the substitute was adopted.

Mr. Gage offered the following, as a substitute to the 22d section as amended:

"The Legislature shall, as soon as practicable, pass laws by which a portion of the property of all citizens of this State shall be exempt from forced sale; and in all cases, there shall be two hundred acres of land exempt."

Mr. *Lipscomb* said: Having offered the resolution in the committee, I will express my views in a few words. Considering the situation of the country, and looking back to the embarrassments I have witnessed in several of the United States, and the distress I have often seen come upon families, who have been so paralyzed by it as to be incapable of exertion. I believe it important to introduce a provision of this kind into the Constitution, lest the Legislature, not feeling the danger, might omit it, until too late. There is nothing unjust in it, because creditors have notice. We have often witnessed a drunken husband rolling in the gutter, or reeling through the streets, while his patient wife and little ones supported him and themselves by their industry. Until some provision of this sort is made, to secure the property acquired by labor, exertions will be made and expedients resorted to to cover it up and conceal it under petticoats, if you please. Secure it by law, and you will thus remove the inducement to these frauds. I trust, therefore, that the section will be adopted as amended.

Mr. *Love* said: I have no doubt it is the intention of the House to pass the section. One of the reasons why I shall vote against it, because

it marks a line of distinction between the rich and the poor. It denies to the man who has only a small property that which it gives to the rich to an unlimited extent. This country is not like some others. We are strangers to each other; it takes time to establish a character for moral honesty. The stranger, who perhaps expends every dollar upon his two hundred acres, has not credit for a single solitary dollar, because he is not known. Where do you find the principle that the man who is the owner of two hundred acres, shall not have credit, or that a man shall trust entirely to his honor, and that the man who owns three hundred, shall be entitled to credit to the extent of the one hundred? Again, there is another most mischievous principle involved here; God himself has said that the woman shall be subject to the man. In that provision you create causes of dissention and strife in families, that never will arise where the man and wife harmonise and agree, but always will, if a man is unfortunate enough to have a termagant wife, and though they are all angels, I know some of them who are very fairly entitled to that appellation. The gentleman has depicted the evil caused by a drunken husband. That is one side. I will not ask if he has never known any evil on the other? I have known many instances in which the man has found it for his interest to emigrate and go where he could do better, when the woman, in the spirit of perverseness would say, you shall not do this, I prefer staying by my father and mother. You will often find that the woman lords it over the man. I think it unwise to adopt any provision which would induce them to have a separate and distinct interest. The husband alone should be the judge of the manner and time of disposing of his property. If you pass this section, it does seem to me that every man who possesses only two hundred acres of land, may say, you have taken credit from me, and given it to the man who has over two hundred. If you desire to attack the credit system, I think it is unwise and unjust to make any distinction, except so far as it is indispensably necessary for the protection of the household; and I think that it should be left entirely to the husband to dispose of his property when he pleases and how he pleases.

Mr. President *Rusk* said: I think the gentleman argues very unfairly that this provision would give the woman the control over the husband. He does not certainly recollect the principle which runs through the laws of England, that the wife is entitled to dower, unless she voluntarily relinquishes it. He says it will prevent a certain class from getting credit; I reply that it will prevent them from getting into embarrassments, and becoming slaves to another.

Mr. *Baylor* said: I recollect the history of the whole matter, in the State of Alabama; and it will perhaps throw some light upon the subject to relate it. At an early day in the history of the legislation of that country, the Legislature, by enactment, set apart a small amount of pro-

erty, which could not be reached by execution. When it was first passed, as the commencement of a new policy, the result was simply this. An outcry was made against the law. The merchant raised his voice against it, because he thought it would prevent him from collecting small debts from the class of individuals which the law was intended to secure. The poor man himself raised his voice against it, because, he said, by exempting my property, you may prevent me from enjoying that credit which other individuals enjoy. Well, the Legislature went on, step by step, until at last a homestead of 160 acres was secured, together with a large amount of property. Now, what has been the practical result of this system? I have it from the most intelligent and faithful sources, and it is simply this. That the merchants and others uniformly admit these individuals, thus secured by the shield and protection of the law thrown around them and their families, to be the most punctual and the most faithful of all their debtors, in complying to the very day and the very letter with their engagements. Experience is the great test at last, and the very parent of wisdom itself. I do not see the evil which the gentleman from Galveston with so much ingenuity brings before the consideration of the House. He says this law will draw a line of distinction between the poor and the rich. Sir, some distinction must ever be made between the poor and the rich. I understand the great end and object of government and law simply to amount to this, the protection of the poor and humble from the oppression of the wealthy and powerful, of the weak against the strong handed, the turbulent and the violent, the simple hearted and credulous against the crafty and cunning; and the statesman who overlooks this plain and simple principle, is not acting from a knowledge of what human nature really is. Napoleon Bonaparte, that mighty man, the man of destiny, acquired more honor, as he conceived, by giving to the world the Napoleon code, than by all the victories he ever won upon the battle plain. One of the leading features of that code is this, to make happy families; nations are composed of families, and if we make them happy, we shall have a happy nation and people. The contemplated provision proceeds upon this great principle in human society. It throws around the humbler portion of the community that protection which will ensure at least a decent competence. It has been well said, that if we pass this section we shall get clear of all the shifts and devices which men resort to when they find themselves in failing circumstances; we shall put an end to the frauds which have almost undermined the morals of the people of the United States. It will secure to the poorer classes, to some extent, the means of educating their offspring. Ignorance is the parent of vice. I think it wise in every respect to make this provision stable and fixed, by placing it here, and not to leave it to the fluctuation or the whim and caprice of future legislators. I have thought it my duty to say thus much. I have no family to provide for; no wife or children. But I feel that "I am a man, and every thing which relates to humanity interests me."

The substitute was rejected.

The ayes and noes were called for, on the adoption of the 22d section as amended.

Mr. *Clark* said: He should vote for the section as it now stood, but thought it due to himself to say that he was not satisfied with it. He was in favor of the object, and fearing that the section would not be submitted in a more acceptable shape, he should vote for it as presented.

Mr. *Henderson* said: He did not wish to be considered as opposed to the exemption of a sufficient amount of property to supply the necessary wants of any citizen; but he was opposed to protecting a large amount of property in their hands. He must therefore vote *no*.

Mr. *Howard* said: He was opposed to one feature of the section, that which forbids the alienation of property without the consent of the wife. But as he believed the section would operate as a check upon the credit system, which he looked upon as one of the great evils of the times, he would vote for it.

Mr. *Van Zandt* said: He should like to vote for it; and had not thought it could be so amended that he would not vote for it. But he did not like that portion of the section which gives the wife the control of the property, and should vote *no*.

The ayes and noes being called, stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Brashear, Bache, Burroughs, Cazneau, Clark, Cuney, Darnell, Davis, Evans, Everts, Homphill, Hogg, Horton, Howard, Holland, Hunter, Jewett, Kinney, Latimer of L., Latimer of R.R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Standefer, Tarrant, Ochikree, and Young—42.

Noes—Messrs. Caldwell, Cunningham, Forbes, Gage, Henderson, Hicks, Irion, Jones, Love, McNeill, Scott, Smyth, Van Zandt and White—14.

So the section was adopted as amended.

After various motions to adjourn,

Mr. Cazneau moved to strike out the 24th section. He said the title would have to be, in many cases, as long as the law itself, if this section were adopted.

The motion was lost; and the 23d, 24th, 25th and 26th sections were adopted.

On motion of Mr. Irion, the Convention adjourned until half past 8 o'clock, to-morrow morning.

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Wednesday, Aug. 6th, 1845.

Half-past 8 o'clock, A. M.

The Convention met pursuant to adjournment.

Roll called—quorum present—prayer by the Chaplain—journal of the preceding day read and adopted.

Mr. Jones moved to strike out of the journal of yesterday all that part in relation to the resolution fixing the time of the meeting and the adjournment of this body.

Motion lost.

On motion of Mr. Evans, Mr. Jewett was added to the special committee appointed on yesterday, to enquire into the amount of land claims issued by this Government, &c., &c.

On motion of Mr. Davis, the Convention took up the

### ORDERS OF THE DAY.

The report of the committee on General Provisions being first in order,

Mr. *Lipscomb* moved to amend the 27th section, by striking out the words "on which taxes may be levied"; also "occupation." In support of the motion he spoke as follows.

I hold it, Mr. President, to be a sound rule, that taxation should be considered as imposed in proportion to protection. The object of taxation is to support the protection given to property; and one species of property should be as much protected as another, whether vested in land, goods, negroes, cattle, sheep, or manufactures; and the only fair and equal tax is one in proportion to the property so protected. I have no objection to the section as reported by the committee. Will it not in effect leave it to the Legislature to drop from the tax list such property as they may think proper, only guarantying equal taxation upon such property as they may think proper to tax? There would be no collision in the Legislature, if there should be an identity of interest throughout the whole State. But this evidently cannot exist. One species of interest will be fostered in one part of the country, and another in another, according to climate, soil, and other circumstances. And if it is left to the Legislature to drop any species of property which they may see fit, it will give rise to jealousies and difficulties. If the tariff in the