REPORT

Of the Commitee on Private Land Claims in the case of S. Henderson.

APRIL 10, 1822.

Read, and committed to a committee of the whole House to-morrow.

DECEMBER 12, 1822.

Reprinted by order of the House of Representatives.

The Committee on private Land Claims, to whom were referred the petition and accompanying documents of Stephen Henderson, have had the same under consideration, and

REPORT:

The petitioner states that the Spanish government granted to Joseph, Alexander, and David Pannill, three contiguous tracts of land, amounting, in the aggregate, to 2164 acres, lying within the present limits of the state of Mississippi, which the said grantees, sometime afterwards, sold to a certain Samuel C. Young, who, in like manner, sold the same in the year 1809 to Elliot Hackley, who is now dead, and the petitioner; that the evidences of title to the said land were filed with the commissioners appointed to adjust land titles, and were rejected, because there was no proof of such residence as the law, under which they acted, required, to justify a confirmation; that his late partner and himself were ignorant of this defect of title at the time of their purchase; that after it came to their knowledge, Maj. Freeman, surveyor-general, at their instance, promised that their lands should be exempt from public sale until application for relief could be made to Congress; that, influenced by the assurances of Maj. Freeman, they did not attend the public sales, at which 643 acres were sold, at two dollars an acre; that this occurrence was owing to their lands lying on opposite sides of the township line, a fact not noticed by the officers conducting the sales; that, on the balance, amounting to 1501 acres, very valuable improvements were made; that, since February 1816, a continued application to Congress, for relief, has been made, to no purpose, and that on the 3d of July, 1821, this balance was sold, to sundry purchasers, for one dollar and twenty-five cents an acre. Wherefore, he prays the passage of an act to annul the sale of the said land, and to give him the right of pre-emption thereto, at one dollar and twenty-five cents an acre, or such other relief as justice may require.

It appears, from a certified extract of the records of the Board of

Commissioners appointed to adjust land titles west of Pearl river, that a patent was granted on the 20th of June, 1795, by the Spanish government, to Joseph Pannill for one thousand arpents; one on the 7th of December following, to Alexander Pannill, for five hundred arpents; and one on the same day to David Pannill for five hundred arpents; and that the plats of survey, in all these cases, bear date in 1795.

Joseph Pannill, and his wife Agnes, in consideration of the sum of $30,000, on the 4th day of January, 1803, conveyed to Samuel C. Young four tracts of land, amounting to 2700 acres. This appears from an inspection of the deed itself.

On the 5th of July 1809, Samuel C. Young conveyed to the petitioner 1300 arpents, of which 800 arpents are a part of the tract patented to Joseph Pannill, and 500 arpents, the same patented to Alexander Pannill, and also 640 acres, which, in the deed, are called pre-emption land; in all amounting to about 1900 acres. To support these facts the deed is exhibited, and from which it appears the consideration was about $15,000.

On the 2d of October, 1809, Samuel C. Young, in consideration of $3,000, conveyed to the petitioner the 500 arpents which had been originally granted to David Pannill.

By a deed, bearing date the 9th of January 1820, David Pannill sanctions the sale of the 500 arpents, as made by his father and mother, and also releases to the petitioner.

Major Freeman, surveyor-general, states, that, at the request of the petitioner and the late Elliot Hackley, he exempted from sale sections Nos. 52, 53 and 54, in township No. 2, of range No. 3, west, under an impression that, at some future day, a well founded claim might be made to them, and be decided without unnecessary trouble; also, that section No. 6, in township No. 1, of range No. 3, west, having been returned as public land, was, as such, exposed to sale, and purchased by William Tiquer, though claimed by the petitioner and Hackley. Major Freeman's certificate is dated the 2d of January, 1816.

Robert Williams, Esq. who was a member of the board appointed to adjust land titles west of Pearl River, certifies that, from an inspection of the original title papers in this case, he believes they were honestly executed, and that he had never heard it intimated that they were spurious. His statement is not under oath, and is dated the 5th of January 1816.

Samuel P. Moore swears that he was acquainted with Joseph Pannill, and that he visited him and his family in the year 1796 or 1797, when they resided on a plantation commonly called Fontainbleau, lying in Wilkinson county in the state of Mississippi, and that, from the appearance of the cultivation and improvements, he was of the opinion it had been inhabited a considerable time. His affidavit is dated the 12th Nov. 1821.

Charles Tessier, of Baton Rouge, on the 5th day of Feb. 1822, swears that he has examined the patent for 1000 arpents of land, granted by the Baron De Carondelet to Joseph Pannill, on the 20th day of

June 1795; that it is a true and genuine document in his own hand, and that, at that time, and long before, he acted as first clerk in the Secretary of State's office in the city of New Orleans.

Thomas Freeman, the late surveyor general, on the 3d of July 1821, writes thus to the petitioner: "I received your letter of the 27th ult. on the subject of the approaching sales of public lands in this district. Your letter arrived here the day before the sale commenced. I submitted it to the Register and Receiver, who are commissioners of the sales, explained to them what had been done at a former sale with respect to your tract in Wilkinson county. They did not conceive themselves authorized to take notice of the claim, and of course they offered for sale, as public lands, the tract you claim in Wilkinson. It sold very low, $1 25 per acre, and probably was bought for you."

The evidence of the sale of the lands, claimed by the petitioner, on the 3d of July 1821, is satisfactory.

George Poindexter, Esq. is now a sub-purchaser of 765 acres, and on the 12th September 1821, gave notice to the tenant of the petitioner, that he would, at the end of three months, enter on and take possession of the same.

In the "articles of agreement and cession" between the United States and the state of Georgia, is this condition: "That all persons, who, on the 27th day of October 1795, were actual settlers within the territory thus ceded, shall be confirmed in all the grants legally and fully executed prior to that day, by the former British government of West Florida, or by the government of Spain."

Under an act of the 3d of March 1803, every person whose rights were intended to be protected by the above recited clause of the articles of "agreement and cession," was confirmed in his claim.

The Board of Commissioners appointed to decide on titles to lands lying west of Pearl River, rejected the application of Samuel C. Young, because it was not proved that Joseph Pannill was a resident within the limits of the Mississippi territory, on the 27th of October 1795.

Some time after, Samuel C. Young preferred his petition to Congress, asking to be confirmed in his title to the 2800 arpents of land, which he had purchased of Joseph Pannill, stating that he expected to be dispossessed by government, as said Pannill was not a resident of that country on the 27th of October, 1795. In the absence of proof of this fact, an unfavorable report was made on the 17th of March 1810.

The affidavit of Mr. Moore is not sufficient to warrant the conclusion that the act of the 3d of March 1803, would embrace this case.

Inasmuch as the committee believe it has not been the policy of Congress to grant relief to those who claim lands lying within the cession of Georgia, when there has been a failure to prove residence on the 27th of October 1795, the adoption of the following resolution is recommended.

Resolved, That the prayer of the petitioner ought not to be granted.