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Report on Indian Depredation Claims

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IN SENATE OF THE UNITED STATES.

FEBRUARY 9, 1839.

Submitted, and ordered to be printed.

Mr. HUBBARD made the following

REPORT :

[To accompany Senate bills Nos. 206, 231, 232.]

The Committee of Claims, to whom was recommitted, by resolution of the Senate, "the bill for the relief of the legal representative of John J. Bulow, jr., deceased, and all other bills before the Senate, providing for the payment of sufferers by the late Indian wars in the Territory of Florida, and in the States of Tennessee, Georgia, and Alabama, with instructions that the committee examine and report to the Senate whether facts are before the committee or the body upon which a judgment can be formed as to the extent and character of the claims for indemnity to grow out of these wars; of the extent of those claims which will be embraced within the principles of the bills already reported for the action of the Senate; and, if so, to report further a general bill in conformity with the principles which they shall suppose ought to be adopted for the settlement of those claims; the facts and testimony upon which their conclusions are founded, and the amount of claims to be embraced within the legislation they may propose," respectfully submit the following report :

That they cannot say "whether facts are before the committee or before the Senate, upon which a judgment can be formed as to the *extent* and *character* of claims for indemnity for depredations during the war with the Seminole Indians." The committee will, however, submit to the Senate all the information upon this subject which has come to their knowledge. The committee have had referred to them at this session the petitions of the legal representative of John J. Bulow, jr., Joseph M. Hernandez, James Williams, Malachi Hagan, Philip Weadman, John McIntosh, and Gad Humphreys, claiming indemnity for losses of property during the war with the Seminole Indians in Florida, and no other petition has been referred to them. And with reference to the first case named the committee have already submitted to the Senate a detailed statement of all the facts and testimony connected with the claim of Bulow's representative, which have come to their knowledge; and in relation to the last mentioned case, the committee have also submitted to the Senate the facts and the substance of the testimony connected with the claim of Humphreys. The committee have also reported favorably upon the case of Mr. Hagan. In the case of John McIntosh, the committee have not, in their report to the Senate, sub-

mitted a detailed statement of the evidence offered to the committee, for the reason that the committee, upon the testimony presented, were of opinion that it was not sufficient to warrant a favorable report, and they therefore asked to be discharged from the further consideration of that case.

In the cases of James Williams and Philip Weadman, the committee have not, as yet, agreed upon a report. By referring to the facts and to the testimony particularly detailed in the reports of the committee in the cases of Bulow and Humphreys, the Senate will be able to infer to what extent the committee is prepared to go in recommending indemnity for losses incurred during the war with the Seminole Indians; and they will perceive that the Committee of Claims, in submitting those reports, intended to apply the same and no different principles to those cases than would have been applicable had the same losses been incurred in a war with any civilized nation. The committee, in deciding upon these cases, were governed by the provisions of the act of April 9, 1816, entitled "An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and of the act in amendment thereto, passed March 3, 1817.

The bill for the relief of Gad Humphreys has passed the Senate.

The committee have been instructed to report the extent of those claims which will be embraced within the principles of the bills already reported for the action of the Senate; and in pursuance of that particular instruction, the committee submit to the Senate all the information they have. It will be perceived that by the bill for the relief of the legal representative of John J. Bulow, jr., that provision is made only to compensate him for the destruction of buildings occupied by the American troops, and destroyed in consequence of such occupation; the value of which buildings so destroyed is to be ascertained hereafter by the Secretary of the Treasury, and the same provision is embraced in the bill which has passed the Senate for the relief of Gad Humphreys, *with only this difference*, that in the case of Humphreys, the property was destroyed by an order from the officer in command.

The estimated value of the buildings belonging to John J.

Bulow, jr., is	-	-	-	-	-	\$42,250 00
To Gad Humphreys	-	-	-	-	-	1,075 00
To Malachi Hagan	-	-	-	-	-	300 00
In the case of Joseph M. Hernandez the estimated value of						
buildings destroyed, &c., is	-	-	-	-	-	35,543 40
						79,168 40
						79,168 40

These four bills have been favorably reported upon by the Committee of Claims to the Senate at the present session, and they make an aggregate of \$79,168 40.

In addition to the above bills, the claim of James Williams may, and probably will, receive the favorable consideration of the committee.

The estimated value of the buildings of Mr. Williams, which were destroyed, is \$14,660.

These five cases amount to the sum of \$93,828 40; and as far as the committee have examined, they shall recommend to the Senate, at the present session, the passage of bills providing for the payment of the buildings destroyed belonging to the five individuals above named.

The committee have had under their consideration the case of Philip Weadman, sen., and have come to no favorable decision upon it.

The estimated value of the buildings of Mr. Weadman, said to be destroyed, is - - - - \$5,220 00

The buildings destroyed upon the plantation of John H. McIntosh have not been particularly estimated. He states his whole loss of property to be \$44,000. The committee have put the buildings, as a part of the property destroyed, at - - - - 20,000 00

Making the whole value of the buildings of Weadman and McIntosh, as estimated, to be - - - - 25,250 00

Adding this sum of \$25,250 to the sum embraced in the bills now before the Senate and House of Representatives, which have been reported favorably upon at this session, from the Committee of Claims, and including also the case of James Williams, makes an aggregate of \$119,078 40, which, it is alleged, all come within the principle embraced in the bill now before the Senate for the relief of the legal representative of John J. Bulow, jr., deceased, and is the whole amount which has come to the knowledge of the committee, and which fall within the principle of that case.

The committee, by the resolution of the Senate, have been instructed to report a general bill; and, in answer to this instruction, they would observe that a general bill has already been reported by order of the Committee of Claims, and is now pending before the Senate, and contains the same principles embraced in the private bills which have been reported to the Senate, and one of which has already passed the Senate; the others are now pending. The personal property claimed by Hernandez, including damage done to his land, and the personal property claimed by Bulow and by the other petitioners, as far as the committee have been able to examine the papers which have been referred to the committee, falls a little short of one hundred and fifty thousand dollars.

The committee have referred to document No. 127, printed at the last session of Congress by order of the Senate, which contains the report of the agents appointed to inquire what depredations were committed by the Seminole and Creek Indians on the property of citizens of Florida, Georgia, Alabama, &c., and have ascertained from their report that the whole amount of losses sustained in Georgia and Alabama is estimated at \$1,257,407 30; of which amount they report that the amount falling within the provisions of the act of April 9, 1816, and the acts amendatory thereto, so far as the said acts are applicable to private buildings occupied for public purposes, and destroyed by reason of that occupation, is the sum of \$15,000 and no more; and to this sum they have added the value of personal property destroyed, coming within the provisions of the aforesaid acts, and which amount to \$10,300 45, making the whole amount \$25,300 45.

The general bill, reported by the committee, is in conformity with the principles which the committee suppose ought to be adopted for the settlement of claims for property lost or destroyed during the late war with the Seminole Indians; and in reporting to the Senate the general bill, the committee intended to apply the same principles embraced in the act of April 9, 1816, and the act in amendment thereof, passed March 3, 1817, which acts have been before referred to in this report. The committee considered

those principles as justly applicable for losses of property in a war with an Indian tribe, as with a civilized nation.

The committee have not intended, on any of the bills they have reported, to go further. And the committee would again suggest, that the private bills for the relief of Bulow and Humphreys, are in accordance with the principles contained in the general bill.

The committee are of the opinion that where buildings have been taken possession of by order of an American officer, and used by the American troops for military purposes; and where the same buildings had been destroyed by order of the officer in command, or had been destroyed by the enemy in consequence of such an occupation, that the United States ought to pay to the owner their actual value.

The committee are of opinion that where personal property has been taken by order, and used by the American troops, that the United States ought to pay to the owner its value. The committee are also of the opinion that where individual property has been taken for the purpose of building fortifications, or for establishing breastworks, or for any public use, and the property thereby sustained damage, or became worthless, or is destroyed, the United States ought to make remuneration.

Upon the foregoing principles, the private bills, pending and passed, have been reported to the Senate.

The committee have submitted all the facts and testimony which have come to their knowledge in relation to this description of claims, and the amount of the claims which will be embraced within the legislation they propose, as far as they have the means of ascertaining.

The committee, in conclusion, report back to the Senate the bills which were recommitted to them, in pursuance of the resolution of the Senate, and they have endeavored, in this report, to comply with the instructions contained in said resolution.