

TITLE TO CERTAIN LANDS, PETTIS COUNTY, MO.

JUNE 20, 1910.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROBERTS, from the Committee on Private Land Claims, submitted the following

REPORT.

[To accompany S. 6059.]

The Committee on Private Land Claims, to which was referred the bill (S. 6059) to release the title of the United States to certain described land in Pettis County, Mo., to George R. Shelley, his heirs and assigns, having had the same under consideration, beg leave to report the bill back to the House with the recommendation that it do pass.

The following report from the Senate Committee on Public Lands covers the situation fully and sets forth all the facts, and is hereby incorporated as a part of this report.

[Senate Report No. 610, Sixty-first Congress, second session.]

The Committee on Public Lands, to whom was referred the bill (S. 6059) "To remove cloud from the title of the southeast quarter of the northeast quarter of section twenty-three, township forty-seven, range twenty-three west of the fifth principal meridian, except ten acres off of the north side thereof, in Pettis County, Missouri, and to release the title of the United States therein to George R. Shelley, his heirs and assigns," having had the same under consideration, report it back favorably with the recommendation that it do pass.

The following letters from the Interior Department and the Treasury Department, which are made a part of this report, set forth the facts in the case:

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1910.

SIR: I have the honor to acknowledge receipt of Senate bill 6059, entitled "A bill to remove cloud from the title of the southeast quarter of the northeast quarter of section twenty-three, township forty-seven, range twenty-three west of the fifth principal meridian, except ten acres off of the north side thereof, in Pettis County, Missouri, and to release the title of the United States therein to George R. Shelley, his heirs and assigns," with request for information as to the law and facts relative thereto, and for such suggestions as this department may see proper to make.

In reply I have to inform you that the records of the General Land Office show that on September 26, 1854, Joseph W. Berry purchased, at Clinton, Mo., under the

graduation act of August 4, 1854 (10 Stat., 574), the S. $\frac{1}{2}$ NE. $\frac{1}{4}$ and E. $\frac{1}{2}$ NW. $\frac{1}{4}$ sec. 23, T. 47 N., R. 23 W., and this land, which includes the land described in the bill, was patented to said Berry May 1, 1857. The patent is recorded in volume 86, page 132, of the patent records of the General Land Office.

From information informally obtained through the office of the Solicitor of the Treasury, a bureau of the Department of Justice, it has been ascertained that the land described in the bill was sold, under a judgment obtained in the district court for the western district of Missouri, in March, 1873, in favor of the United States, and against Tyre M. Berry, William D. Berry, and Milton D. Berry, and a deed conveying the land to the United States, dated September 1, 1873, was filed for record in the office of the recorder of deeds of Pettis County, Mo., September 22, 1873.

It is suggested that this department, at this time, has no proper authority to make any recommendation affecting the land referred to in the bill, as any recommendation upon any proposed legislation affecting the said land properly rests with the Solicitor of the Treasury.

The copy of bill transmitted is herewith returned.

Respectfully,

R. A. BALLINGER, *Secretary.*

HON. KNUTE NELSON,

Chairman Committee on Public Lands, United States Senate.

TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,

Washington, February 26, 1910.

SIR: I have to acknowledge the receipt of your letter of February 23, addressed to the Solicitor of the Treasury Department.

In reply thereto I transmit herewith a report by the solicitor under date of February 25, 1910, on Senate bill No. 6059, "to remove cloud from the title of the southeast quarter of the northeast quarter of section twenty-three, township forty-seven, range twenty-three west of the fifth principal meridian, except ten acres off of the north side thereof, in Pettis County, Missouri, and to release the title of the United States therein to George R. Shelley, his heirs and assigns."

Respectfully,

CHARLES D. NORTON, *Acting Secretary.*

HON. KNUTE NELSON,

United States Senate.

DEPARTMENT OF JUSTICE,

OFFICE OF THE SOLICITOR OF THE TREASURY,

Washington, D. C., February 25, 1910.

SIR: On the 23d instant the Hon. Knute Nelson, chairman of the Committee on Public Lands, United States Senate, transmitted to me for my consideration and with the request that I would give him such information respecting the subject-matter as I might be able, Senate bill No. 6059, Sixty-first Congress, second session, "To remove cloud from the title of the southeast quarter of the northeast quarter of section twenty-three, township forty-seven, range twenty-three west of the fifth principal meridian, except ten acres off of the north side thereof, in Pettis County, Missouri, and to release the title of the United States therein to George R. Shelley, his heirs and assigns." Accompanying Senator Nelson's letter was a letter addressed to him by the Secretary of the Interior relating thereto.

The facts in the case, as they appear from the examination of the records and files in this office, are as follows:

On September 9, 1872, a suit on a forfeited recognizance for \$500 was brought by the United States in the United States district court for the western district of Missouri against T. M. Berry et al. On March 29, 1873, a judgment for \$500 debt and \$23.35 costs was recovered against Tyre M. Berry, William D. Berry, and Milton D. Berry, the defendants. Execution was issued on July 23, 1873, and levy made on August 1, 1873, on the following land in Pettis County, Mo., as belonging to defendant Milton D. Berry, namely:

S. $\frac{1}{2}$ of SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ sec. 14, T. 47, R. 23.

S. $\frac{1}{2}$ of NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ sec. 23, T. 47, R. 23.

SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, sec. 23, T. 47, R. 23.

E. $\frac{1}{2}$ of NE. $\frac{1}{4}$ sec. 23, T. 47, R. 23.

On September 1, 1873, the land so levied on was sold to the United States at execution sale for the sum of \$10, and on September 2, 1873, the same was conveyed to the United States by George Smith, United States marshal. The deed was acknowledged September 19, 1873, and was recorded in the office of the recorder of deeds for Pettis County on September 23, 1873, in Deed Record "U," on page 627. This deed is now on file in the office of the Solicitor of the Treasury, and there is indorsed thereon by an indorsement made in the solicitor's office the statement that the property described in the deed was "homestead property, and exempt from execution and sale," and that the United States therefore "took nothing by the within deed." The authority for this statement is given as contained in a report of William Warner, United States attorney, dated May 15, 1883. This report of Mr. Warner is not, however, found on the solicitor's files, although a very careful and diligent search has been made for it. The report appears to have been made by Mr. Warner in connection with certain correspondence had with him by the then Solicitor of the Treasury in the years 1882 and 1883 with a view to recovering possession of the land if upon investigation such action should be deemed advisable. Upon receipt of Mr. Warner's above report the solicitor discontinued efforts to secure possession of the land.

In the year 1908 Messrs. Sangree & Bohling, of Sedalia Mo., made inquiry of the General Land Office concerning the SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ of sec. 23, T. 47 N., R. 23 W., in Pettis County, Mo. (being the same land embraced in the above-mentioned Senate bill), stating that ever since the sale thereof to the United States as above the land had been in the peaceable possession of Milton D. Berry and his grantees, and that the "present owner is desirous of perfecting the title to this real estate by removing the cloud therefrom cast upon it by the deed made by the United States marshal under said judgment" and asking how this could be accomplished. In response to the foregoing inquiry the solicitor (to whom the letter had been referred by the Commissioner of the General Land Office) informed Messrs. Sangree & Bohling, on May 9, 1908, that he knew of "no way to remove whatever cloud may exist except by a release under section 3751, United States Revised Statutes, or by a sale under section 3749, Revised Statutes, or by act of Congress."

In a letter dated September 25, 1908, to the Solicitor of the Treasury, Messrs. Sangree & Bohling stated that they had been corresponding with Senator Warner in regard to this matter with a view to having a bill introduced in Congress to "remove the cloud from the title cast upon it by the sale under execution issued from the United States district court." This is doubtless the origin of the bill now brought to my attention. It will be observed that this Senate bill relates to only a part of the land covered by the above-mentioned marshal's deed, namely, to the SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ of sec. 23, T. 47, R. 23 W., except 10 acres off of the north side thereof.

I have no information concerning any interest that George R. Shelley (named in the bill) may have or claim to the land in question, and even supposing that it would be proper to release the land from the lien created by the above sale and deed I do not know if "George R. Shelley, his heirs and assigns," are the persons to whom a release should be made. That is a matter, however, which will doubtless be considered and determined by the committee having charge of the bill.

In response to that part of Senator Nelson's letter in which he says he would "especially be glad to know whether or not title to the land referred to is now in the Federal Government," I can only say that such title as Milton D. Berry had therein at date of above-mentioned levy and sale was conveyed to the United States by the marshal's deed of September 2, 1873, supra, and that no sale or conveyance of such interest has since been made by the Government.

The letter of Senator Nelson and accompanying papers are herewith transmitted.

The foregoing information will enable you to make reply to Senator Nelson's letter. I have advised Senator Nelson that his letter has been referred to you.

Very respectfully,

MAURICE D. O'CONNELL, *Solicitor*.

THE SECRETARY OF THE TREASURY.

