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Report : Mr. Downs

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IN SENATE OF THE UNITED STATES.

FEBRUARY 22, 1853.—Ordered to be printed.

Mr. DOWNS made the following

REPORT.

[To accompany bill S. No. 634.]

The Committee on Private Land Claims, to whom was referred the petition of John Gusman, praying the confirmation of a certain land claim, have had the same under consideration, and beg leave to make the following report:

The land claimed has been in the quiet and uninterrupted possession of the petitioner, and those under whom he claims, for as far back as the oldest inhabitant can recollect, (the petitioner avers since 1762)—certainly for more than half a century. The original claimants purchased the possessory right of the Boluxi Indians, with the consent of the then existing government of the country. The petitioner, and those under whom he claims, were a portion of the inhabitants of the country, whose rights were expressly guarantied by the treaty of cession; and his title is now in difficulty from the fact that he was not aware that any confirmation was necessary in the first instance. No doubt that, if the claim had been presented to the commissioners authorized to report on such claims, it would have been confirmed; for the act of Congress authorizing their appointment embraced such cases.

The claim was for the first time brought forward against the United States in the district court of the United States for Louisiana, under the act of 1844 authorizing such suits to be instituted against government, and judgment was rendered in favor of the petitioner. This judgment was, on appeal to the Supreme Court, reversed, and a mandate sent to the lower court to dismiss the petition, but not on the merits of the claim, but on the ground that, being founded on no written title, but only on possession, it was not one of the cases which the courts, under the said act of 1844, were authorized to decide on. The power of Congress on this subject is not so much restricted as that of the Supreme Court. It has frequently exercised this power in such cases as this. It is, in fact, carrying into effect the provisions of the treaty of cession in the only way in which it can now be done, as neither the courts nor commissioners are any longer authorized to take cognizance of such claims. The tract, though large, is of little value, a large portion of it being sea marsh of no value, and the other poor pine flats of very little value. A bill is therefore reported confirming the claim, and its passage recommended.