Majority Report

Mr President your committee on Lands and Homestead exemption to whom was refered amendments No 6 by Mr Every. No 90 by Mr Dowling No 104 by Mr Freeman, No 179 by Mr Ayres No 430, by Mr Barton, No 5-12 by Mr Davis have had the same under consideration and recommend no further action be taken thereon, Also amendment No 143 by Mr O Sullivan No 5-11 by Mr Smith part of which has been reported by the committee on Chinese, and the part not reported we recommend no further action be taken, Amendment 486 by Mr E, O, Smith the committee have embodied in the following article and recommend its adoption.

Am No 524

Relative to Lands & Homestead Exemptions.

Dec 14. 78

Read & laid on table to be printed with Report of Minority

Thornton
ass secy

Dec 17/78

Taken from table & ordered printed ~~with minority report~~

Smith
ass secty

Con on Land & Homestead Exemp

Section — Hereafter the Homestead, consisting of the Family dwelling House, Out Buildings, improvements and lands appurtenant thereto of each Head of a family resident in this State, of the value not exceeding Five Thousand Dollars, shall not be alienated or encumbered, except by the consent in manner to be prescribed by law, of both Husband and wife where that relation exists and such Homestead shall be exempt from seizure or sale for the payment of any debt or liability except for the purchase money and the payment of taxes, laborers and mechanics liens and obligations contracted for the improvement of such Homestead and for debts incurred before the adoption of this Constitution.

And in case of the death of the husband or wife the surviving member or members of the family if any, shall succeed to the title and possession of such Homestead with the like exemption herein prescribed in favor of such Head of the family.

And the Legislature shall by general law not inconsistent with this Section effectually secure the benefits of such Homestead exemption.

Minority Report

Mr. President: The undersigned, a minority of the Committee on Land and Homestead Exemption, dissent from the report of the majority of said Committee, in so far as they recommend ~~changes in Sections 1 and 3, and~~ that no further action be taken on ~~adding the definite [illegible] of Sections 2, 4, 5 and 6 of~~ Amendment No. 143, "relating to land tenures and limitation of ownership," and beg leave to present these reasons for such dissent.

The subject of land monopoly we regard as one of paramount importance to the people of California. It is so from the generally admitted fact that it exists here as a gigantic evil, without a single redeeming feature. We hold that it is one of the first duties of a just Government to abate an evil so great and threatening in its character as land monopoly confessedly is, by instituting reforms which will lead to the equitable distribution of the land among the people, and its general ownership by the actual tillers of the soil. Land is the basis and source of all wealth. Its possession gives power, and they who own the land of a country will inevitably rule that country. If ownership of the land is to be granted to and remain in the hands of a few persons, as is now actually the case in this State in a great measure, our

theory of government is a delusive sham and all our Fourth of July talk about human rights, equality, etc., a senseless mockery.

It will be well here to take a brief glance at the history of land titles in California, and incidentally at the origin and growth of land monopoly. At the period of the American conquest and acquisition of California, it was sparsely settled by a branch of the Spanish-Mexican race, each family occupying a large tract — generally several leagues in extent — granted to them by the Mexican Government. By the terms of the treaty of peace between our Government and that of Mexico, it was stipulated that all rights of property possessed by the inhabitants of the transferred territory should be respected.

The Mexican system of granting large tracts of land, however liberal it may appear, is undoubtedly a vicious system, for it leads directly to land monopoly — to a condition of things similar to that of feudalism in Europe, where the great mass of the people are landless and homeless in countries whose soil they and their forefathers have tilled for thousands of years. But simply considering the legality of their claims to the large grants held by them, the Mexican inhabitants of California when it passed into our hands are blameless for the

vicious system of land holding which originated under their former system of Government. In the early days of our American settlement of the country it was generally thought that the evils resulting from the great size of the Mexican grants would decrease in the course of time, and that excessive holdings would gradually diminish, through the subdivision and sale of the large ranchos. On the contrary, the curse of land mo=nopoly has increased to an extraordinary extent. The pernicious example of the great Mexican grants has proved a legacy of evil to California. Its stimulated the acquisitiveness of a certain class of our own people in the direction of land grabbing, and the peculiar facilities existing here for the promotion of their designs have enabled a few persons to become Lords of more acres than were embraced in the largest of the old Mexican ranchos.

Thomas

~~We have not at hand any reliable~~ Data as to the exact amount — or even a near approxi=mation to it — of land held by the inhabitants of California in 1846 are not accessible to us. The Mexican grants, how=ever, were mainly confined to the Coast counties, and did not even cover a tithe of their area, as the numerous pre-emption settlements subsequently made in those counties attest. It is safe to assert that but a small fraction of the valuable arable land of the State was covered by genuine Mexican grants. The great Sacramento and

San Joaquin Valleys had few grants located in them; and the same may be said of all the western slope of the Sierra Nevada, which in=cludes a large section of the State.

As the agricultural interest began to be developed, towards the close of the prosperous placer mining era, and land increased in value through the demand for its use, the monopolists commenced acquiring large tracts throughout the State, by one means or another, until now a few persons pretend to hold possession of vast es=tates, some of them containing from 100,000 to 400,000 acres. We give a few of the figures, from the Assessors' reports for 1872: Miller & Lux, 343,000 acres; Bixby, Flint & Co., 434,000 acres; W. S. Chapman, 250,000 acres; the Railroad com=pany, 291,000 acres; Charles McLaughlin, 249,=000 acres; Mrs. Beale, 173,000 acres; the Phila=delphia and California Petroleum Co., 131,000 acres; H. W. Pierce, 106,000 acres; Dibblee & Hollister, 100,000 acres; and J. B. Haggin, 200,000 acres, assessed to him in Kern county in 1877.

In addition to these, let us quote a few more facts and figures: From a tabular state=ment published by the State Board of Equaliz=ation in 1872 we learn that there were at that time 27,996 farms of 100 acres and upwards assessed in the State, containing a total acreage of 23,340,000. These farms are classified

into nine different classes. The first class, which embraces 23,315 farms, containing from 100 to 500 acres each, has a total acreage of 4,663,000. The ninth class, which includes 122 farms, containing ~~from~~ 20,000 acres and upwards, has a total acreage of 8,782,000, which is an average of 71,647 acres each. These 122 large farms embrace double the quantity of land comprised in the 23,315 small farms of the first class, one of the most startling facts ascertained by examination of the figures furnished in the reports!

~~Again~~, Further, the area occupied by our 27,996 farms of 100 acres and upwards, embracing 23,340,900 acres in all, is larger than the whole cultivated area of the State of Ohio. That State, with 21,000,000 acres of land under cultivation, has 195,000 farms, the majority of which are below 100 acres each. California, with 27,996 farms, has already disposed of two million acres of land more than is under tillage in Ohio. In the latter State there are but 69 farms exceeding one thousand acres. Here there are 2,298 of that class, and they embrace nearly seventeen million acres of land.

~~We~~ supplement ~~in addition to~~ these figures, which are peculiarly startling and suggestive, ~~with~~ with the following calculation: The 23,340,000 acres of land in this State now occupied by only 27,996 farms, if subdivided into holdings

of 160 acres each, would make exactly 145,865 farms; and reckoning that each family owning a farm would consist of at least four persons, this would give us a total agricultural popu=lation of 583,460 persons, or nearly quite as much as as the present total population of California.

It is quite evident that such of the large landed properties of California as were not originally covered by genuine Mexican grants have not been honestly acquired through operation of the pre-emption laws of the United States, ~~whose intent~~ the letter and intent of which aim to limit each person to the acquisition of 160 acres of land. Indeed, from the numerous evidences of fraud perpetrated in the later acquirements of landed property here, and the dubious legality of the titles by which many large estates in this State are held, there is ground for the belief that a majority of these monopolies have grown up through a total disregard of strict law and justice.

Some of these outrageous robberies of the public domain have been engineered through specious but dishonest Acts passed by the State Legislature and by Congress, regarding swamp, timber, mineral, so-called desert lands, etc. The audacity of these swindles is astounding, and yet the people and press of California have apparently looked on almost without a murmur, and certainly without any adequate attempt to

prevent them. Forged Mexican grants have also, in numerous instances, been floated over coveted portions of the public lands, and though some of these have been proved to be fraudulent, others have been successfully carried through the Courts. Deputies from the United Surveyor-General's Office have been bribed by purchasers of Mexican grants to make dishonest surveys, extending the boundaries designated in the original documents and increasing the number of leagues claimed. The immense donations of lands by the General Government to the Central Pacific Railroad Company and its branches — seem when too late to have been a serious error of policy, if indeed it should not be termed a crime against the people by their public servants — has also alienated a large portion of the public domain from pre-emption settlement, and helped to swell the possessions and power of a monopoly which aims at nothing less than dominating and dictating to the Government of this State.

From these various causes and the facts cited, it may be summed up as a positive fact that California is to-day the worst land monopoly cursed State in the Union. After all the magnificent patrimony which she brought into that Union, the amount of good arable land within her borders, unoccupied, unclaimed, and fit for settlement, is very limited indeed.

The indignation naturally aroused in our minds by contemplation of the damning facts relating to this question which investigation brings to light, leads us to say that if the higher law of God's justice could only for a brief time hold sway among men, there would be a sure remedy for all the land stealing perpetrated in California, and that would be confiscation and immediate restitu=tion to the State. But we are reminded that there is a wide divergence between God's equity and human law, and that through the imperfections of the latter the ends of justice are often defeated. So it is in this case.

The adoption of a system of limitation in the ownership of land — not to affect present lawful possessions but to go into operation in the future — appears to us the most practicable means within the power of the State to remedy the evil of land monopoly. In accordance with these views, we recomend the adoption of Amend=ment No. 143, introduced by Mr. O'Sullivan,

as follows:

Relating to Land Tenures and Limitation of Ownership.

Section 1. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the laws of primogeniture or entailments ever be in force in this State.

Sec. 2. All lands within the State are declared to be allodial, and feudal tenures are prohibited. Leases and grants of land for a longer term than ten years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void. No lessee shall sublet any portion of the land held in his name.

Sec. 3. No persons other than citizens, or those who have declared their intentions to become such, shall ever acquire or own, either by purchase or otherwise, real property in this State; and in case any alien dies possessed of real property in this State, contrary to this provision, such property shall

649
1280

escheat to the State. Nor shall any lands in this State be held in trust for any alien; but the creation of any trust in lands for the benefit of an alien shall at once escheat the land to the State.

Sec. 4. No person shall forever hereafter be permitted to acquire, in any manner, more than six hundred and forty (640) acres of land in this State. Copartnerships, joint, or other ownership of lands, shall not be allowed contrary to this provision. No person who dies possessed of landed property in this State shall have the right to will or devise more than six hundred and forty (640) acres of land to any one heir; otherwise the said will shall be void; provided, however, that all land over and above the six hundred and forty (640) acres so devised to each lawful heir, of which such deceased person died lawfully possessed, shall be sold to the highest bidders for cash, in quantities not exceeding six hundred and forty (640) acres each, and the proceeds divided equally among the lawful heirs.

Sec. 5. Actual occupation and continuous use for agricultural purposes during a period of one year shall constitute a title to the ownership of land in this State. Tracts of land of over six hundred and forty (640) acres in extent, which

shall remain unoccupied and unused for agricul-
-tural purposes during a period of one year,
shall be open to the occupation and use of citizens
of the United States, in quantities not exceeding
one hundred and sixty (160) acres; provided, if it
shall appear that any other person has previous title
to such tract of land, the party occupying and
using the same shall pay to said person the as-
-sessed value of the property.

Sec. 6. No more than one hundred and sixty
(160) acres of land shall hereafter be granted or patented
by the State, in any manner, to any one person. No grant
or patent of lands by the State shall hereafter be made
otherwise than upon the basis of actual settlement and
use. No land scrip or land location certificates
shall ever be issued in this State.

In conclusion, permit us to say that we
have given this question the most careful consider-
-ation, and the further we have examined it the
stronger have become our convictions that the whole
land system of California is radically wrong,
and that sweeping changes are demanded in the
interest of the people and of good government.
How to reach a solution of the question
of

land monopoly — which few deny to be an evil — may be considered the main point of difference between men. Some timid minds seem to look upon this question with a sort of scared awe, as if there was something sacred in the monopoly of God's earth, and as if it were a dreadful thing to disturb what are called "vested rights," which in many cases are really "vested wrongs;" and we hear these timid ones cry out that all reme=dial measures are out of the question — that "there is no use locking the stable door after the horse has been stolen." But men who have honest convictions regarding the necessity of reform, and who earnestly seek the establishment of simple justice when it is demanded by the needs of society, will follow the path of duty to its logical goal, regardless of the objections of the timid, the blind, or the interested adherents of an infamous injustice.

Perhaps some may think the proposed limit of six hundred and forty acres too small, others too large, an amount of land for the needs of one person. We believe it would afford an ample property for any reasonable family. Consider the effect which this limitation would have on the large estates of California if it became the supreme law. Through its operation land monopoly would gradually disappear throughout the State in the course of a generation, and

where now there are leagues upon leagues of unimproved solitudes, the dreary landscape would be changed into scenes of smiling farms and happy homes.

James O'Sullivan
John P. West
Hamlet Davis

Committee on Land & Homestead Exemption.

~~Report of~~

Minority Report.

Minority Report of Com on Land & Homestead Exemp. tion

Dec 9 of 70

Read land on table & ordered printed with the Majority Report

Thornton

Asst sec

O'Sullivan

Recharged City

Amendment. **No. 524.**

INTRODUCED BY COMMITTEE ON LANDS AND HOMESTEAD EXEMPTION.

DECEMBER 14TH, 1878.

TAKEN FROM TABLE, AND ORDERED PRINTED.

RELATIVE TO LANDS AND HOMESTEAD EXEMPTION.

SECTION —. Hereafter the homestead, consisting of the family dwelling house, out-buildings, improvements, and lands appurtenant thereto, of each head of a family resident in this State, of the value not exceeding five thousand dollars, shall not be alienated or encumbered, except by the consent, in manner to be prescribed by law, of both husband and wife where that relation exists, and such homestead shall be exempt from seizure or sale for the payment of any debt or liability, except for the purchase money and the payment of taxes, laborers' and mechanics' liens, and obligations contracted for the improvement of such homestead, and for debts incurred before the adoption of this Constitution. And in case of the death of the husband and wife, the surviving member or members of the family, if any, shall succeed to the title and possession of such homestead with the like exemption herein prescribed in favor of such head of the family. And the Legislature shall by general law, not inconsistent with this section, effectually secure the benefits of such homestead exemption.

Amendment to Amendment 524 12-14-78

Amendment to Amendment 524 12-14-78

Substitute for Sec Homestead

The legislature shall protect by law from forced sale, a certain portion of the homestead and other property of all heads of families.

adopted Rolfe

Homestead

add to Section

Provided. That nothing herein contained shall impair any homestead right existing at the time of the ~~exist~~ adoption of this constitution.

adopted S. M. Wilson

(Superseded by Rolfes amendment)

~~The Legislature~~ Substitute for Wyatts amendment

Hereafter lands belonging to this State which are suitable for cultivation shall be granted only to actual settlers and in quantities not exceeding 320 acres to each settler under such conditions as shall be prescribed by law.

Substitute for Wyatts amendment adopted Mr Collier

Amendment to Amendment 524, 12-14-78

Amend

Substitute for Lee #6

The holding of large tracts of land, uncultivated and unimproved, by individuals and corporations, is against the public interest and should be discouraged by all means not inconsistent with the Rights of private property

adopted

Ryan Doyle

Substitute

No perpetuities shall be allowed except for charitable purposes.

Ralph

adopted

73
35

Amendment to Amendment 524, 12-14-78

Amendment to Amendment 524, 12-14-78

Ordered engrossed

Amendment. No. 524.

INTRODUCED BY COMMITTEE ON LANDS AND HOMESTEAD EXEMPTION.

DECEMBER 14TH, 1878.

AS AMENDED IN COMMITTEE OF THE WHOLE.

RELATIVE TO LANDS AND HOMESTEAD EXEMPTION.

SECTION —. Hereafter the homestead, consisting of the family dwelling house, out-buildings, improvements, and lands appurtenant thereto, of each head of a family resident in this State, of the value not exceeding five thousand dollars, shall not be alienated or encumbered, except by the consent, in manner to be prescribed by law, of both husband and wife where that relation exists, and such homestead shall be exempt from seizure or sale for the payment of any debt or liability, except for the purchase money and the payment of taxes, laborers' and mechanics' liens, and obligations contracted for the improvement of such homestead, and for debts incurred before the adoption of this Constitution. And in case of the death of the husband and wife, the surviving member or members of the family, if any, shall succeed to the title and possession of such homestead with the like exemption herein prescribed in favor of such head of the family. And the Legislature shall by general law, not inconsistent with this section, effectually secure the benefits of such homestead exemption.

The following is section —, relative to lands and homestead exemption, as amended on motion of Mr. Rolfe, and adopted:

Concurred in

[SEC. —. The Legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.]

Supplement to Amendment. **No. 524.**

RELATIVE TO LANDS AND HOMESTEAD EXEMPTIONS.

ADDITIONAL SECTIONS,

AS ADOPTED IN COMMITTEE OF THE WHOLE, JANUARY TWENTY-FOURTH, EIGHTEEN HUNDRED AND SEVENTY-NINE.

Concurred in

SECTION —. The holding of large tracts of land, uncultivated and unimproved, by individuals and corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

Introduced by Mr. Van Dyke.

SEC. —. Hereafter lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

Introduced by Mr. McCallum. Concurred in

SEC. —. No perpetuities shall be allowed except for eleemosynary purposes.

Introduced by Mr. Rolfe. Not concurred in

Action of Committee
Dec. 14, 1876

Amendment No. 524
Land and Homestead
Exemptions

LAND AND HOMESTEAD EXEMPTION.

As Amended in Convention, and Ordered Engrossed for a Second Reading, February 18th, 1879.

ARTICLE 17.

LAND AND HOMESTEAD EXEMPTION.

SEC. 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals and corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Hereafter lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

— 524 — ½

17

Lands & Homestead
Exemption

Feby 24/79
Reported Correctly
Engrossed
E J Smith
Secty

February 27, 1879
Read a Second Time
adopted, and referred
to Committee on Revision and Adjustments
Jill. Wright
Asst. Secty