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[Lieut. John A. Payne]

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S. Rep. No. 624, 46th Cong., 2nd Sess. (1880)

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IN THE SENATE OF THE UNITED STATES.

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MAY 18, 1880.—Ordered to be printed.

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Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1645.]

*The Committee on Military Affairs, to whom was referred the bill (S. 1645) for the relief of Lieut. John A. Payne, Nineteenth Infantry, United States Army, have duly considered the same, and beg leave to submit the following report :*

The bill directs the Secretary of War to pay to Second Lieut. John A. Payne, of the Nineteenth Infantry, United States Army, such sum as the Quartermaster-General may certify to him to be the fair value, at Camp Supply, Indian Territory, of the personal effects of said Lieutenant Payne lost by destruction of his quarters by fire at said Camp Supply on the night of the 1st of July, 1877, the sum not to exceed in the aggregate \$850.

Your committee are obliged to report the bill adversely for the following reasons:

1. There are no affidavits or statements of any character filed to show that the fire actually occurred, or that, if it did occur, it was purely accidental. If a fire occurs in an officer's quarters, which was caused by carelessness on the part of the officer, or where it is shown that no reasonable or due care was exercised, your committee are not willing to set a precedent that he should be reimbursed for losses sustained by such fire. If, however, on the other hand, it be proven that it was accidental, and that it occurred through no negligence on his part; that it simply resulted from circumstances over which he had no control, your committee are of opinion that he ought to be indemnified for whatever losses he might have sustained. There are many precedents where the government has reimbursed officers and privates for losses sustained by them by various casualties, but the laws granting them relief have invariably been based on substantial evidence showing where and when such casualty occurred and the extent of the loss as near as possible.

2. No schedule of property alleged to have been lost by Lieutenant Payne accompanies the bill, and therefore it would be impossible for Congress to fix any definite sum to reimburse him. It has always been the custom heretofore in cases of this character to file a list of effects lost with the claim, so as to afford proper grounds for an opinion as to the actual amount of loss sustained; otherwise Congress would be simply legislating in the dark.

3. The letter from the Secretary of War (in answer to a letter from the committee calling for information in regard to this bill) throws no

light whatever upon the case, but simply alludes to the fact "that a petition of this officer for relief on this account was transmitted by this department to the House of Representatives for the Committee on Military Affairs, March 11, 1880." No such petition has ever been presented to your committee; and even if it had been, petitions cannot, of course, be considered as evidence.

This may be, for aught the committee know, a perfectly just and meritorious case, but for want of satisfactory proof your committee are compelled, in justice to the government and for the reasons stated above, to report the bill back adversely and recommend its indefinite postponement.

