

1-29-1838

Report : Mr. Linn

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IN SENATE OF THE UNITED STATES.

JANUARY 29, 1838.

Submitted, and ordered to be printed.

Mr. LINN submitted the following

REPORT:

[To accompany Senate bill No. 181.]

The Committee on Private Land Claims, to whom was referred a resolution instructing them to inquire into the expediency of confirming the title of Michael Armbrister to a half section of land, purchased from Usse Yoholo, a Creek Indian, entitled to the same as a reservation, have had the same under consideration, and submit the following report:

By the treaty concluded between the United States and the Creek tribe of Indians at Washington, on the 24th of March, 1832, the said tribe ceded to the United States all their lands east of the Mississippi river; and the United States engaged to survey the said land as soon as it could conveniently be done, after the ratification of the treaty; and when the same was surveyed, to allow ninety principal chiefs of the tribe to select one section each, and every head of a Creek family to select one half section each, to be reserved from sale for the term of five years, unless sooner disposed of by them. The treaty further provided, that a census of those persons should be taken, under the directions of the President of the United States; and that the selections should be so made as to include the improvement of each person within his selection. The treaty also stipulated that the tracts so selected might be conveyed, by the person selecting the same, to any other persons, for a fair consideration, in such manner as the President might direct. Usse Yoholo, *alias* Toney, was one of the Creek tribe of Indians, and the head of an Indian family; and it is proved, by several witnesses, lived upon the south half of section 14, in township 19, of range 4 east, in the Coosa land district, a part of said ceded territory, at, and before, the date of said treaty. It is also proved, that Usse Yoholo, *alias* Toney, went before the agent, appointed under the directions of the President to take the census of the Indians entitled to selections by the treaty, accompanied by his wife and several of his children, and gave in his name, to be enrolled as the head of a family; but the agent omitted to enter his name. It further appears, that the half section above named was valued, by two disinterested witnesses and respectable citizens, "at eight hundred dollars, and no more:" and that Michael Armbrister, the claimant, purchased the said half section of the said Usse Yoholo, *alias* Toney, for, and in

consideration of, one thousand and twenty dollars, *actually* paid in specie. In confirmation of said sale by the said Usse Yoholo, *alias* Toney, he conveyed the said tract of land to the said Armbrister by deed, attested by four witnesses, each of whom swear that the deed was read over, and fully explained to said Indian; and, as they believe, fully understood by him. The deed has also been duly acknowledged by said Indian, and registered in the proper office of the county of Talladega, Alabama, in which the land is situated. In further confirmation of the claim of the said Indian to the said tract of land, it is shown, by the Commissioner of Indian Affairs, in whose office the records and documents to such land claims are filed, that the following entry is to be found on the location roll of Colonel Bright, an agent subsequently employed in making locations of the claims under said treaty: "Usse Yoholo's south half section 14, township 19, range 4 east. It is stated, from good authority, that this Indian gave in his name to the census taker; but it does not appear upon the roll. He is justly entitled, having a large family, and is an old settler on the tract of land to which he is located." The Commissioner of Indian Affairs states that the entry of the location was cancelled by this (that) office in consequence of the decision of the late President, that Congress alone could afford relief to Creek Indians whose names were not upon the census roll.

From this evidence, your committee conclude that Usse Yoholo, *alias* Toney, was entitled under the treaty to a selection of the half section above described; that he offered his name, to be enrolled by the census taker, and did all that was necessary to be done on his part; that he sold and conveyed his tract of land to Michael Armbrister, for an adequate consideration, which was fairly and honestly paid; and that justice requires the confirmation of his claim: and, for that purpose, the committee report a bill.