69TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2025

TO RELINQUISH TO ITS EQUITABLE OWNERS THE TITLE OF THE UNITED STATES TO THE LAND IN THE CLAIMS OF A. MORO AND OF ANTHONY CAMPBELL IN JACKSON COUNTY, MISS.

FEBRUARY 9, 1927.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. ABERNETHY, from the Committee on the Public Lands, submitted the following

REPORT

[To accompany H. R. 14881]

The Committee on the Public Lands, to whom was referred the bill (H. R. 14881) to relinquish to its equitable owners the title of the United States to the land in the claims of A. Moro and of Anthony Campbell, in Jackson County, Miss., having considered the same, finds that the Government has no interest in the land in question, having confirmed the grants therefor by the acts of March 3, 1819, and March 3, 1845. It further finds that the present occupants and their ancestors have been in the open and undisputed possession of this land for a period of approximately 100 years. The last section of the bill clearly protects any and all vested rights and expressly provides:

> That this act shall amount only to a relinquishment of any title that the United States has, or is supposed to have, in and to any of said lands, and shall not be construed to abridge, impair, injure, prejudice, or divest in any manner any valid right, title, or interest of any person or body corporate whatever, the true intent of this act being to concede and abandon all right, title, and interest of the United States to those persons, estates, firms, or corporations who would be the equitable owners of said lands by reason of long, continuous possession under color of title with claim of ownership, or otherwise, under the laws of Mississippi, including the laws of prescription and limitation, in the absence of the said interest, title, and estate of the United States.

While the Secretary of the Interior in his letter of January 11, 1927, which is set out in this report, advised that the legislation was unnecessary, in a supplemental letter, which is also set forth in this report, reviewing the history of land grants in the Mobile territory and the necessity of clearing the titles thereto, states the department would interpose no objections should the Congress see fit to act favorably upon the bill. The committee, after full consideration,

reports favorably upon the bill, with the recommendation that it pass without amendment.

The letters referred to above are quoted as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1927.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: By your letter of January 3, 1927, you transmitted for report H. R. 14881, entitled "A bill to relinquish to its equitable owners the title of the United States to the land in the claims of A. Moro and Anthony Campbell in Jackson County, Miss."

The claim of the heirs of A. Moro is reported in American State Papers, Duff Green edition, volume 3, page 30, as No. 20, in a register of claims to land in the district east of the Pearl River in Louisiana, founded on private conveyances which have passed through the office of the commandant, but founded, as the claimant supposes, on grants lost by time or accident. The report shows settlement on the land from 1783 to January, 1814, and therefore the land was granted as a donation by section 3 of the act of March 3, 1819. (3 Stat. 528.)

The claim is shown on the records of the General Land Office as embracing private claim section 11, Township 8 south, range 7 west, St. Stephens meridian, (45.48 acres). The particular plot of survey shows this claim to extend into Township 8 south, range 6 west, and to embrace 50.15 acres. However, the township plat which would have to be followed in case of issuance of patent shows that the claim extends only to the township line, and a patent, if issued on the Moro claim, would embrace all of the adjoining land south of section 1, as well as land adjoining section 4, which embrace the claim of Campbell, described below.

The Campbell claim is reported as No. 33 in the same register as No. 20, and was inhabited and cultivated in 1809, and therefore is a donation claim under section 3 of the act of March 3, 1819, supra. This claim is shown on the records as embracing private land section 1, township 8 south, range 7 west (234.65 acres), and private land section 4, township 8 south, range 6 west (*174.76 acres*), St. Stephens meridian, Mississippi.

Section 11 of said act of March 3, 1819, provided for the survey of the lands, and section 12 for the issuance of certificates by the district officers and for the issuance of patents upon the presentation of such certificates to the General Land Office. The particular plats of survey of said claims are dated in July, 1824, while the township plat of township 8 south, range 7 west, was approved December 31, 1828, and the township plat of township 8 south, range 6 west, was approved October 1,1842.

No final certificate or patent appears to have issued in these cases. The donation claims appear to have been both confirmed, and patents, in the name of the original confirmees, may be obtained upon proper applications.

The purpose of the bill is to confirm title to the equitable owners of said claims. Said claims appear to have been already confirmed, as shown above, and patents may readily be secured, which, it is believed, would protect the present owners in their rights as outlined in the bill. Therefore the need of proposed legislation is not seen, and I am unable to recommend favorable action on the bill.

Very truly yours,

HUBERT WORK.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1927.

HON. JOHN MCDUFFIE,
House of Representatives.

MY DEAR MR. MCDUFFIE: I have your letter of January 22, 1927, with its inclosures, urging the enactment of H. R. 14881, a bill to relinquish to its equitable owners the title of the United States to the land in the claims of A. Moro and of Anthony Campbell in Jackson County, Miss. The opinion was expressed in my report of January 11, 1927, on the bill to the chairman of the House Committee on the Public Lands, that the private land claims of Moro and Campbell were confirmed by the act of March 3, 1819 (3 Stat. 528); that patents may be

readily secured if requested by the present owners; that no legislation was required; and for that reason I was unable to recommend favorable action on the bill.

It is represented by your correspondent that the present occupants of the land can trace their possession and that of their ancestors for a period of approximately 100 years, but that on three different occasions the deed records of the county in which the land is situated have been destroyed by fire. Furthermore, that shortly after the Civil War the residence of the present claimant was also destroyed by fire, and that as a result, probably, of the destruction of such records and papers, such occupants are unable to connect their claim or title with those of the original confirmees. It is further stated that it is well understood by such occupants that they may secure patents in the name of the original confirmees upon request, but in view of the decision of the Supreme Court of the State of Alabama in the case of Stein *v.* England (202 Ala. 297; 80 So. Rep., 362), they are, notwithstanding the long possession, apprehensive of what the courts in Mississippi might decide, because of the similarity of the facts in the Stein-England case and those involving the claims in the bill. You request that if I can not approve the passage of the bill that I at least withdraw objection thereto.

The land is situated near the Gulf coast in that portion of Mississippi east of Pearl River and south of latitude 31° north, in what is generally known as the Mobile country. The titles to private-land claims in the general vicinity of Mobile, Ala., that is, south of latitude 31°, east of Pearl River, and west of the Perdido River, present more difficulties and have occasioned more litigation than those in any other part of the country. In this area converged and overlapped the rival claims of British West Florida, the Spanish Floridas, the French Louisiana, and those of the State of Georgia and the United States under the royal British grants to Oglethorpe. During the temporary occupancy and control of the several nations mentioned efforts were made to colonize the territory, resulting in concessions and grants. Few of such grants were identified by surveys in the field, and many of them were in conflict. When the Government of the United States, by the cession from the State of Georgia, by purchase of Louisiana from France, and by the acquisition of the Floridas from Spain, came into undisputed sovereignty over the areas, the titles to large portions of the lands were cumbered with prior grants and were affected by specific treaty provisions as well as the general principles of international law. The Congress has always dealt generously with the settler on the public domain, and fairly with the nationals of foreign governments brought within our dominion by the acquisition of foreign territory. The act providing for the disposition of Mississippi Territory secured from Georgia provided for the protection of prior rights, and both the French and Spanish cessions were followed by a series of acts recognizing and providing for the adjudication of claims based on grants and concessions of the former governments. But, owing to the uncertainty of the boundaries of the respective cessions and purchases, the acquisition by the Government of complete territorial jurisdiction and the several acts of Congress looking to the adjudication of the private claims did not settle the controversies, and as a result many suits were instituted and prosecuted in the courts. In this connection see Foster et al. *v.* Neilson (2 Pet. 253). A comprehensive statement of the different territorial pretensions is given in this case by Chief Justice Marshall who delivered the opinion of the court.

There are now in the records of the General Land Office many private claims located in the general vicinity of Mobile that are exhibited on the official plats of survey with private claim numbers, and upon which patents have not issued. In some of these cases it is difficult to determine from the meager facts now before the department upon what theory the survey was ordered or approved; while in others, and in the class last mentioned are the claims under consideration, it can not be understood why patents did not issue promptly upon the approval of the surveys almost a hundred years ago. Where the claims appear defective on our records, and where it is shown, as in this case, that there has been long unbroken possession with claim of right, the department has uniformly recommended legislation along the lines of H. R. 14881, and in those cases that appear complete the policy has been adopted of withholding patent unless requested by those who have been in possession of the land for a long period of years. This rule was adopted in order that patents issued at this late date in the name of the original confirmees might not encourage the heirs of such confirmees to institute suits disturbing the possession of such bona fide occupants. The wisdom of this practice is signally illustrated by the decision of the Supreme Court of Alabama in the Stein-England case above referred to.

The reason why so many of these small claims have not been finally adjudicated is due, perhaps, to carelessness or indifference on the part of the confirmees, and also to the uncertainty that existed in the early days, especially prior to the decision of the Supreme Court in the Foster-Neilson case above cited, as to the legal status of such claims. Recent land activity along the Gulf coast has resulted in many inquiries as to the standing of such claims, and it is in the public interest that the titles be quieted by Congress to the extent that there is authority in law therefor.

While I adhere to the opinion that these claims have been confirmed and that no further legislation is necessary, and while I doubt the authority of the Congress to in any manner abridge rights secured by such confirmations, yet if the committee and the Congress after full consideration shall see proper to pass the bill, I will interpose no objection to its approval.

Very truly yours,

HUBERT WORK.

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