

RICHARD FITZPATRICK.

[To accompany Senate bill No. 141.]

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FEBRUARY 2, 1855.
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Mr. FAULKNER, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred Senate bill No. 141, for the relief of Richard Fitzpatrick, with accompanying papers, report:

That Colonel Richard Fitzpatrick, a citizen of Florida, was compelled by the Seminole Indians, upon the breaking out of hostilities in that State, in 1836, to abandon his plantation at the mouth of the Miami river; whereupon the Indians destroyed a large amount of his property, consisting of houses, crops, stock, &c. The military and naval forces of the United States took possession soon after its abandonment, and established upon it a military post, known as Fort Dallas, and they continued to occupy it until some time in the year 1842.

During the time it was thus occupied by the United States for military purposes, a large quantity of wood, which had been cut and collected by the claimant for sale to steamboats, was used by the government steamboats, by order of the officers in command, and large quantities of wood used from time to time, also cut from the lands of claimant, for the same purpose and under the same authority.

The testimony of persons familiar with the facts, living near the plantation at the time, and whose respectability is sufficiently sustained, was regularly taken before the county court of the adjoining county, in 1842, and sustains the estimate which the claimant gives of his losses, sixty thousand dollars.

Your committee, however, are not prepared to admit the liability of the federal government for losses occasioned by Indian depredations in Florida; and the major part of the claimant's losses were of this character. But, for the use and occupation of his land, and for the timber, &c., taken from it for *public* service, and by order of United States officers, he is clearly and justly entitled to remuneration.

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 forts. 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."

The testimony varies as to the quantity and value of the wood thus removed, and it is difficult to determine them with accuracy. And your committee have therefore deemed it proper to report back the Senate bill, and recommend its passage with the following amendment:

Add, at the end of the bill, the words following: "And provide the amount so paid shall not exceed ten thousand dollars."