2-12-1816

Report of the Committee on the Public Lands, on the petition of the legislature of the Mississippi Territory, and petitions of said Territory, accompanying a bill for quieting and adjusting claims to lands in the Mississippi territory. / February, 12, 1814

United States. Congress. House. Committee on Public Lands

United States. Congress. House

Follow this and additional works at: https://egrove.olemiss.edu/msterrdocs

Recommended Citation

This Book is brought to you for free and open access by the General Special Collections at eGrove. It has been accepted for inclusion in Mississippi Territorial Documents by an authorized administrator of eGrove. For more information, please contact egrove@olemiss.edu.
Of the committee on the Public Lands, on the petition of the legislature of the Mississippi Territory, and petitions of sundry inhabitants of said Territory, accompanying a bill for quieting and adjusting claims to lands in the Mississippi Territory.

Made, February 12, 1816,
and ordered to lie upon the table.

The committee on the Public Lands to whom were referred the Memorial of the House of Representatives of the Mississippi Territory, and the memorial of sundry inhabitants of said Territory, as also the memorials of Seth Hunt on the same subject, respectfully submit the following REPORT....

The legislature and people of the Mississippi Territory, express much solicitude in relation to a general and grievous litigation, which is likely to arise in that section of country, between residents claiming lands under Spanish grants, and non-residents claiming the same lands under British grants: and pray that Congress may interpose, to prevent the consequences which such a state of things may produce.

As this is a subject of considerable interest, and one which requires much investigation, the com-
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the heir of Thomas Comyn</td>
<td>10,000</td>
</tr>
<tr>
<td>For admiral Bentinck</td>
<td>10,000</td>
</tr>
<tr>
<td>For the heirs of Philip Affleck</td>
<td>5,000</td>
</tr>
<tr>
<td>For Robert Tindall, esquire</td>
<td>2,000</td>
</tr>
<tr>
<td>For Samuel Fortenelle</td>
<td>3,000</td>
</tr>
<tr>
<td>For Lewis Gordon</td>
<td>3,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>174,465</strong></td>
</tr>
</tbody>
</table>
In the year 1763, the British government obtained from France, by treaty, all that part of Louisiana which lies east of the Mississippi river and island of New-Orleans; and, in some short time afterwards, added to it the adjacent territory, extending eastwardly to the Appalachianola, and northwardly to the Yazoo, and called the whole West Florida. In 1780, during our revolutionary war, this country fell into the hands of Spain by conquest, limited as above described. By the preliminary articles of peace between the United States and Great Britain, signed in November, 1782, the 31st degree of north latitude was agreed upon as our southern boundary. By the preliminary articles of peace between Spain and Great-Britain, signed in January, 1783, West-Florida was ceded to the former; and by the treaties of peace, concluded in September, 1783, the above preliminaries were finally confirmed.

Notwithstanding our southern limit was thus clearly defined, Spain continued to hold possession of the country, as far north as the mouth of the Yazoo, which lies in about 32d. 30m. north latitude, under the pretence that it formed a part of West-Florida, which had been ceded to her. In 1795, a treaty was concluded between that country and the United States, by which the 31st degree of north latitude, established in '82 and '83, is again acknowledged to be our rightful boundary; and the territory lying between that line and the mouth of the Yazoo, was delivered up to us in 1798.

It has been before stated, that from 1764 to 1780, this country belonged to England. Whilst
in her possession, a large portion of it was granted away to her subjects, in tracts of various magnitude. It has been also stated, that from the latter period to 1798, it remained in the possession of Spain. Spain exercised complete jurisdiction over it during this time, followed the example of England, and made grants of land to the inhabitants, as her subjects. These latter grants covered many tracts, for which British patents had previously issued; and hence the conflicting claims to a great portion of the most valuable settled lands in the Mississippi Territory.

A concise view of the principles which influenced the different governments, through whose hands this country has passed, in granting lands to their subjects, will not be deemed improper, and may facilitate the decision of the question, which is submitted to the consideration of the House.

It will appear from an examination of a proclamation of the king of England, dated on the 7th of October, 1763, (see land laws, page 14,) that it was an early policy of the government to increase the population of the province, by making moderate concessions of royal domain to actual settlers. This principle, it is believed, was seldom departed from. It had before regulated the French government, whilst the country below the 31st degree of latitude belonged to France. Although some large grants have been made, it is probable that this was done under special circumstances, or, was a departure from the usual policy of the country. It will be seen too, from the instrument above alluded to, that cultivation and improvement were conditions of the grants, and that the power to issue them was given to the governor alone. These principles were recognised and acted upon by the Spanish government, when the country subsequent-
ly fell under their administration. It appears from the treaty between these two powers, dated in 1783, that the subjects of his Britannic Majesty were secured in their rights of property, or authorized to sell their estates, and remove their effects as well as their persons. Time was given for these sales to be effected; and, subsequently, the lands not actually possessed and occupied in virtue of British grants, were re-granted by the Spanish government, to the inhabitants and settlers, as vacant land appertaining to the royal domain.

It is not for the committee to say, whether the British grants are void, on account of their magnitude; because the conditions on which they were made may not have been performed; or because they were disregarded by the Spanish authorities, and the tracts covered by them re-granted as vacant land. Nor do they deem it incumbent on them to decide how far Spain was founded in keeping possession, granting lands, and performing other acts of sovereignty over the country, from the date of the treaty of peace of 1783, to the time of her yielding it up in 1798; or how far she had a right to annul the grants previously made by the British government. In ascending to the source of the evils which exist, and which threaten with vexations the most intolerable, or entire ruin, to a numerous and respectable portion of our fellow-citizens, they are found to flow from an omission on the part of the United States, to take an earlier possession of the country in question; and, therefore, the present inhabitants, who may be the innocent victims of the course pursued, are, in the opinion of the committee, clearly entitled to the just and benevolent interposition of their government.

Having concisely examined the proceedings of both the British and Spanish governments, in relation to
to this subject, it may be proper now to inquire what has been done by our own, and what, in some measure in consequence thereof, yet remains to be done.

The State of Georgia claimed, in her individual capacity, the tract of country composing the Mississippi Territory. By certain articles of agreement between that State and the United States, the former cedes to the latter that district, under various stipulations. Among these is the following, in relation to British and Spanish grants:

Article the 2d provides "That all persons, who, on the 27th day of October, 1795, were actual settlers within the territory thus ceded, shall be confirmed in all the grants legally and fully executed prior to that day, by the former British government of West Florida, or by the government of Spain."

It would seem that the principle expressed in the above-mentioned articles of agreement is, in some measure, departed from by Congress, in subsequent proceedings relative to the adjustment of private claims in the Mississippi Territory.

By the 6th section of the act of March 3d, 1803, the commissioners are authorized to give certificates, stating that claimants are confirmed in their titles by virtue of the said articles; but by a subsequent clause, this confirmation amounts to nothing more than a relinquishment of claims on the part of the United States. It may be proper further to state, that by the first section of the above-recited act, certain incomplete titles derived from Spain are confirmed by the United States. That by the second section, donations are made to one description of actual settlers; and that by the third, rights of pre-emption are given to another description. But by the 6th section already refer-
red to, if any of the lands claimed by virtue of either of these three sections, are also claimed under a British grant legally and fully executed, and recorded according to law; the commissioners are to state in the certificates, the existence of the adverse (British) claim; and the claimants under this act are not entitled to a patent, unless they shall have obtained, in their favor, a judicial decision in a court having jurisdiction of the case.

It will appear from the above, that by the articles of agreement with Georgia, the inhabitants of the Mississippi Territory, who hold Spanish grants legally and fully executed, are confirmed in their titles; and that by the act of Congress referred to, the confirmation of these titles is made to depend on a circumstance superadded, viz: that the lands claimed by them should not have been before granted by the British government. Thus their rights have been rendered less secure, and the British grantees encouraged to come forward with their claims, which by the acts of the Spanish government, and by the articles above mentioned, were, if not annulled, at least disregarded.

Under this view of the case, it becomes a question, how far the government of the United States would be bound in law to compensate the Spanish grantees, for the losses they may sustain by any decision, which would transfer the lands to British grantees. Without deciding it, the committee are of opinion that, considering the omission of the government to take earlier possession of the country in question, the acts passed subsequently to the agreement with Georgia, the vexatious litigation to which the inhabitants are liable, and the ruin which may by possibility be brought upon them, it becomes the justice as well as the beneficence of the government to avert the evil, by ap-
pointing some tribunal to decide on the validity of
the British grants, and, in the event of their being
established, to make those interested in them that
compensation, with which they will probably be
satisfied; and thus rescue from ruin those who
have expended their labour and industry, on lands
which have been held quietly for years past, by
themselves or their predecessors, and which, had
the dominion of Spain continued, never would have
been even claimed, much less taken from them.
The committee, therefore, respectfully submit a
bill for quieting and adjusting claims to lands in
the Mississippi Territory.
A list of British grants filed with the register of the land office, at Washington, Mississippi Territory, and claimed by non-residents.

<table>
<thead>
<tr>
<th>Name</th>
<th>Acres</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Earl of Eglinton</td>
<td>20,000</td>
<td>Near Natches.</td>
</tr>
<tr>
<td>F. A. Haldeinan</td>
<td>1,500</td>
<td>Three tracts near Natches.</td>
</tr>
<tr>
<td>Sir G. B. Rodney’s heirs</td>
<td>5,000</td>
<td>On Mississippi, above Natches.</td>
</tr>
<tr>
<td>John Stevenson</td>
<td>3,000</td>
<td>Three tracts a few miles from Natches,</td>
</tr>
<tr>
<td>Augustin Prevost</td>
<td>9,000</td>
<td>Ditto.</td>
</tr>
<tr>
<td>Mrs. Wegg</td>
<td>3,000</td>
<td>Ditto.</td>
</tr>
<tr>
<td>Elihu Hall Bay, (of South-Carolina,)</td>
<td>16,375</td>
<td>Several tracts.</td>
</tr>
<tr>
<td>Alex. M’Cullah, (of South-Carolina,)</td>
<td>3,700</td>
<td>Ditto.</td>
</tr>
<tr>
<td>Philip Barbour</td>
<td>2,000</td>
<td>On Mississippi, at Grand Gulph.</td>
</tr>
<tr>
<td>Robert Farmer’s heirs, (Pennsylvania,)</td>
<td>3,000</td>
<td>On Tombeckby.</td>
</tr>
<tr>
<td>Thomas Davy, now admiral Spry</td>
<td>3,500</td>
<td>Bayou Pierre, &amp;c.</td>
</tr>
<tr>
<td>William Wilton’s heirs</td>
<td>1,600</td>
<td>Several tracts.</td>
</tr>
<tr>
<td>James Amos</td>
<td>600</td>
<td>On Mississippi.</td>
</tr>
<tr>
<td>Legal representative of Thad. Lyman,</td>
<td>20,000</td>
<td>Bayou Pierre.</td>
</tr>
<tr>
<td>(John Peck of Boston,)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total: 92,275
The following claimed by Seth Hunt.

For the heirs of Herbert Munster, 2,000 Near Natches.
For the repres. of maj. Fras. Hutchinson, 3,000 Ditto.
For sir William Dalling, 5,000 On Mississippi, above Natches, 5 miles, near.
For the heirs of the hon. John Vaughan, 1,000 Above Natches.
For the heirs of Thomas Creik, 1,000 Ditto.
For the heirs of captain Thomas Boyd, 1,350 Ditto.
For the heirs of John Bradley, 4,140 Near Natches.
For major Thomas Gamble, 2,000 Ditto, two tracts.
For admiral sir Richard Onslow, 1,000 On Mississippi, below Natches.
For the heirs of major John Small, 3,000 Near Natches.
For Sylvester Fanning, 2,000 At Loftus’ Heights.
For the heirs of John Jones, 600 Ditto.
For the earl of Harcourt, 10,000 Forks of 2d and Homochitto.
For admiral Fergusson, 3,000 Back of Natches.
For captain Nunn, 3,000 Ditto.
For admiral M’Dougall, 3,000 Bayou Pierre.
For the heirs of Arthur Neil, 3,500 Bayou and Buffaloe.
For the heir of William Burrows, 600