

IN SENATE OF THE UNITED STATES.

MARCH 30, 1848.

Submitted, and ordered to be printed.

Mr. DOWNS made the following

REPORT:

[To accompany bill S. No. 189.]

The Committee on Private Land Claims, to whom was referred the petition of H. Fredien, M. Vercher, and others, citizens of Louisiana, claiming the privilege of making pre-emption entries on lands covered by certain claims, known as the "Bowie titles," have had the subject under consideration, and report:

That the titles alluded to consist of a number founded on written evidence—namely, Spanish papers, and entered in the report dated 1st January, 1821, of Daniel J. Sutton, register of the land office for the district north of Red river, Louisiana, and of certain others in the report dated 6th January, 1821, of Samuel H. Harper, register for the southeastern district, Louisiana; which reports are to be found in the 3d volume of the American State Papers, public lands, printed by D. Green; Sutton's, on pages 524 to 532; and Harper's, on pages 507 to 524; that all thus reported upon by Sutton, except seven claims, numbered 40, 44, 45, 46, 47, 48, and 51, and all thus reported upon by Samuel H. Harper, have been actually confirmed by the act of Congress, approved 28th February, 1823, entitled "An act supplementary to the several acts for the adjustment of land claims in the State of Louisiana;" that, after the confirmation by the aforesaid act, the attention of the department was drawn to this class of claims by allegations of fraud; that the subject was brought to the notice of Congress by reports from the department in December, 1824, and January, 1828—State Papers, volume 4, pages 2 to 7, and volume 5, pages 78 to 83—that no subsequent legislation has been had in regard to them; that their supposed fraudulent character has given rise to much embarrassment in making a proper location and survey of them in connexion with the public surveys, and in the final action of the department upon them; that they have been the subject of instructions at various times from the department to the surveying officers from the year 1824 to 1847; that in 1829—2d part printed "laws,

instructions, and opinions," pages 894, 895, 901—the instructions of Commissioner Graham interdicted the approval of any survey of these suspected claims, unless the original title was produced and found to be genuine; they, however, authorized such claims to be represented on the plats of the public surveys by dotted lines, and appear to have contemplated the sale of them; so that the claimants under the confirmed claims would have an opportunity to institute suits against the purchasers, and thus be enabled to obtain a judicial decision both as to the genuineness of the claim and its proper location; that, in subsequent instructions from the General Land Office, of May 21, 1845, in the case of a suspected claim, it was held, however, that, if the "report and evidence do fix the location of the claim on a specific tract, the land included therein must be treated as reserved land," the survey not to be approved, however, unless the genuineness of the original title was established; and, in cases which were before that office in May, 1847, the commissioner asserted the same principle; and, in regard to fraudulent confirmed claims, referred to the spirit of the early instructions of Mr. Graham, of 26th December, 1824—2d part printed laws, opinions, &c., page 847—and to the aforesaid instructions of May 21, 1845, as requiring, instead of laying open to sale the lands actually embraced in the confirmation, that they should be reserved from sale for such future action as Congress may choose, in view of the unrepealed confirmatory statute.

The committee have examined Sutton's report, and find that it embraces seventy-two claims which have been confirmed by the aforesaid act of 1823; that, of this number, there are forty claims founded on *written evidence*—viz: Spanish orders of survey, which the history of the times places under suspicion of fraud; that there are also thirty-two other confirmed claims in Sutton, covering $21,931\frac{9}{100}$ acres, but his report represents the most of them to be settlement claims, and the residue to be under old sales, &c., during the existence of the Spanish government, and which do not appear fairly to fall into the fraudulent class.

	Acres.
These 40 suspected claims cover.....	53,915
There are also 9 claims in Harper's report which he has reported as fraudulent.—State Papers, volume 5, pp. 80 and 81, covering.....	26,419 $\frac{33}{100}$
Making 49 claims, covering.....	80,334 $\frac{33}{100}$

The committee, after the best reflection they have been enabled to bestow on this novel and difficult subject, have come to the same conclusion that the officers of the land office seem to have done when the frauds were first discovered; that is, to permit the land to be entered by pre-emption, or otherwise, in any case where "the report and evidence do not fix the location of the claim on a specific tract." This is in accordance with the prayer of the memorial. There can be no injustice in applying this principle to

the Spanish claims in conflict with the memorialists, on three of the 40 suspected cases in Sutton's report, because *no specific location was given to them in the report and evidence* before the register; nor, as far as the committee are informed, have they ever been in possession of the land claimed by them. The bill reported makes no difference in the title of these claimants; it simply invests the title of the United States in those claiming pre-emption rights, who offer, at their own expense and risk, to contest the validity of these so long disputed claims, which they can much better do than the government.

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