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James Edwards. (To accompany bill H.R. no. 380)

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JAMES EDWARDS.

[To accompany bill H. R. No. 350.]

APRIL 6, 1846.

Mr. NIVEN, from the Committee on Military Affairs, made the following

REPORT:

*The Committee on Military Affairs, to whom was referred the memorial of James Edwards, of St. Augustine, in the State of Florida, (administrator of the estate of Edward M. Wanton, deceased,) asking indemnity for losses sustained in Florida, in the war between the United States and the Seminole Indians, report:*

The memorialist asks for the passage of a law by which he shall receive from the United States the value of certain real and personal estate, owned by Edward M. Wanton in his lifetime, and which property, as he alleges, was destroyed by the order of an officer of the United States army, to prevent the same from falling into the hands of the Seminole Indians, then at war with the United States.

The evidence of the appointment of the memorialist as administrator of the estate of said Edward M. Wanton, consists not only of the affidavit of the memorialist, but of a certified copy of the letters of administration, duly authenticated under the hand and official seal of the proper officer.

The decease of said Wanton is shown, *impliedly*, by the granting of the letters of administration on his estate, and *positively*, by the affidavits of the memorialist and Benjamin Harn, by which it appears that he died in the year 1839.

It, therefore, there is any just claim upon this government, arising out of the facts of the case, the application is properly made by the memorialist as administrator.

The matters set up as the foundation of the claim are contained in the deposition of the administrator, and also of Benjamin Harn, Isaac Lanier, John Dick, and Jesse A. Brush. All these depositions are properly authenticated by the officers before whom they were taken, and also by the affidavit of the subscribing witness.

The facts are detailed at great length in the memorial and accompanying depositions. A synopsis of the case is as follows, viz: That for some years previous to the 24th day of August, 1836, the said Wanton resided at Micanopy, in the Territory of Florida. He was a planter, but also kept a small trading establishment. That he owned there and occupied a new frame dwelling-house, (not entirely finished,) a new log dwelling-house, a log kitchen attached to his dwelling-house, a corn-house, and a stable. That these several buildings were within an enclosure about one hundred

yards from the fort or garrison of Micanopy; and that a few days previous to the morning of the 24th of August, 1836, Wanton and other citizens of the place, on account of the proximity of hostile Indians, moved into the fort for the safety of their families and effects, by permission of the commandant of the post. That he took with him a quantity of household furniture, dry goods, medicines, and also a quantity of sugar and molasses; the dry goods and medicines being boxed up. That the commanding officer at Micanopy, (Major B. K. Pierce,) having determined on evacuating the fort, directed the breaking up of the post; and the citizens, among whom were said Wanton and his family, pursuant to orders issued by the commandant, were under the necessity of leaving the place in company with the troops, on the morning of the 24th of August aforesaid. That after proceeding a few hundred yards they halted, while a small portion of the troops that had remained behind for that purpose, set fire to the fort and village, and they were consumed, including the buildings of said Wanton. That said Wanton carried away with him no part of his furniture or personal effects, except a bed and some bedding and clothing. This is very satisfactorily shown by some of the witnesses who were in company with him while they were on the route from Micanopy to Black creek, on the day of the destruction of the fort and buildings at the former place. These witnesses say that Wanton left Micanopy in a small wagon, carrying with him nothing save a bed, some bedding and clothing, together with a few articles of furniture.

The memorial enumerates the articles of property destroyed by order of the commandant of Fort Micanopy as follows:

1 good frame dwelling-house, one story high, 40 × 18, mostly finished, valued at	\$450 00
1 new log dwelling-house	175 00
1 kitchen	100 00
1 corn-house	80 00
1 stable	40 00
3 tierces of sugar, 1,000 lbs. each, at 12 cts.	375 00
10 barrels molasses, 29 galls. each, at 25 cts.	72 50
1 pair hand mill stones	20 00
Household and kitchen furniture	100 00
Goods which had been in his store, but were packed in boxes and removed to the fort	300 00
Tools, farming utensils, axes, hoes, saddles, &c.	100 00

\$1,812 50

The proof is very general, and rather unsatisfactory and loose, in relation to the articles of *personal* property destroyed, or its value. The memorial states in reference to the *quantum* of personal property, that a "*great portion of his (Wanton's) household and kitchen furniture, together with a quantity of sugar and molasses, and a number of boxes in which were packed dry goods, furniture, groceries, medicines, &c., which had composed his store, were taken into the garrison; and that all the goods, furniture, sugar, and molasses, which were taken into said garrison, were, on the morning of the 24th August, 1836, still there and were destroyed excepting a few articles of household furniture, such as a bed and bedding and some articles of clothing.*"

One of the witnesses (Benjamin Harn) states that Mr. Wanton carried into the garrison his bedding and a quantity of furniture; also, three tierces of sugar and ten barrels of molasses. That the household furniture and bedding which was carried into the fort was pretty good, and there was plenty of it; but how much, or its value, he cannot state. That each tierce of sugar contained about 1,000 pounds; that it was good, and was selling for 12 cents per pound. The molasses would average 29 gallons to the barrel, and sold at 25 cents per gallon. There is some further evidence as to the articles enumerated in the memorial, corroborative of the testimony above alluded to.

The proof is very conclusive that Wanton left the garrison in company with the other citizens of the place, and the troops that had been stationed there, in anticipation of the destruction of the fort and surrounding buildings, and that he took with him but a small amount of his property. The affidavits also show that the place was destroyed, including the buildings of Wanton, by order of Major Pierce, then in command.

In addition to the affidavits presented with the memorial, to prove the destruction of Micanopy by the order of the commandant of the United States troops stationed there, the committee have the certificate of Major Pierce, which was furnished in the case of Gad Humphreys, and is on file with the papers in that case. The certificate is as follows:

SAVANNAH, GEORGIA, *January 6, 1837.*

I certify, that on or about the 24th of August, 1836, the post of Micanopy, East Florida, was abandoned; and, in pursuance of instructions, I caused the troops to be removed to Fort Heileman, at Garey's ferry, on Black creek. Horses, wagons, and all other means were employed to transport the sick and the public property from Micanopy to Fort Heileman. The transportation was, however, insufficient to transport the whole of the public property, and no means existed to enable me to remove the private property of individuals who had been driven from the country. All the articles, both private and public, which I was compelled to leave for want of transportation, I ordered destroyed to prevent their falling into the hands of the enemy. Among articles said to belong to citizens, I recollect eight or ten hogsheads of sugar. Some of the buildings were burnt, being on fire when we marched; others, at a little distance, were subsequently all burnt by the Indians after our departure.

B. K. PIERCE,  
*Brevet Lieut. Colonel U. S. Army.*

This proves, beyond all doubt or cavil, that Micanopy was abandoned and the property destroyed by his order, to prevent the enemy from occupying or using it. The principles of law applicable to the case of private property destroyed by an officer in command of a military post are simple and not difficult of application. If an officer, placed in command of a military post, shall deem it necessary, in the exercise of that discretion which attaches to his official station, to destroy the buildings of an individual, which, if not destroyed, will furnish shelter to an enemy, the government should indemnify the owner. The same principle will apply to the case of personal property, which, falling into the hands of an enemy, would furnish subsistence. It is in many cases a very effective mode of

annoyance in time of war. An army without resources and supplies will soon cease to be effective; and if these resources are destroyed, its ability to carry on offensive or defensive operations will soon be lessened.

The committee do not think it advisable to report a bill for the payment of any specific amount to the memorialist, and therefore deem it unnecessary to enter more particularly into an examination of the value of the property destroyed; and which, according to the principles above laid down, are a proper charge against the government. They have come to the conclusion that the destruction of a portion of the property hereinbefore enumerated gives to the memorialist a just and equitable claim for remuneration; and they therefore ask leave to introduce a bill.

It is the duty of the government to protect the property of its citizens, and to make good the loss of such property when it is destroyed by the action of the government. The committee believe that the destruction of the property of the memorialist was the result of the action of the government, and that the government is therefore liable for the loss of such property. The committee believe that the destruction of the property of the memorialist was the result of the action of the government, and that the government is therefore liable for the loss of such property.

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