

IN SENATE OF THE UNITED STATES.

MARCH 13, 1844.

Submitted; and ordered to be printed.

Mr. BREESE made the following

REPORT :

[To accompany bill S. 108.]

The Committee on Private Land Claims, having had under consideration the petition of Stephen Steele and James Daniel, of the State of Alabama, praying that a law may be passed vesting in them the title to a certain Indian reservation in that State, submit the following report :

On the 9th day of August, 1814, General Andrew Jackson, in behalf of the United States, concluded a treaty with the hostile Creeks, at Fort Jackson, by which a cession of land was made by them, and lines of boundary established between the parties thereto.

By the first article of that treaty, it is provided, among other things, "that, where any possession of any chief or warrior of the Creek nation, who shall have been friendly to the United States during the war, and taken an active part therein, shall be within the territory ceded by these articles to the United States, every such person shall be entitled to a reservation of land within the said territory of one mile square, to include his improvements; as near the centre thereof as may be, which shall inure to the said chief or warrior and his descendants, so long as he or they shall continue to occupy the same, who shall be protected by and subject to the laws of the United States; but, upon the voluntary abandonment thereof by such possessor or his descendants, the right of occupancy or possession of said lands shall devolve to the United States, and be identified with the right of property ceded hereby."

On the 3d of March, 1817, Congress passed an act entitled "An act making provision for the location of the lands reserved by the first article of the treaty of the ninth of August, one thousand eight hundred and fourteen, between the United States and the Creek nation, to certain chiefs and warriors of that nation, and for other purposes," the second section of which provides, "that when any chief or warrior, so entitled to a reservation of land at the time of the signing the treaty, shall have since died, and left a widow and child or children, who has or have continued to occupy and cultivate the said land, they shall have the right of selection, in the same manner as the original claimant would have if he was living; and the title of the lands so selected shall be a fee simple in the child or children,

reserving to the widow, if any, the use and occupation of one-third of the land during her life: *Provided, however*, That the said child or children shall not have power to alienate the said lands, except by devise, until each and every one of them shall have arrived at the age of twenty-five years."

The petition states, in substance, that fractional section sixteen, in township six, and range five, on the east side of the Alabama river, and the southeast and southwest quarters of section nine, in the same township and range, were granted to the heirs of William Jones, under this treaty, who leased them to the petitioner (Steele) for the term of nine hundred years, for the consideration of six thousand dollars; that Steele conveyed to Mary James one hundred acres and seventy-two hundredths of an acre of this land, and she, by deed, conveyed the same to the other petitioner, (Daniel.) The contract is represented to be fair, and that all the parties are satisfied with it. The petitioners then state, that doubts exist whether these lands have not reverted to the United States; and that they are informed that attempts have been made to locate floating rights on lands thus situated, and ask that they may be protected by a law vesting the title in them absolutely.

A certified copy of this lease is exhibited, executed by Edward Davis, Seaborn F. Jones, Nancy Jones, Samuel Jones, Mary James, and Jeffersonia Davis, bearing date the 3d day of September, 1835.

A certified copy of a quit claim deed, purporting to have been executed by the same persons to Stephen Steele, is also exhibited, bearing date the 13th day of January, 1835, for the same land, in which deed it is described as "the same tracts of land which were confirmed to the heirs of William Jones, deceased, by patent bearing date the 12th day of April, 1820, under the seal of the General Land Office of the United States."

A quit claim deed from Steele to Mary James, dated 25th February, 1841, is also shown, for one hundred acres and seventy-two hundredths of an acre, part of the section sixteen, and a warrantee deed from Mary James to James Daniel, for the same parcel, executed on the 24th December, 1842.

Upon application to the General Land Office, a copy of the certificate, numbered 15, granted to the heirs of William Jones, deceased, dated 12th April, 1820, is furnished, by which it appears, that, by virtue of the before-recited act of Congress, "the Secretary of the Treasury has confirmed the claim of the heirs of William Jones, deceased; and that the said heirs are entitled to occupy the following lands, agreeably to the provisions of the said act, viz: fractional section sixteen, of township six, in range five, on the east side of the river Alabama, and the southeast and southwest quarters of section nine," same township and range, in the district of Cahaba.

This certificate purports to be executed in conformity with the terms of the second section of the act of 1817 referred to, and it confirms the right in the heirs of Jones to the land in which, by the law, they are entitled to the fee, and only prohibited from selling whilst any one of them is under twenty-five years of age. They have a fee simple title to the land, by express law, and the only restraint upon its alienation is the requirement that the youngest heir shall be twenty-five years of age.

It nowhere appears, from the papers in the case, that the youngest of the heirs of Jones, at the time of executing the deed or lease, was twenty-five years of age, or what age; nor is the reason of this requirement of the law apparent. The heirs are stated, however, by the Senator who intro-

duced the petition, to have been over twenty-one years of age at the time of executing the deed, and twenty-five years of age when the lease was executed. That being the fact, the lease for 900 years is well executed; and the only question remaining is, should the United States relinquish its reversionary interest in those lands to the petitioners? It is well understood, there is such an interest in the United States in all lands thus situated; and it is also understood, that it has not been the policy of the Government heretofore to insist upon it as a matter of pecuniary consideration and profit, but to release it, whenever a proper case is presented.

In this case, a full price, it would seem, has been paid for the land, and the parties selling are satisfied with the contract. It is of advantage to the country, and to the Government also, that its citizens should be secure in their possessions fairly and honestly acquired, as thereby the strongest inducement is afforded to cultivate and improve them in the highest degree of which they may be susceptible.

A reference to several acts of Congress shows that a release of this kind is not uncommon; and as no interest, State or National, can be injuriously affected, the committee report a bill in conformity with the prayer of the petitioners.

No. 15.]

GENERAL LAND OFFICE, *April 12, 1820.*

I certify that, in pursuance of an act of Congress passed on the 3d of March, 1817, entitled "An act making provision for the location of the lands reserved by the first article of the treaty of the 9th of August, 1814, between the United States and the Creek nation, to certain chiefs and warriors of that nation, and for other purposes," the Secretary of the Treasury has confirmed the claim of the heirs of William Jones, deceased, (being number fifteen;) and that the said heirs of William Jones, deceased, are entitled to occupy the following lands, agreeably to the provisions of the said act, viz:

Fractional section sixteen, of township six, in range five, on the east side of the river Alabama, and the southeast and southwest quarters of section nine, of township six, in range five, in the State of Alabama, and district of Cahaba.

In testimony whereof, I have hereunto subscribed my name, and [L. s.] caused to be affixed the seal of this office, at the city of Washington, the twelfth day of April, 1820.

JOSIAH MEIGS,
Commissioner of the General Land Office.