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Report : Petition of C. Wallace

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IN THE SENATE OF THE UNITED STATES.

MARCH 25, 1856.—Ordered to be printed.

Mr. BIGGS made the following

R E P O R T

[To accompany Bill S. 191.]

The Committee "on Private Land Claims," to which was referred two several petitions from Cezaire Wallace, of the parish of Bossier and State of Louisiana, asking for a confirmation of his title to 640 acres of land as the legal representative of Pierre Wallace, and for a confirmation of 640 acres in his own right, which said lands are lying in that part of the State of Louisiana lately termed the "Neutral Territory," have had the same under consideration, and submit the following report :

It is provided in the act of Congress, approved March 3, 1823, entitled an "Act providing for the execution of the titles to lands in that part of the State of Louisiana situated between the Rio Honda and the Sabine river," among other things, that "the register and receiver of the land office in said district shall receive and record all evidences of claim founded on occupation, habitation, and cultivation, designating particularly the time and manner in which each tract was occupied, inhabited, or cultivated, prior to, and on, the 22d February, 1819, and the continuance thereof subsequent to that time, with the extent of the improvement on each tract."

The second section of the said act provides that claims coming within the provisions of the said act should be arranged in four classes; claims founded upon occupation, habitation, and cultivation to be reported under the third class.

An act approved May 26, 1824, supplementary to the act approved March 3, 1823, provided "that the duties required of, and the powers given to, the register and receiver be extended to all that tract of country known and called by the name of "neutral territory," lying east of the present western boundary of Louisiana, and west of the limits to which the land commissioners have heretofore examined titles and claims to land in said state."

The petitioner, under the said acts of Congress, filed his said claims before the said register and receiver, who, under date of November 1, 1824, made their report to the Secretary of the Treasury, (see American State Papers, vol. 4, pp. 40 and 43,) and numbered the said claims respectively, Nos. 34 and 56.

In this report the commissioners say of No. 34, which the petitioner claims in his own right: "That Cezaire Wallace, of the parish of Natchitoches, filed his notice, claiming, by virtue of occupation, cultivation and habitation, a tract of land lying within the late 'neutral territory,' situated on a small branch emptying into a lake known as Cass lake, bounded on all sides by vacant land, and containing 640 acres. The claim is supported by the following testimony:

"Leonard Dyson and John Armstrong, being sworn, severally say: that they know the land claimed by Cezaire Wallace, in his notice; that said land is situated and lying as therein described; that said land was occupied, inhabited and cultivated by the claimant, by his living and growing corn, &c., thereon, on and previous to 22d February, 1819; that said occupation, inhabitation and cultivation has been continued since that period to the present time by the claimant, and that claimant's improvement on the lands claimed embraced about eight acres. We are of opinion this claim ought to be confirmed, and it will, in the abstract, appear under the head of 'third class.' "

In reference to claim No. 56, which is claimed by the petitioner in the right of Pierre Wallace, they say: Cezaire Wallace, of the parish of Natchitoches, filed his notice, claiming, under a purchase at the sale of the estate of Pierre Wallace, deceased, who held, by virtue of occupation, inhabitation and cultivation, a tract of land lying within the late neutral territory, and situate on a small bayou which empties into lake Terre Noir, bounded on the east by Thomas Wallace, on all other sides by vacant land, and containing 640 acres. The claim is supported by the following testimony:

"John McLaughlin and Leonard Dyson being sworn, severally say they know the land claimed by Cezaire Wallace in his (above) notice; that said land is lying and situate as is therein described; the said land was occupied, inhabited, and cultivated by Pierre Wallace, under whom the claimant holds, by said Pierre living and growing corn, &c., thereon, on and prior to the 22d February, 1819; that said occupation, inhabitation and cultivation has been continued by the said Pierre Wallace and the claimant since that period to the present time; and that the claimant's improvements on the land claimed embrace about five acres."

On this proof we are of opinion the claim ought to be confirmed, and in the abstract have classed it with claims of "third class."

Application was made to Congress for a confirmation of the claims, reported by the said commissioners, under the head of the third class, and by an act, approved May 24, 1828, all of the said claims were so confirmed, except certain claims therein mentioned, among which are the said claims of the petitioner, "Cezaire Wallace, Nos. 34 and 56," "which claims," according to the language of the act, "are suspended until it is ascertained whether they are situated within the limits of the lands claimed by the Caddoe Indians."

The Caddoe Indians, by treaty dated July 1, 1835, ceded and relinquished to the United States all their lands within the territory of the United States.

Whilst it is not contended that a citizen has legal right to enter upon and cultivate lands belonging to various tribes of Indians, yet,

in this case, the petitioner or the person under whom he claimed, had entered upon and cultivated a tract of land within the limits of a *disputed territory*, claimed respectively by the ancient governments of Texas and Louisiana; that, after both governments became subject to Spanish dominion, the dispute as to this territory continued, and, even Congress, as late as 1824, called this territory the "neutral territory."

As no records existed of the boundary line between Texas and Louisiana, the commissioners appointed under the said act of March 3, 1823, and of May 26, 1824, had recourse to parol testimony, and after a full investigation of the question of boundary, they regarded the said claims as being embraced within the provisions of the said acts, as is evidenced by the fact that they took cognizance of the claims, passed upon them, and recommended the same for confirmation.

The claims being within the jurisdiction of the commissioners, they having acted upon them favorably, possessing, as they did, the entire history of such claims, with all the concurrent facts, and there appearing no objection to a confirmation, other than the one suggested in the act of May 24, 1828, that there might be some rights of the Caddoe Indians, which should be protected, your committee are of opinion, that (although doubts exist whether the Caddoe Indians ever had any just claims to the lands in question,) since the Indian title has been extinguished, justice and good faith of the government toward her citizens would demand that the said claims should be confirmed to the petitioner, who has occupied, inhabited, and cultivated the same for upwards of forty years.

The committee have therefore directed me to report the accompanying bill and recommend its passage.