IN SENATE OF THE UNITED STATES.

JANUARY 14, 1839.

Submitted, and ordered to be printed.

Mr. Mouton submitted the following REPORT:

[To accompany Senate bill No. 156.]

The Committee on Private Land Claims, to whom was referred the petition of Albin Michel, acting for himself and as the natural tutor of his minor son, and also as the authorized agent for several other persons, praying for the confirmation of a grant of land in Mobile, in the State of Alabama, make the following report:

The petitioner, residing in the city of New Orleans, acting for himself and as the natural tutor of his minor son, Henry Clement Albin Michel, and also as the authorized agent for several other persons, shows that he and his said constituents are co- proprietors of a certain lot situate in the southern part of the city of Mobile, measuring two arpens and four toises front by twenty five arpens in depth, between parallel lines; that they claim said property by virtue of a complete grant, issued by the French Government, in favor of Madame de Lusser, mother of John B. de Lusser, on the 27th of December, 1763, which said grant sets forth a possession long anterior to the period of its date, all of which fully appears by reference to documents annexed, (marked A.) which have been duly recorded in the land office for the district of lands east of Pearl river, (B, pp. 273-276;) that under none of the divers Governments which have succeeded each other in the said city of Mobile, were the said Mrs. de Lusser and son, nor their heirs, molested in their peaceable possession of said land, which, on the contrary, was always recognised by the English and Spanish authorities as their true and lawful property; that no action has ever been had calculated to change the title thereof, which has, on the contrary, continued to this day to remain vested in the said De Lusser family, who have always regularly paid the taxes imposed upon said land. The petitioner further shows that, on the 21st day of June, 1809, a certain Joseph J. Chastang, of Mobile, without any authority whatever, except from M. Hazeur de Lonne, one of the heirs of the said J. B. de Lusser, sold and conveyed unto Don Miguel de Eslava the above described land for the price of one hundred dollars, as appears by document marked A. The said sale was long unknown to the petitioner, who then resided, as he now does, in the city of New Orleans. So soon as he became acquainted therewith he instituted suit against the said Eslava, in order to procure a
recession of said sale, on the ground that said Chastang had never been empowered by those interested in the land to effect said sale; and, after due proceedings had, a compromise took place by which said sale was annulled, so far as related to the rights of the petitioner and his constituents, forming the "Develle branch" of the heirs of the said De Lusser, but maintained as it respected the portion belonging to the "Hazeur branch" of said heirs, as appears by reference to papers marked B. The petitioner, moreover, shows that, pursuant to the said transaction between him and the heirs of Eslava, (Don Miguel being then deceased,) the said heirs took upon themselves the charge of procuring from the Government of the United States a full confirmation of the original title to said land; and that, until last year, the petitioner was firmly convinced that said confirmation had been obtained; in which conviction he was strengthened by the antiquity of the title and the undisturbed and peaceable possession which he and his constituents had ever enjoyed of said land, and by the several dispositions made from time to time of parts of said land, without hindrance or molestation, public or private. The petitioner further shows that he has been informed that the claim preferred by the heirs of Eslava to the land in question was at the last session of Congress rejected, on the ground that the said heirs claimed in virtue of "a grant lost by time," which would entitle them to a new grant or donation, and inasmuch as they had already obtained this favor once before, the law did not permit them to become applicants for the same a second time. Against this decision the petitioner remonstrates, as occasioning great wrong and prejudice to him and his said constituents. He therefore solicits a confirmation of the title or grant as hereinbefore recited, which has not been lost by time, notwithstanding its antiquity, but has been duly recorded in the land office above alluded to, and which, moreover, has ever been respected under all circumstances for upwards of seventy years, as the indisputable tenure to property, constituting part of the patrimony of an old and respectable family.

The document A, referred to in the preceding petition, shows a complete grant from the French Government in favor of Madame de Lusser, on the 27th of December, 1763, and also the clearance of said lot by said lady in the year 1748. This document also shows the purchase of this said lot by Miguel Eslava from Joseph Chastang on the 21st of June, 1809.

The papers marked B, show the "transaction between the heirs of De Lusser and the heirs of Eslava, before Felix de Armas, Esq., notary public at New Orleans, on the 22d of November, 1823," and prove the compromise which was entered into between the parties in consequence of the sale of said lot by Chastang to Eslava.