

JOHN L. CLINE.

[To accompany bill H. R. No. 564.]

JANUARY 4, 1841.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of John L. Cline, praying indemnity for losses sustained in the discharge of his official duties in the year 1838, report:

That the petitioner, in 1838, was a lieutenant in Captain James Morrow's company of East Tennessee volunteers, in the service of the United States; the company formed a part of the army of the United States in the Cherokee country east of the Mississippi: that, on the 3d of March, 1838, the colonel commanding at Fort Cass, by an order duly promulgated, directed Captain Morrow to cause Mrs. McNair, of the Cherokee nation, to be reinstated in the possession of her property at that place, and that the intruders be dispossessed—among whom was one Osburn: that, on the 1st of April thereafter, the petitioner was ordered by Captain Morrow to execute the said order of the commandant of the station; which the petitioner did, with the aid of a file of men detached for the occasion. By the 16th article of the treaty between the United States and the Cherokee nation of Indians, it is stipulated that the United States shall protect and defend the Cherokees, in their possessions and property, during the two years within which they were bound to emigrate. In the fulfilment of this provision of the treaty, the dispossession of Osburn took place, as above stated; and for which an action was brought by Osburn against Cline, in Bradley county, Tennessee, and judgment obtained in December, 1839, which, with costs and expenses, amounted to \$573 27—including \$50 paid to his own attorney for defending the suit. On the subject of this claim, the Secretary of War, to whom the petition was referred for information, under date of March 6, 1840, says: The judgment "was obtained against Cline for acts performed by him in the discharge of his duty connected with the execution of the Cherokee treaty of 1835. I transmit, also, a report of the Commissioner of Indian Affairs on the subject; and I beg leave respectfully to recommend the case to the favorable consideration and attention of the committee." This claim falls within that class of cases which have heretofore received the favorable consideration of Congress. Where damages have been sustained by a public officer acting bona fide and within the limits of the power delegated, or required to be performed, in the discharge of his official duties, and he has been subjected to prosecution and damage, it has been the uniform practice to relieve. This the committee think such a case; and they therefore introduce a bill for the petitioner's relief.