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Archibald R. S. Hunter.

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ARCHIBALD R. S. HUNTER.

[To accompany bill H. R. No. 371.]

JANUARY 10, 1838.

Mr. WILLIAM B. CAMPBELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which were referred the petition and papers of Archibald R. S. Hunter, report:

The petitioner claims to be paid for depredations committed upon his crop of corn, oats, peas, and pumpkins, by the horses belonging to a troop of volunteer militia, which was in the service of the United States, while stationed at Fort Butler, in the Cherokee nation, during the summer and fall of the year 1836.

A board of investigation, appointed by General Wool, then in command of that portion of the army, had this claim under examination, for the purpose of inquiring into the amount of damage done to the crop, and reporting thereon; and the evidence taken before said board is the same which has been referred to this committee for its consideration. The precise time when this troop reached Fort Butler is not definitely stated in the testimony, but may be inferred to be in the latter part of the summer of 1836. Colonel Smith, the immediate commander of this troop, states, that on his arrival at the fort no forage could be obtained for the horses for the space of twenty-eight days, and that, during that time, the horses were turned loose in the woods to feed on grass, constantly attended by a strong patrol; that, notwithstanding the precaution used to keep them out of mischief, they did occasionally break the fences, and get into the corn-fields of Mr. Hunter. Colonel Smith left this command on the 25th day of October, 1836, and the proof is very clear that the injury done to the crop previous to that time was very inconsiderable. Captain Ellis, who made an examination of the fields, states that it did not exceed the value of fifty bushels of corn. After that time less care was taken, by the officers commanding at this post, to protect the crop of Mr. Hunter, and the horses frequently got in, and destroyed a large portion of it. It appears that the soldiers were in the habit of throwing down the fences and permitting their horses quietly to enter the fields. The whole amount of damage sustained by Mr. Hunter, by the destruction of his corn, oats, peas, and pumpkins, must have been equal to the value of four hundred bushels of corn, of which not more than one-

eighth part was done at the time when the troop were without their regular rations in forage. The corn is proved to be worth *fifty* cents per bushel.

Except the *twenty-eight* days succeeding the arrival of this troop at Fort Butler, the evidence is very clear that full rations of forage were received by them during the whole period at which the injury complained of was committed. The crop was not destroyed by order of any officer or agent of the Government, nor was its destruction productive of any benefit or advantage to the public. It is true that the injury to Mr. Hunter was very serious, but this committee can see no propriety in creating a precedent in the payment of this claim, which, if followed, will produce innumerable applications to Congress for remuneration for property, which has been wantonly destroyed by soldiers in the service of the United States. The Government was not the immediate cause of the destruction of Mr. Hunter's property, nor was its use productive of any advantage or saving to the Government. The committee, therefore, conclude that it will not deviate from the rule which has governed its decisions upon all claims of a similar character with the present. The damage to the crop of Mr. Hunter which was done while the troop were not furnished by the Government with the regular rations of forage allowed by law, the committee think should be paid for; and, accordingly, report a bill for that purpose.