Affiant being sick left her anchored at Galveston and went New Orleans, and that she was soon afterwards lost in a hurricane.

It is contended by the claimants that it most clearly appears from the contract of sale & purchase between Genl. Thurston & Benj. L. Grayson dated 6th, April 1837 at New Orleans, the affidavit of Green and of Hoyt, the Officers in command of the vessel, that she was sold and delivered by Grayson to the Government of Texas at the sum of twelve thousand dollars. This is thought to be most manifest from Hoyt's statement, who says he was in command of her as a commissioned officer of the Republic of Texas: in that capacity he reported her to the President, when she was recommissioned and he, still in command of her as an officer of Texas, went on a three months cruize, & on his return reported to the President the prize he had taken, which, in consequence of the inability of the Government to fitt up the prize, was sold after the President had passed upon the disposition of the prize himself. This seems to repel the idea that the vessel was not in the service of the Government & subject to the disposition of its officers. If so, then the contract of sale was consummated and the sellers entitled to the purchase money.

If on the other hand she had not been accepted by the Government of Texas as she was destroyed "by the dangers of the sea" before she was returned to Grayson as