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IN THE SENATE OF THE UNITED STATES.

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AUGUST 1, 1882.—Ordered to be printed.

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Mr. HAWLEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 191.]

*The Committee on Military Affairs, to whom was referred the bill (S. 191) for the relief of Frances H. Plummer, having had the same under consideration, report as follows :*

That the late Brig. Gen. Joseph B. Plummer, a graduate of the United States Military Academy, served honorably in the Florida and Mexican wars. At the breaking out of the rebellion he was a captain in command of two companies of the First United States Infantry, stationed at Fort Cobb in the Indian Territory. In Texas General Twiggs joined the Confederacy and surrendered his forces. A considerable force of rebels marching northward from Texas occupied Fort Washita the day Lieutenant-Colonel Emory evacuated it, and on the 5th of May, 1861, a large body of Texans occupied Arbuckle. The retreating Union forces were directed to concentrate at Fort Leavenworth, Kansas. Captain Plummer evacuated Fort Cobb May 5, and marching rapidly joined Lieutenant-Colonel Emory May 9, and proceeded to Kansas. He commanded the First United States Infantry at Wilson's Creek and was severely wounded. He became colonel of the Eleventh Missouri Volunteers, and for gallantry at Fredericktown, October, 1861, he was promoted to be a brigadier-general. He served with distinction in many battles, and died of his wound at Corinth, Miss., August 9, 1862, leaving a dependent widow.

Of the three officers with him when he evacuated Fort Cobb, two joined the Confederacy. He had two companies of infantry and but seven wagons for transportation of necessary supplies and seven camp women and their children. His own property he left behind, save what he placed in five large chests and intrusted to the care of Tucker Barton, the sutler, who was supposed to have engaged to take them to Fort Smith and ship them to Saint Louis. Barton, who, like his brother Captain Barton of the same command, joined the Confederacy, says he was to take them to New Orleans and ship them to New York City. The following is an extract from his affidavit:

At the time of said evacuation the United States did not have sufficient transportation for the baggage and effects of the officers stationed at said post, for which reason Capt. J. B. Plummer, First Infantry, United States Army, intrusted to him, to be taken to New Orleans, and thence shipped to New York, if possible, several (he thinks seven) large chests, which he represented contained articles of great value, the collection of a lifetime; that a few days after leaving Fort Cobb his train was approached and

surrounded by a large body of armed men from Texas, several hundred in number; that he was made prisoner by them on the ground that he was giving aid and comfort to the United States, the parties claiming to hold commissions from the State of Texas; that the chests, being marked in the name of the said Capt. J. B. Plummer, United States Army, were declared forfeited, and were forcibly taken from his possession by said body of armed men. This was done partly in the Indian Territory and partly in the State of Texas, in the month of May, 1861.

A favorable report upon this case in the House during the Forty-fifth Congress says:

Your committee recognize the fact that when war is actually going on there are many kinds of property that the government is not liable to pay officers for in case of loss by capture or otherwise; for the reason that at such a time officers must necessarily take the risk and hazard of the service themselves. The government has, however, provided by law for the payment to officers for horses killed or lost in battle, or by the dangers of the sea while being transported (Revised Statutes, sec. 3482); and also for losses by officers, non-commissioned officers, or privates in the military service, while in the line of duty, of horses and certain other property, by capture or necessary abandonment, &c. (Revised Statutes, sections 3483, 3484, and 3485.) No provision of law, however, gives the right to any department, officer, or court to pay this claim.

In analogy to the foregoing legal provisions a part of your committee thinks this claim should be paid. A portion of the committee finds the claim should be paid, for the further reason that governments have usually undertaken to reimburse its citizens for property lost which was at the outbreak of a war in an enemy's country and seized and confiscated.

At the time war was declared with Mexico an American citizen was in the port of Vera Cruz with his ship, which was seized and confiscated. The United States Government paid for this vessel and its cargo. If a government should pay to its private citizens such losses, much more favorably should it regard the claims for losses of its own officers who are so unfortunate as to be serving, when war breaks out, under orders in a territory which becomes, without fault of theirs, insurrectionary or enemy's territory.

The committee all think the claim made by Mrs. Plummer for the loss of Captain Plummer's goods ought to be paid as a matter of right and public policy. Its payment is no precedent for payments for captured or abandoned property in an enemy's country. Captain Plummer lost a large amount of personal property, making his military duties his first consideration, but he saved his troops and led them to battle with great vigor and courage.

A sworn schedule of the goods lost gives as their value the sum of \$2,120, but some of them were articles of luxury not usual nor necessary in a frontier camp, and the committee recommend that the words "five hundred" be stricken out of the third line of the bill, leaving one thousand dollars as the sum to be paid Mrs. Plummer, and that as so amended the bill be passed.