

1-18-1854

Report : Mr. Broadhead

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IN THE SENATE OF THE UNITED STATES.

JANUARY 18, 1854.—Ordered to be printed.

Mr. BRODHEAD made the following

REPORT.

[To accompany Bill S. 141.]

The Committee of Claims, to whom was referred the documents in support of the claim of Richard Fitzpatrick, report :

A favorable report on this claim was made at the first session of the last Congress, and the bill which accompanied it passed the Senate, but was not acted on by the House of Representatives. Upon a review of the case, the committee have agreed to adopt the previous report, and make it a part of this report, and to recommend the passage of the accompanying bill, being, with a slight verbal amendment, identical with that which has once received the sanction of the Senate.

IN SENATE, MAY 25, 1852.

The Committee on Claims, to whom were referred the documents in support of the claim of Richard Fitzpatrick, report :

Colonel Fitzpatrick submits "an estimate of losses and damages sustained by him at his plantation on Miami river, near Cape Florida, by the Seminole Indians;" and an account for the occupation of his premises by United States troops, and for wood and other property taken by said troops, amounting in all to \$60,320, for which he asks payment.

Colonel Harney, U. S. A., certifies as follows, viz: "I certify that I was in command of the troops of the United States in the south of Florida for a considerable time during the Seminole war, and had my headquarters at Fort Dallas, which is located upon the property of Richard Fitzpatrick, who is a citizen of Florida, and that whatever was found useful on the lands of Mr. Fitzpatrick was freely used for the benefit of the United States. I do further certify that there was a considerable quantity of wood cut off the land of Fitzpatrick, and used on board of the steamboats in the service of the United States, it being more convenient to take wood at that place than any other on that part of the coast of Florida."

General Jesup, in a letter addressed to the Secretary of War, dated January 13, 1841, says: "Fort Lauderdale, on New river, and Fort

Dallas, on Miami river, were established by my orders some time in February or March, 1838. Both forts are said to be on the lands of Colonel Fitzpatrick. They are occupied at this time.

“Timber for building and for fuel, for the use of the troops and for the steamboats in the public service, has been cut at both ports. Colonel Fitzpatrick is justly entitled to a reasonable rent for his land and compensation for the timber cut for the use of the public; but it would be difficult, without a careful examination of the premises, to determine what would be a fair compensation.

“As he could make no use of the land himself, and as the fuel was cut and hauled by the troops, from two to three thousand dollars a year would, I should think, be ample compensation for both.”

General Jesup adds, that “the buildings and other property charged in the account were destroyed by the Indians before the lands were occupied by the troops.”

It appears from the affidavit of the petitioner that his plantation was abandoned to the Indians in January, 1836, two years before the occupation by the United States troops; and that they took his stock and destroyed his fruit trees and other improvements. The committee concur in opinion with General Jesup that the claimant is entitled to compensation for the use of his land and for the fuel, timber and other property, taken and used by the United States troops; but they are not prepared to sanction the principle that the government is to be held responsible to remunerate its citizens for losses sustained by the ravages and depredations of the savage tribes.

There is no sufficient evidence before the committee by which a judgment can be formed of the amount and value of the property taken and used by the troops. The quantity of wood cut is estimated from one thousand two hundred to three thousand cords, and the price is fixed by one of the witnesses at six dollars per cord, the price charged in the account. This price appears to the committee to be evidently extravagant.

The committee submit the accompanying bill.