

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1851.

Submitted and ordered to be printed.

Mr. FELCH made the following

REPORT:

[To accompany bill S. 58.]

The Committee on Public Lands, to whom was referred the petition of Victor Morass, praying a grant of land in lieu of certain lands confirmed to him by Congress, but sold to other persons by the United States, respectfully report:

That the committee have examined the papers and proofs in the case, and concur in the following report made to the Senate in 1850, and herewith report a bill for the relief of the petitioner.

"The petitioner presented his claim to a grant of land by virtue of possession and occupancy of his father, then deceased, to the board of commissioners appointed under the act of Congress entitled "An act to renew the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan," approved May 11, 1820. The land claimed by him was described as "a tract of land situated on the south border of the river Delude, containing six hundred and forty acres, to be laid out in a square form, bounded in front by said river, and on the lower side by the Chippewa reservations." The commissioners entered the application and proceeded to take proofs on the subject of the petitioner's right to the land. The public surveys along the river had already been made, and the commissioners having ascertained that a portion of the land in question (to wit, 107 $\frac{84}{100}$ acres) had been sold by the government to individuals before the time of their decision on the subject, recommended the residue of the six hundred and forty acres, being 532 $\frac{14}{100}$ acres, for "confirmation to Victor Morass." The report of the commissioners, with the testimony and proceedings before them in this case, is found in American State Papers, "Public Lands," volume 4, page 798, being No. 1 in book No. 5.

The report of the commissioners was presented to Congress, and by an act entitled "An act to confirm certain claims to lands in the Territory of Michigan," approved April 17, 1828, all the claims purporting to be confirmed or recommended for confirmation in the said volume 5, are confirmed. The fifth section of this act, however, provides that such confirmation "shall not be so construed as to prejudice the rights of third persons, or to impose any obligation on the part of the United States to make payment or give other lands to any claimant who may be deprived of his posses-

sions by operation of law;" nor shall it operate as any thing more than a relinquishment of the right of the United States in the lands.

Between the filing of their report by the board of commissioners, which was in 1824, and the passage of the confirmatory act in April, 1828, more than four years elapsed; and as the lands on the river Deludé, including the premises covered by the petitioner's claim, was in market as public lands, the same was subject to entry by any individual. It appears from the returns at the General Land Office, as near as can be ascertained without a resurvey, for that purpose, that after deducting the quantity sold previous to the confirmation, there remained unsold two hundred and eighty-three acres, to which the petitioner obtained a title under the confirmatory act.

It is also evident from the returns at the General Land Office that this last-mentioned quantity of land has been permitted, since the passage of said confirmatory act, to be entered by individuals, and is now held by the purchasers under patents from the United States. If, as the committee believe, the petitioner under the act of confirmation acquired a perfect title to the portion of the premises not sold by the government at the time of the passage of that act, the rights of the patentees must yield to the petitioner's title. In that event, the United States must refund the amount paid by such purchasers.

The petitioner—whether cognizant of the whole facts and of his rights, or not, does not fully appear by the papers presented—asks other lands in lieu of the quantity originally granted to him; and under the state of facts as they appear in the case, it is manifestly the interest of the government to grant it. It cannot, however, be done with safety to the rights of the present holders of the lands embraced in his grant, or to the United States, unless he will, as a condition, voluntarily release all claims to the original location. In that event the present occupants will be quieted in their possessions and their improvements, the United States indemnified against a claim for refunding the purchase money, and justice be meted out to the petitioner.

Under the terms of the act of confirmation, it is evident that his rights attached only to that portion of the premises which were sold by the government after the passage of that act, amounting (as near as may be) to two hundred and eighty acres. For a grant of this quantity of land, to be located in Michigan, the committee herewith report a bill, with the proviso, however, that he shall first relinquish all interest in the land originally confirmed to him.

The petitioner also urges a similar right to another parcel of land, a claim for which was presented before the same board of commissioners. The action of the commissioners on the subject will be found in the same volume of the American State Papers, and on the same page with the report in the case above mentioned. The commissioners do not, however, recommend a confirmation of the land claimed to the petitioner, but, alleging that it had already been sold by the government, "recommend the confirmation by Congress of other lands to Victor Morass, adjacent and unsold, in lieu of the land claimed." It has not been the practice at the Department to recognise such recommendation of commissioners to grant other lands to a claimant as the foundation of any right in him, under the law; neither, in the opinion of the committee, are the terms of the act referred to such as require, upon equitable principles, a new concession of lands. Both of the

claims above mentioned are founded on the possession and improvement of Antoine Morass, father of the petitioner, and it has not been customary for government to recognise two *possessory* rights under one and the same individual. The committee are therefore of opinion that this portion of the petitioner's claim should not be allowed."