

IN SENATE OF THE UNITED STATES.

FEBRUARY 7, 1839.

Submitted, and ordered to be printed.

Mr. SEVIER made the following

REPORT :

[To accompany bill H. R. No. 358.]

*The Committee on Indian Affairs, to whom was referred the bill H. R. No. 358, and accompanying documents, for the relief of Poas Hadgo, a Creek Indian, report :*

That by the first article of the treaty of the 9th of August, 1814, at Fort Jackson, entered into between the United States and the Creek Indians, every Creek warrior and chief friendly to the United States during the war, shall be entitled to a section of land, to include his improvements, which should accrue to him and his descendants so long as he or they should occupy the same, but after voluntary abandonment thereof, the right of occupancy to devolve to the United States.

On the 3d of March, 1817, Congress passed an act to carry said treaty into effect. Under the provisions of said act, Poas Hadgo (being one of those entitled to a section of land provided for by the first article of the treaty of the 9th of August, 1814) selected his reservation and obtained a certificate for it, of the General Land Office, bearing date the 5th of October, 1826, which patent states "that Poas Hadgo is entitled to occupy the following tract of land, agreeable to the provisions of an act of Congress," &c., "fractional section eighteen, of township six, in range thirty east, containing five hundred and thirty acres and twenty-five hundredths of an acre, in the district of land offered for sale at Sparta, in the State of Alabama."

On the 20th of May, 1836, Congress passed an act to aid certain Indians of the Creek nation in their removal west of the river Mississippi, and under the provisions of that act the claimant moved west of the Mississippi *voluntarily*, and, by so doing, lost his right of occupancy of the above described tract of land, which reverted to the United States. Yet the petitioner asks Congress to pay him for that improvement, and a bill has passed the House of Representatives for that purpose.

The passage of this act is urged on the ground that the Commissioner of the General Land Office, George Graham, now dead, stated verbally to Colonel Brearly, the agent for the removal of the Indians, that the United States would pay for the occupant rights to those who should voluntarily abandon them. According to the statement of Mr. Graham's successor, there is no evidence in the Land Office that such a pledge was ever made.

Yet Colonel Brearly, who is also dead, testifies to it. The question then arises, shall Congress pay the value of such improvements upon the unauthorized statements of the subordinate agents of the Government? The committee are of opinion that the Government is not bound and ought not to be bound for any such pledge. The establishment of any such principle, especially in a case like the present, would lead, as the committee believe, to a payment in all similar cases, and result in the disbursement for such objects, of an immense sum of money. The committee, therefore, recommend the rejection of the bill.