

IN SENATE OF THE UNITED STATES.

JANUARY 10, 1839.

Submitted, and ordered to be printed.

Mr. LYON submitted the following

REPORT:

[To accompany Senate bill No. 163.]

*The Committee on Private Land Claims, to which was referred "a bill for the relief of Francis Laventure, Ebenezer Childs, and Linus Thompson; and also a memorial from a number of citizens of Milwaukee, in the Territory of Wisconsin, and another memorial from the Legislative Assembly of said Territory, in relation to the same subject, report:*

That they have considered the subject embraced in the bill referred to them, and have no doubt that the claimants therein named ought to be confirmed in their respective claims to the lands described in said bill. They, therefore, recommend its passage; and, as the facts and circumstances of the case are believed by the committee to be correctly set forth in the two memorials on the subject which have been referred to them, they beg leave to refer to those memorials, and to make them a part of this report.

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

The memorial of the undersigned, inhabitants of Milwaukee, in the Territory of Wisconsin,

RESPECTFULLY REPRESENTS:

That in the summer of 1835, Francis Laventure, Ebenezer Childs, and Linus Thompson, of Green Bay, in said Territory, being possessed of three floating rights under the pre-emption act of 19th June, 1834, located the same, agreeable to the provisions of said act, upon lots 1, 2, and 3 of section 32, township 7, range 22, at the office of the Green Bay land district, and received the receiver's certificates or receipts for the same.

In the said summer of 1835, the late President of the United States, by his proclamation, ordered the sale of certain lands within said district to be held at Green Bay, in the month of September of said year, at which time and place the whole of township 7, range 22, in which the above lots 1, 2,

and 3, are situated, was sold, except such tracts as had been previously obtained by pre-emptions or floating rights. Since the entry of these lots in 1835, the original purchasers, or those holding under them, have held undisputed title and possession of the premises until some time in the month of May last, when your memorialists learned with surprise that the floating rights of the above named individuals had been rejected, and that an order had been issued by the Commissioner of the General Land Office to the officers at Green Bay, to refund the money paid for the same.

This decision was made upon the ground that lands acquired by the United States at the treaty of Chicago, concluded on the 27th of September, A. D. 1833, but not ratified until the 21st of February, 1835, were not subject to the operation of the act of 19th June, 1834. If this treaty be so construed that it did not take effect until it was ratified by the President and Senate, the above decision would be correct, so far as to prevent the obtaining of pre-emptions upon the lands ceded by said treaty. But we ask, is there not strong ground to believe that the treaty was to take effect from the time it was concluded? If such were not the case, why was a large payment made to the Indians in 1834, *for these same lands*, and in pursuance of said treaty, but six months previous to its ratification? But however this question may be settled, we cannot see what bearing it can have upon the title to the lands in question, *provided* these floats were located upon lands which, *at the time of such location, actually belonged to the United States*. The act of 29th of May, 1830, which was revived by the act of 19th of June, 1834, provides that where two or more persons may be settled upon the same quarter section, the same may be divided, and each of such settlers shall be entitled to a pre-emption of "*eighty acres elsewhere in said land district*." The pre-emptions from which these floats originated, were obtained under the act of 1834, and the floats laid upon lands within the district, and which, *at the very time of location*, were proclaimed for sale by the President of the United States.

The act of Congress allowing the location of floats upon any lands *within the district* is without any reservation or restriction, and in the present cases we can see no good reason for the decision requiring the title to the above lands to have been in Government in 1833. But, whether the title *was* or *was not* in the United States, and even admitting that it *was not* up to the time of purchase by these individuals, yet, Government assumed the ownership, and by its agents sold and guaranteed a title to these purchasers: and if the Government *now* has an absolute title, so will the title of those holding under it be perfect.

Again, if these questions should all be decided against us, we still rely upon the justice and liberality of Congress for a confirmation of the titles to the above lands.

If any error has been committed, it has been done by the land officers at Green Bay, and the innocent purchasers under the original owners are now made to suffer for this ignorance of their official duties.

By a statute of Michigan, which has been confirmed by Congress, and is in force in this Territory, the receiver's receipt is made *legal evidence of title*; and since the original entry, the whole of the lands embraced in the above mentioned tracts have passed from the original owners through from fifteen to twenty different individuals. The land has been laid out into lots, and is now owned by nearly 100 innocent purchasers, all of whom bought in good faith, paid high prices, and many of them have made exten-

some improvements thereon, little supposing that any doubt existed as to the validity of the titles.

If, after a lapse of three years, claims allowed by the land officers are to be rejected, there is no safety in purchasing any lands similarly obtained from Government, no matter at what time they may have been purchased. Such a course would involve in ruin the best citizens of the west, and destroy all confidence in titles, whether derived from the General Government or private individuals. It would prevent the exchange of property similarly situated, retard the settlement of the country, and, in the present instance, will seriously affect many of the best citizens of the place, and involve our inhabitants in general, endless, and ruinous litigation.

Your memorialists can see no possible advantage to be derived by the Government or any private individual in the rejection of these claims, while, on the other hand, they can see a serious injury inflicted upon the present proprietors residing in this town and in different parts of the United States. If these lands were not subject to pre-emption or to be floated in 1835, no private individual can have any claim upon them. There are, therefore, no conflicting claims involved in this question. A number of individual purchasers of lots have made improvements to the value of from one to ten thousand dollars.

These sums, together with a large amount of purchase money, will be lost to the present proprietors.

In view, therefore, of all the circumstances of this case; the amount of property involved; the number of persons through whom the title has passed; and the length of time that has elapsed since the original purchase; we would respectfully ask if it would be proper for the Government to make hundreds of innocent individuals suffer for the errors or ignorance of its own officers?

Perhaps no case can ever occur where, upon the rejection of a floating claim or pre-emption, consequences so serious will follow as in this instance.

Much might be said by your memorialists to induce your honorable bodies to grant relief to the present proprietors of the above lands. They believe, however, that sufficient has appeared to recommend the matter strongly to your consideration and attention.

Your memorialist, therefore, pray that said floating claims may be confirmed and allowed, and patents issued accordingly; or that such other relief may be granted to the present proprietors of said lands as your bodies may deem right and proper. And so your memorialists will ever pray, &c.

H. N. Wells  
H. Crocker  
Joseph Cary  
B. L. Gibbs  
A. H. Davenport  
Saml. H. Graves  
M. Pidley  
Robert Davies  
B. H. Edgerton  
P. C. Cole  
Elisha Starr  
Thomas J. Noyes  
F. M. Weeks

H. S. Hosmer  
H. Palmer  
James Regan  
O. Aldrich  
H. M. Hubbard  
Hurmon Sanderson  
Eml. Cawker  
F. W. Hawley  
W. Brown  
John S. Rockwell  
Levent S. Kellogg  
J. Eglester  
H. Crippen

Lyndsey Ward  
 L. J. Higby  
 Peter Rogan  
 B. Hammond  
 T. L. Smith  
 A. J. Luce  
 H. Birchard  
 A. W. McCreary  
 Wm. S. Miller  
 John Crawford  
 A. Farnam  
 Jehiel Cass  
 J. N. Benedict  
 Lewis Ludington  
 Edwin Peneg  
 A. W. Hatch  
 Andrew Douglas  
 Thos. Caystile  
 Horace Headley  
 Seneca Harris  
 Richard Owens  
 John Douglass  
 Joseph Nichols  
 P. N. Cushman  
 Geo. S. Wright  
 Jas. H. Tweedy  
 E. R. Collins  
 Thos. D. Hoyt  
 H. B. Clarke  
 John Baydin  
 Henry Williams  
 S. W. Seaver, jr  
 William Hawkins  
 W. H. Manton  
 Howard Stansberry  
 A. J. Upham  
 Isaac Newton  
 Albert Jones  
 J. W. Carpenter  
 Jno. S. Boyd  
 Thomas Boyd  
 D. Spencer Cady  
 Herbert Reed  
 Wm. Redford  
 Hiram J. Ross  
 Jen. Baptiste Juneau  
 Louis Francher  
 Peter Juneau  
 Louis Ratelle  
 Levi Ault  
 John Gibb  
 Samuel Brown

Otis Hubbard  
 L. Treadwell  
 C. Hawley  
 Wm. Fisher  
 John B. Heyers  
 Ed. Wiessney  
 George Schurub  
 Geo. Reed  
 Wm. Ellerby  
 Charles H. Thompson  
 Geo. F. Knapp  
 Mortimer Webster  
 Joel Hayman  
 W. M. Mayhew  
 J. Sanderson  
 Jas. McMartin  
 John W. Prisley  
 Justin P. Fordham  
 Nath. C. Prentiss  
 Henry Shew  
 L. Blossom, jr.  
 Wm. B. Sheldon  
 E. Cramer  
 L. W. Seaver  
 M. A. Alderman  
 William Farnsworth  
 Sheldon Walling  
 Timothy Wooden  
 Harrison Rud  
 Gilbert Crawford  
 S. W. Firley  
 J. T. Smith  
 Luzern Ransom  
 A. O. S. Breed  
 Uriel B. Smith  
 Augustus Peters  
 Chas. Holton  
 Wooster Harrison  
 Frederick Wardner  
 Patrick Hammel  
 A. Gove  
 Lorenzo Hinkston  
 L. Rockwell  
 Charles Morgan  
 Lucius B. Packard  
 C. W. Weeks  
 T. C. Pomeroy  
 L. Vail  
 H. Ludington  
 E. Wales, jr.  
 N. W. Brooks  
 Henry Miller

Wm. A. Kellogg	Chauncey Eggleston
W. A. Webber	Thomas H. Riddle
John Gale, jr.	Daniel D. Sibley
J. E. Arnold	John Sercombe
Solomon Juneau	Geo. O. Tiffany
George D. Dousman	C. W. Hayden
Talbot C. Dousman	Abner Rowe
Wm. P. Clark	Geo. S. West
Wm. N. Gardner	C. Harrington
C. Walworth	Benj. Welsh
James Riordan	Peter B. Fields
John W. Taylor	J. V. Hewitt
Wallace W. Graham	Joshua Hathaway
Rufus Parks	John Hustis
Geo. Krimber	James Murray
D. N. Neiman	R. Halchet
N. Cone	Gilbert McNaught
A. W. Hubbard	Chas. E. Brown
C. W. Lebrune	John Harrison
F. A. Wingfield	John Arnold
H. W. Cowles	E. W. Ryckman
George Abart	Danforth Parmell
O. S. Rathbun	H. Fletcher
J. H. Noyes	Daniel Wells, jr.
Loring Doney	Lucius J. Barber
J. C. Frisbie	Wm. A. Prentiss
Leland Crocker	John M. Wells
Russell B. Loiffin	

*Memorial of the Legislative Assembly of the Territory of Wisconsin, praying the confirmation of the titles of Francis Laventure and others, to certain lands in that Territory.*

*To the honorable the Senate and House of the United States of America in Congress assembled :*

The memorial of the Legislative Assembly of the Territory of Wisconsin,

RESPECTFULLY REPRESENTS :

That, in the summer of 1835, Ebenezer Childs, Linus Thompson, and Francis Laventure, being possessed of three floating rights under the pre-emption law of 19th June, 1834, located the same agreeably to the provisions of said act, upon lots one, two, and three, of section thirty-two, township seven, range twenty-two, in the county of Milwaukie, and received receiver's certificate of the same. That, in the same year, the late President of the United States, by proclamation, ordered the sale of certain lands in the Green Bay land district, to be held at Green Bay in the month of September. Among the lands thus ordered for sale, was said township seven, it being then embraced within the limits of the said land district, and, at which sale, the whole of said township was sold, with the exception of such parts as had previously been obtained by pre-emption or floating rights. Since that time the original purchasers, or those who have held under them, have had undisputed possession of said premises.

In the month of May last, these floating rights were rejected by the Commissioner of the General Land Office, and an order was issued by him to the land officers at Green Bay, directing them to refund the money paid therefor. The present occupants of these lands have erected many valuable buildings thereon, and are now only prevented from making further improvements by the decision above referred to.

The title has passed from the original purchasers, through a great number of persons, to the present owners, who have paid therefor at from one to five thousand dollars per acre, and who supposed no doubt existed as to the validity of their titles ; and, if the Government does not interpose and grant some relief, consequences will follow ruinous to many innocent individuals who must lose what has already been paid, together with all the improvements made on the premises. If, after the lapse of three years, pre-emptions allowed by the authorized agents of the Government are to be rejected, there is no safety in purchasing lands similarly obtained from the United States. Such a course would involve in ruin the best citizens of the west, and destroy all confidence in titles, whether derived from the United States or private individuals, would retard the settlement of the country, prevent the transfer of property, and involve in endless and ruinous litigation many of the industrious citizens of this Territory.

Viewing, therefore, the circumstances of the present case, the amount of property involved, the length of time that has elapsed since the original purchase, we would ask of the Congress of the United States a confirmation of the titles to the above mentioned lands, believing that in this way only can strict justice be rendered to the present occupants.