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Report : Claim of Heirs of N. Brush

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IN SENATE OF THE UNITED STATES.

MAY 13, 1850.

Submitted, and ordered to be printed.

Mr. BALDWIN made the following

REPORT:

The Committee of Claims, to whom was referred the consideration of the memorial of Eugene Van Ness and John W. Brush, executors of Nehemiah Brush, deceased, praying compensation for buildings destroyed by the United States troops in Florida during the Seminole war, having had the same under consideration, report:

That the buildings for which the memorialists ask compensation were situated at Micanopy, in East Florida, and, at the time of the destruction thereof, on the 24th of August, 1836, were occupied as a store and dwelling-house by George Center, of Micanopy, for whose relief an act was passed at the second session of the thirtieth Congress. In pursuance of that act, the sum of \$5,569 80 was paid to him "as the value of his houses and other property destroyed at Micanopy" on the occasion referred to by the memorialists. The property for which the memorialists ask compensation is represented to have been enclosed *within the pickets* during the occupation of Micanopy by the forces of the United States under the command of Colonel Pierce, and to have been burnt by order of the commanding officer on the abandonment of the post. Colonel Pierce certifies, under date of January 6, 1837, "that, on or about the 24th of August, 1836, he caused the troops to be removed to Fort Hickman, at Gary's Ferry, on Black creek; that horses, wagons, and all other means were employed to transport the sick and the public property from Micanopy to Fort Hickman; that the transportation was insufficient to transport the whole of the public property, and no means existed to enable him to remove the private property of individuals who had been driven from the country; that all articles, both private and public, which he was compelled to leave for want of transportation, he ordered to be destroyed, to prevent their falling into the hands of the enemy; that, among articles said to belong to citizens, he recollected eight or ten hogsheads of sugar; *that some of the buildings were burnt; being on fire when they marched; others at a little distance were subsequently all burnt by the Indians, after the departure of the troops.*"

The committee, without deeming it necessary to consider any other question arising in the case, are not satisfied, from the evidence furnished by the memorialists, of the ownership by Nehemiah Brush of the buildings for which compensation is prayed. James Edwards, the only witness on whom they rely, says in his affidavit that he "knows the said buildings were built by Mr. Brush, and they were always considered his; that

he never heard of their being claimed or owned by any other person, and that he has no doubt that said buildings, at the time they were destroyed, belonged to, and were the property of, said Nehemiah Brush; that Mr. Brush had an undivided interest in the land on which said buildings were built, and was in possession thereof, and that no other person could have a claim to the buildings, or remuneration for their loss." But the memorialists themselves represent, in their petition, that the buildings were in the actual occupation of George Center at the time of their destruction. And the committee, on examining the testimony on file in support of the petition of said Center, in pursuance of which the act of Congress was passed for his relief, find the affidavits of three witnesses, viz: Archibald H. Cole, Captain M. M. Clark, and Lieutenant C. H. Talcott, all of whom testify to the occupation and reputed ownership by Center of *all the buildings within the pickets*; and one of them, Mr. Cole, expressly states that "they belonged to Mr. Center, and had been erected by him previous to and at the commencement of the war."

The committee therefore recommend that the prayer of the memorialists be not granted.