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H. Clay Wood.

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H. CLAY WOOD.

FEBRUARY 17, 1890.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5332.]

The Committee on War Claims, to whom was referred the bill (H. R. 5332) for the relief of H. Clay Wood, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto appended for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 1423, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7501) for the relief of H. Clay Wood, submit the following report:

This is a claim for loss of property by the claimant at the evacuation of Fort Cobb, Ind. Ter., in May, 1861, and at Indianola, Tex., in the autumn of 1861, in consequence of the surrender of the Military Department of Texas by General Twiggs. Claim stated at \$996.10.

Of the four officers who left Fort Cobb, Ind. Ter., May 5, 1861, with the battalion (Companies C and F) of the First Infantry, on the evacuation of that post, Capt. Joseph B. Plummer and Second Lieut. H. Clay Wood alone remained loyal to the Government of the United States.

The two others subsequently joined the Southern Confederacy.

The battalion in a few days united with the column of troops of General Emory, and marched, under his command, to Fort Leavenworth.

Shortly after reaching Fort Leavenworth some seventy-five recruits, of a detachment consisting of about one hundred and fifty, forwarded for the regiment of Mounted Rifles, were attached to the battalion of the First Infantry and placed under the immediate command of Lieutenant Wood.

This battalion, with other troops, left Fort Leavenworth on or about June 10, and marched, via Kansas City, through western Missouri to join General Lyon. Having united with his command, all the troops concentrated at Springfield, Mo.

On the 10th of August was fought the battle called by the Union forces the battle of Wilson's Creek, by the Confederates Oak Hills, some 10 miles south of Springfield. The Union troops marched out the previous evening a little under 4,800 men (Major Sturgis, in his official report, states the number as 3,700, but this number is exclusive of Colonel Sigel's column), to meet a force of the enemy estimated at 23,000. The First Infantry was in the advance, and formed on the left of the line of battle, in a corn-field, in round numbers probably less than 250. Lieutenant Wood's recruits were the extreme left of the whole line.

Opposed to this infantry in the corn-field were the Second Regiment of Arkansas Mounted Riflemen (Col. James McIntosh) and the Third Louisiana Infantry (Col. Louis Hébert). General Ben. McCulloch states in his official report: "A terrible

conflict of small-arms took place here." The aggregate loss of the First Infantry in this corn-field was 80. Captain Plummer was wounded; himself followed by Lieutenant Wood being the last persons to leave the corn-field.

Among other officers recommended to the special consideration of the Government for gallant services in this battle by Majors-General Fremont and McClellan was Lieutenant Wood, "for conspicuous gallantry and highly meritorious conduct from the beginning to the close of the battle."

The thanks of Congress, by a joint resolution approved December 24, 1861, were "given to the brave officers and soldiers who, under the command of the late General Lyon, sustained the honor of the flag and achieved victory against overwhelming numbers at the battle of Springfield, in Missouri."

Your committee annex hereto a memorandum from Colonel Wood as a part of this report.

[Memorandum to accompany House bill No. 7501 and Senate bill No. 2072, Fiftieth Congress.]

WASHINGTON, D. C., February 21, 1868.

In the autumn of 1860, I, then a second lieutenant, First Infantry, U. S. Army, was ordered to report at Newport Barracks, Ky., to accompany a detachment of recruits for the First Infantry to the Department of Texas. I reported accordingly.

In Cincinnati, in addition to stock on hand, we purchased several articles of household effects. This property was all properly packed and shipped en route with the detachment. We traveled on steam-boat by the Ohio and Mississippi Rivers to New Orleans, and thence by steam-ship to Indianola, Tex.

On leaving Indianola, on or about November 16, 1860, this property, partially scheduled, as filed with the bill, valued at \$395.10, for want of transportation was stored in the United States quartermaster's store-house, in charge of Second Lieut. James P. Major, Second Cavalry (since deceased), acting assistant quartermaster, to await a train.

General Twiggs, commanding the Department of Texas, surrendered February 18, 1861, to the Confederate or State officials, and my property was lost in consequence, without fault on my part, and due to causes over which I had no control. Lieutenant Major resigned and united his fortunes with the Confederacy. He was subsequently upon the staff of General Earl Van Dorn at the date when Van Dorn captured Indianola, in April, 1861.

[After the war closed I was on duty in Texas as the adjutant-general of that department. I then made diligent inquiry to ascertain if I might possibly find any trace of my property at either Indianola or San Antonio, but without any the least result.]

I reached my station, Fort Cobb, in the Indian Territory, in January, 1861.

On December 8, 1860, Fort Cobb, and the other military posts in the Indian Territory, had been transferred from the Department of Texas to the Department of the West, headquarters at St. Louis, Mo., General Harney commanding.

All these posts were subsequently abandoned, under instructions (filed with the bill) from the General Government at Washington. In obedience to these instructions, on May 5, 1861, by the order of the post commander, which directed the abandonment of all property, both private and public, Fort Cobb was abandoned. My wife and I were permitted to take, each, only one trunk. All my other property, just as it stood in my quarters, was abandoned, pursuant to this positive order. An incomplete schedule of this property, valued therein at \$361, including one box of clothing in quartermaster's store-house at Fort Arbuckle, when that fort was abandoned, is filed with this bill.

The spring wagon and harness shipped from Fort Leavenworth to St. Louis, by river transportation, could never be found, and were lost, due probably to the disturbed condition of affairs in Missouri, consequent upon the confusion and irregularities prevalent in that border State in the summer of 1861.

I invite attention to the letter (copy herewith) dated June 18, 1862, of General Lorenzo Thomas, Adjutant-General of the Army, to the chairman of the Committee on Military Affairs, House of Representatives, Thirty-seventh Congress, commending my claim to the liberality of Congress, and to the recent act of Congress (the Forty-ninth) "for the relief of Frances H. Plummer," private, No. 657, approved July 29, 1886, as a precedent for the relief I solicit. Mrs. Plummer's husband, Captain Joseph B. Plummer, First Infantry, was in command of Fort Cobb, my commanding officer, and made—under his instructions from superior authority—the order under which my property was lost to me. So far at least as my losses at Forts Cobb and Arbuckle are concerned the cases are identical, and the same evidence and principles which were effective in the Plummer claim should hold good and govern in my case.

H. CLAY WOOD,
Assistant Adjutant-General.

A sworn schedule of the goods lost gives as their value the sum of \$996.10. Your committee report back the bill and recommend its passage.

There is a precedent for paying this claim in the case of Frances H. Plummer. A copy of the report in that case is hereto attached and made a part of this report:

[Senate Report No. 1370, Forty-ninth Congress, first session.]

That the committee adopts and presents again the favorable report presented in the first session of the Forty-seventh and Forty-eighth Congresses, 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, Kans. 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 wounds 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 St. 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, U. S. 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 life-time; 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, U. S. 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 was 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, etc. (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 their citizens for property lost which was at the outbreak of the 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 or necessary in a frontier camp, and the committee recommend concurrence in the House bill naming \$1,000 as the sum to be paid Mrs. Plummer.

