

inclusive. The extension to the people of Green Bay and Prairie des Chiens of the provisions of that act, it is presumed, conferred upon them, upon the exhibition of like proof, a like right. Proof of this tenor has been adduced by John Jacob Astor, Ramsay Crooks, and Robert Stewart, co-partners under the firm of "The American Fur Company," (formerly styled "The Southwest Company,") as well as by others whose claims they have confirmed; and the commissioners have not felt themselves justified in adopting any course of reasoning which would frustrate the object of that law from which they derive all the power they have possessed.

A majority of the commissioners have felt obliged, nevertheless, to withhold from many of the claims the sanction of their confirmation; not because those claims were less equitable, but because the proof adduced of occupancy, possession, and improvement did not reach far enough back; they considered that the possession, &c., contemplated by the law was an *individual* and *exclusive* possession from July, 1796, to March, 1807. The fact in relation to the claims not confirmed seems to have been that the lands so claimed had been immemorially occupied by the villagers in common, or as a common; and that they had not been individually and exclusively appropriated until after July, 1796.

As no dissent on the part of the villagers was at any time expressed, or rather as none was *proved* or attempted to be proved, one of the commissioners was willing to deduce from circumstances appearing a presumption of assent, equivalent to a formal conveyance. Upon such hypothesis the present claimants, combining their own exclusive possession with the antecedent occupancy of the villagers in common, "under whom" they might be considered to claim, would be respectively entitled, under the law, to confirmations; but a majority of the commissioners, believing that such construction was at least obnoxious to much doubt, felt obliged reluctantly to reject it, and, without further difference of opinion, they all resolved to present with these cases to the revising power their respectful and most earnest petition in behalf of the unsuccessful claimants, that their claims may be confirmed. Although some of these claimants have been in the exclusive occupancy of their possessions but for a very short space of time, yet their claims are considered not the less meritorious; for those who have thus remained in possession for the shortest period would seem to have been removed from their former and older possessions, because those possessions were deemed necessary for the convenience of the troops by *whose* permission they have located themselves on the tracts now claimed.

Few cases have occurred at Prairie des Chiens in which different claimants have applied for the same tract. In regard to other districts of country, much perplexity has been experienced in the selection, among many, of that claimant in whose favor the title of right should be confirmed. The commissioners have uniformly acted upon the principle that their power was intended to be exercised only as between the government and claimants, and not as between several conflicting claimants. Doubts having been expressed, however, by members of the Supreme Court, as to the power of that tribunal to interfere after the emanation of patents, the commissioners have become sensible that, without intending it, they might effect injustice by confirming the title in one whose claim, when exhibited before a court having chancery powers, might prove to be much less meritorious than the conflicting claim of some other person. It is most manifest, nevertheless, that a board of commissioners constituted as this board is are not competent to the undertaking of deciding, in the last resort, between contending individuals. Their proceedings are, of necessity, summary. They cannot administer suppletory oaths to the contending parties, and they have no control over their consciences. Their forms of proceeding are utterly unlike those which obtain in regularly constituted courts: *forms* which, however slow and troublesome in their operations, are yet the surest guarantee of justice.

They therefore respectfully submit to the revising power, in order to obviate all doubt, the propriety of causing to be inserted in the patents which may issue clauses saving by express words the rights of all individual claimants; such saving clauses will be in conformity with every decision which has been made.

It only remains for the commissioners further to remark that, in making abstracts from the testimony adduced, they have felt disposed, in order that their report may be less encumbered with useless matter, to exclude as well copies of all deeds of individuals in cases where they have been satisfied that *bona fide* transfers have been intended, as also irrelevant matter contained in depositions taken.

All which is respectfully submitted.

WILLIAM WOODBRIDGE,  
*Secretary of Michigan.*  
HENRY B. BREVOORT,  
*Register of Land Office, Detroit.*  
J. KEARSLEY,  
*Receiver of Land Office, Detroit.*

DETROIT, *Michigan Territory*, November 9, 1821.

TERRITORY OF MICHIGAN, *District of Detroit*:

We, William Woodbridge, secretary of the Territory of Michigan, Peter Audrain, register, and Jonathan Kearsley, receiver of the land office for the land district of Detroit, do, and each of us doth solemnly swear, that we will impartially exercise and discharge the duties imposed upon us by an act of Congress entitled "An act regulating the grants of land in the Territory of Michigan," passed March 3, 1807; and also "An act to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie des Chiens, in the Territory of Michigan," passed May 11, 1820. So help us God.

WILLIAM WOODBRIDGE.  
PETER AUDRAIN.  
J. KEARSLEY.

TERRITORY OF MICHIGAN, *County of Wayne, to wit*:

Personally appeared before me, John McDonell, one of the associate justices of the court of the county of Wayne, and Territory aforesaid, William Woodbridge, Peter Audrain, and Jonathan Kearsley, esquires, who took and subscribed the foregoing oath in my presence.

Given under my hand at the city of Detroit, August 8, 1820.

JOHN McDONELL,  
*Associate Justice of the Court of the County of Wayne, Territory of Michigan.*