

4-3-1878

## On the Relief of M. Spencer

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### Recommended Citation

S. Rep. No. 225, 45th Cong., 2nd Sess. (1878)

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IN THE SENATE OF THE UNITED STATES.

APRIL 3, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 834.]

*The Committee on Claims, to whom was referred the bill (S. 834) for the relief of Mrs. Margaret A. Spencer, have duly considered the same and the accompanying papers, and submit the following report:*

The bill proposes to pay to claimant, the only child and heir of Capt. Thomas Dunn, the sum of \$20,000.

The petition of the claimant, and the accompanying affidavits, are very voluminous. The petition is sworn to on April 25, 1874, and was presented to the Senate on February 28, 1878.

The affidavits of four witnesses, Stephen Montgomery, Ellen Dunn, Toney Morgan, and Patrick Burns, accompany the petition.

Stephen Montgomery was formerly a slave, and signs his affidavit by his mark, under date of February 19, 1874.

Ellen Dunn was formerly a slave, and signs her affidavit by her mark, under date of February 27, 1874, and belonged formerly to Capt. Thomas Dunn, father of claimant.

Toney Morgan was formerly a slave, and signed his affidavit by his mark, under date of February 28, 1874.

Patrick Burns verifies his affidavit on March 10, 1874, and was from 1822 to 1855 judge of probate in Baldwin County, Alabama.

Claimant is the only child and heir of Capt. Thomas Dunn, who was killed by the Indians in the massacre at Fort Mims, on the Alabama River, in August, 1813, during the Creek war, and she was then about eight months old.

On November 20, 1830, claimant, then eighteen years old, was married to Chester Root, a practicing lawyer in Mobile, Ala., and formerly a captain of artillery in the United States Army, who died in 1853. In 1855 claimant married Mr. Spencer, of Maryland, who had been in the Congress of the United States, and who died in September, 1858, and whose widow claimant now is.

Her claim is for compensation for cattle, hogs, sheep, horses, and corn, taken and destroyed or used by the Indians and by the United States troops. The claimant in her petition says:

The Indians took all the cattle and grain of petitioner's father that they needed, and what they did not use was afterward taken by the United States troops, who subsequently occupied the place, and their homestead was destroyed. Captain Dunn was considered a wealthy man by the settlers. All the evidence shows this. His wealth consisted mostly of live-stock and corn, all of which was taken, part by the Indians, and what remained by the soldiers.

These depredations are alleged to have occurred in 1813.

The claimant, in attempting to excuse delay in presenting her claim, says that her first husband, Captain Root, "died in 1853, leaving your petitioner in comfortable circumstances, so that she did not desire to present her claim to the government for her father's losses"; and that her second husband, Mr. Spencer, "died in September, 1858, leaving your petitioner in destitute circumstances, childless, and without the means of support. All that your petitioner possessed was swept away during the late war."

Your committee find that there was no just or sufficient or reasonable cause for the wanton neglect in presenting this claim.

It originated in 1813. The first movement looking to the presentation of this claim was in 1874, sixty-one years after its origin. It was not, in fact, presented till February 28, 1878, sixty-five years after its origin.

The government cannot now investigate this claim; cannot ascertain the kind, amount, or value of the property alleged to have been taken, or by whom taken, with any certainty. It is old, stale, and suspicious, and must, in law and equity, be numbered among the things that may have been.

Your committee, therefore, recommend that the bill be indefinitely postponed, and this report be agreed to.