

JAMES CAULFIELD.

[To accompany bill H. R. No. 93.]

JANUARY 5, 1836.

MR. GARLAND, of Virginia, from the Committee on Private Land Claims, made the following

REPORT :

*The Committee on Private Land Claims, to which was referred the petition of James Caulfield, report :*

That an act of Congress, passed the 20th of April, 1818, allowing Peggy Baily to enter 320 acres of land on the river Alabama, being part of section number seven, township five, range five, including the improvements made by Dixon Baily, a half Indian, who had been killed at Fort Mimms whilst in the service of the United States, with a proviso in the following words : " *Provided*, that neither the said Peggy Baily, nor her heirs, shall have power of alienating said land, or any part thereof, in any manner whatever; and in case of the voluntary abandonment of the possession and occupancy of the said tract of land, by the said Peggy Baily, or her heirs hereafter, the said land shall revert to the United States." The petitioner alleges she intermarried with Richard Robinson, and occupied said land until September, 1828, when they removed west of the Mississippi; a deed of conveyance is presented, signed "Peggy Baily, by her agent and attorney in fact, Benjamin Hawkins," dated the 23d of September, 1828, in Montgomery county, Alabama, conveying the said land to the petitioner for the consideration of one thousand dollars.

A power of attorney is also produced, bearing date the 4th March, 1828, signed by said Robinson and Peggy Baily, reciting that they had lately removed to Arkansas, and authorizing said Hawkins to sell their interest in said tract of land. The said petitioner further alleges that he knew nothing of the proviso in the act of Congress at the time of the purchase.

The committee do not perceive the slightest ground, either in law or equity, for a confirmation of the claim of said Peggy Baily to the said James Caulfield. After the voluntary abandonment of said land by said Peggy Baily, which must have taken place prior to the 4th March, 1828, if the recitations in the power of the attorney are to be relied on, the land became a part of the public domain, and the said Peggy Baily and her husband had no more claim than any other of the emigrants from that section of the country; and it can hardly be presumed that Benjamin Hawkins, who acted as her agent in the sale of the land, could have been ignorant of the provisions of the act of Congress of 1818, or that he would have com-

mitted so gross a fraud upon the present applicant. But if the truth was so, and the said Caulfield uninformd as to the provisions of that act, it furnishes no ground in law or equity for the United States to pay him for the fraud committed by said Hawkins in the sale of said land to him. And if the said Caulfield became the purchaser, as he alleges, and paid his money without having examined the title he was purchasing, it furnishes no good reason why the United States should pay him back the losses sustained by such gross neglect.

The committee report a bill authorizing him to purchase the land at the Government price, in consideration of the settlement and improvements made by him on said land.

The Chairman of the Committee on Private Land Claims

REPORT

The Committee on Private Land Claims to which was referred the petition of James Caulfield, report.

That an act of Congress, passed the 21st of April, 1818, whereby Peggy Kelly to enter 320 acres of land on the river Alabama, being part of section number seven township five range five including the improvements made by Daniel Kelly, a half Indian who had been killed at Fort Mims, whilst in the service of the United States, with a proviso in the following words: "Provided that neither the said Peggy Kelly, nor her heirs, shall have power of alienating said land, or any part thereof to any manner whatsoever; and in case of the voluntary abandonment of the possession and occupancy of the said tract of land, by the said Peggy Kelly, or her heirs, heresy or the said land shall revert to the United States." The petition alleges she had entered with Richard Robinson, and occupied said land until September, 1822, when they removed west of the Mississippi; a deed of conveyance in that behalf signed by Peggy Kelly, by her agent and attorney in law, Benjamin Hawkins, dated the 23d of September, 1822, in Montgomery county, Alabama, conveying the said land to the petitioner for the consideration of one thousand dollars.

A power of attorney is also produced bearing date the 13th March, 1822, signed by said Robinson and Peggy Kelly, reciting that they had lately removed to Arkansas, and authorizing said Hawkins to sell their interest in said tract of land. The said petitioner further alleges that he knew nothing of the proceeds of the act of Congress at the time of the purchase. The committee do not perceive the slightest ground either in law or equity for a continuation of the claim of said Peggy Kelly to the said James Caulfield. After the voluntary abandonment of said land by said Peggy Kelly which must have taken place prior to the 13th March, 1822, if the recitatory in the power of the attorney and the said Peggy Kelly and her heirs came a part of the public domain, and the said Peggy Kelly and her heirs had no more claim than any other of the emigrants from that section of the country; and it can hardly be presumed that Benjamin Hawkins who acted as her agent in the sale of the land, could have been ignorant of the provisions of the act of Congress of 1818, or that he would have com-