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Report : Petition of J. Beaubien

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IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1854.—Ordered to be printed.

Mr. PETTIT made the following

REPORT.

[To accompany Bill S. 299.]

The Committee on Private Land Claims, to whom was referred the petition of Jean Baptiste Beaubien, of Illinois, praying indemnity for the loss of certain lands at the city of Chicago, have had the same under consideration, and submit the following report:

It appears that Beaubien purchased a house on the southwest fractional quarter of section 10, township 39 north, of range 14 east; that he took possession thereof, and occupied and cultivated a part of said lands, in every year from 1817 to 1836; that, in 1823, certain factory houses, built upon said lands, were sold by order of the Secretary of the Treasury; that one Whiting became the purchaser, who sold the same to the American Fur Company, and the company sold to Beaubien for \$500; that Beaubien took possession of the houses, and occupied the same. On the 7th of May, 1831, he made application to the land office at Palestine, under the act of 1830, for a pre-emption to said lands, but the same was rejected; although, upon the same day, a pre-emption was granted to one Kinzie for a part of the said fractional section 10; he also applied, in 1834, to the land office at Danville, for a pre-emption right to said lands, which was again rejected.

In 1835, the President of the United States, by proclamation, directed certain lands in the Chicago land district to be exposed to public sale, among which was included the lands in question. In May, 1835, Beaubien proved his pre-emption before the receiver of the land office at Chicago, and entered the said southwest fractional quarter, section 10, township 39, range 14 east. The receiver granted the pre-emption and permitted the entry, on the ground that the lands in question were within the district and not specially reserved in the proclamation of the President, nor were they marked as reserved upon the map furnished such land office; this entry by Beaubien was afterwards cancelled by the Commissioner of the General Land Office, on the ground that the said lands were reserved for military purposes in the year 1824, and consequently were not subject to private entry.

It also appears that Fort Dearborn was located on the lands in question, and was first occupied by United States troops in 1804, and such occupation continued until the 16th of August, 1812; on the 4th of July,

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1816, it was re-occupied by United States troops, and continued so re-occupied until May, 1823, when it was evacuated by order of the War Department, and left in the possession of the Indian agent at Chicago until 1828, when it was again so occupied; and in May, 1831, it was again evacuated until 1832, when it was again re-occupied by troops, and continued so occupied up to the date of the entry by Beaubien.

The land was surveyed by the government in 1821, and in 1824 the Indian agent, then in possession of the fort, suggested to the Secretary of War to have this fractional section 10 reserved for the protection of the property of the Indian agency; and the Commissioner of the General Land Office informed the Secretary of War, on the first of October, 1824, that he had directed that fractional section 10, township 39 north, range 14 east, should be reserved for military purposes.

It further appears that one of the grantees of Beaubien prosecuted a writ of ejectment against an officer of the government, then in possession of Fort Dearborn, and upon an appeal to the supreme court of Illinois he was sustained in his title to said lands; but upon a writ of error to the Supreme Court of the United States, the grantee of Beaubien was evicted of his title, and the title thereto was decided to be in the United States.

The government before the decision of the case in the Supreme Court of the United States had the tract of land in question laid out into town lots, and have realized a large amount of money from the sales thereof.

The committee have no disposition to question the decision of the Supreme Court of the United States, in thus reciting the facts in the case, but they are of opinion that such facts show that Beaubien is justly entitled to some remuneration from the government for his equitable claim to the said lands.

It also appears from a letter from the War Office that old Fort Dearborn was evacuated, as a military post, in December, 1836, and that all the lots in the Fort Dearborn addition to the city of Chicago have been sold or appropriated, except lots 4 and lots X and Y of lot 6, as designated on map B, accompanying the papers herewith, which yet remain unsold and the property of the United States. In answer to the question "are the lots still vacant and unsold wanted for military or other uses by the United States?" the letter says: "Whether these lots (4 and 6) will ever be wanted for military purposes it is difficult for me to say, but I am inclined to think, from the sales which have been made, and from the occupation as represented of other parts of the reservation, that they will not be so wanted."

In view of all the circumstances connected with this case, the strong equities of the petitioner and his present indigent circumstances, superinduced in great measure by the wrongful acts of the agents of this government, in granting a pre-emption and permitting an entry of the lands in question; the decision of the supreme court of Illinois declaring the legal title to be in the petitioner, and the decision of the Supreme Court of the United States reversing that decision and declaring the title to be in the government; the government realizing a large amount of money from the sale of lots, whilst the petitioner was reduced to poverty in trying to maintain what able lawyers believed to be his legal right; the abandonment of Fort Dearborn as a military post a short

time subsequent to the entry by the petitioner; the acknowledgement of the right of Kinzie to pre-emption, to a part of the same fractional section 10, and the same right, although granted by the register and receiver to the petitioner, was subsequently cancelled by the Commissioner of the General Land Office, when the whole fractional section was alike reserved for military purposes; all of which, in the opinion of the committee, recommend themselves to the most favorable consideration of Congress, and demand, in the exercise of a sound discretion, that relief should be extended to the petitioner, in so far, at least, as to grant him the few small lots yet remaining unsold, and not wanted for military or other purposes by the government; the committee have therefore reported a bill accordingly, and recommend its passage.