IN SENATE OF THE UNITED STATES.

June 11, 1838.

Submitted, and ordered to be printed.

Mr. Mouton submitted the following

REPORT:

[To accompany Senate bill No. 358.]

The Committee on Private Land Claims, to whom was referred the report of the register and receiver of the Ouachita land district, in the State of Louisiana, dated the 24th day of July, 1837, *and made under the provisions of the act of Congress of the 6th day of February,* 1835, *beg leave to report:*

That, in the investigation of the land claims contained in that report, they differ widely from the Solicitor of the Land Office, as to the construction of the different acts of Congress, passed for the purpose of adjusting claims to lands in the State of Louisiana, and, consequently, arrive at a very different result as to the validity of the claims here submitted, which, in the opinion of your committee, are to be determined exclusively by the acts of Congress, where they provide for the cases expressly, and not by the rules and regulations made by the Spanish authorities as to the grants of lands; which regulations of the different Spanish Governors of Louisiana, when a province or colony, were never strictly enforced, as is well known, exercising, whenever they thought proper, a discretionary power, never questioned by the King. But aside and independent of all this, Congress has, by positive and express legislation, fixed the conditions under which the different land claims in that State should be recognised as valid; and, also, as to the quantity of acres which said grants should contain. The act of Congress of the 2d day of March, 1805, section 2d, provides expressly that, in all cases where a person has settled and cultivated a tract of land for three years previous to 1803, with the consent of the Spanish Government, and the person being 21 years of age, or the head of a family, shall be entitled to a grant of six hundred and forty acres. By a subsequent act, passed on the 21st day of April, 1806, the proof of permission to settle by the Spanish authority is dispensed with, in favor of those settlers; and on the 3d day of March, 1807, those settlements were declared to be valid and good, and, therefore, entitled to a donation of 640 acres, though the claim might be in favor of a minor, not the head of a family, dispensing, thereby, with the conditions previously required; and all that, without any reference whatever as to what were the Spanish regulations in regard to settlements of

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that description. And, by examining the 2d section of the last mentioned act, it will be seen that a confirmation, not exceeding 2,000 acres, is allowed in favor of all persons who had for ten consecutive years previous to 1803, settled and cultivated the public land. These last claims appeared to be more favored, on account, probably, of the longer time that they had been occupied, and, also, no doubt, because Congress was aware that, had applications been made to the Spanish Government for a grant of that quantity of acres, it would have been accorded without the least delay; and, also, to discriminate between the new settlers (*nouveau colon*) and the resident citizens of the province. And, again, by the 1st section of the act of 1805, provision is made for the confirmation of all duly registered warrants, or orders of survey, for lands lying within said State, to which the Indian title had been extinguished, and which were, on the 1st day of October, 1803, actually inhabited and cultivated, in the same manner as if their titles had been completed. The different acts of Congress, above referred to, in the opinion of the committee, provided for the adjustment of three distinct classes of claims; and in order to enable this Government to decide upon all claims, originating under the previous Governments of which Louisiana had been a colony, of whatsoever nature they might have been, Congress thought it proper and just that the commissioners appointed to adjust and ascertain the rights of persons to lands under the previous enactments, should also be authorized to investigate and report upon all claims that might be presented to them, arising under the laws, usages, and customs of the French and Spanish Governments; provided such claims did not exceed the quantity of acres contained in one league square, and did not include a lead mine or salt spring; declaring, at the same time, that the decision of the commissioners, when in favor of the claimants, should be final against the United States, any act of Congress to the contrary notwithstanding. This was giving to the board a general power over the whole subject matter, so as to include such claims for which Congress had not already specially and expressly provided; and hence the provisions of the 4th section of the act of 1807 were enacted, so as to accomplish this last object. And your committee think that they are supported in their view and construction of the acts of Congress on the subject, by the 8th section of the law of 1807, in which the duties of the commissioners are defined; and at the same time that they agree with the register and receiver as to the *validity* of all the claims contained in their report, they must differ with them as to the *quantity* of land to be allowed to the claimants, which they consider is fixed and determined by positive legislation on the part of Congress, so far as settlement rights are concerned; and that the French or Spanish regulations are not to govern on that point; for they might, in many instances, be in direct contradiction with the acts of 1805, 1806, and 1807.