

JOHN J. BULOW, JR., DECEASED.

[To accompany Bill H. R. No. 253.]

FEBRUARY 3, 1858.

Mr. WYFFINTON, from the Committee on Military Affairs made the following

REPORT.

The Committee on Military Affairs to whom was referred the memorial of the heirs of John J. Bulow, jr., deceased, report :

The memorialist, Charles Bulow Bucknor and James Henry, representing the heirs of John J. Bulow, jr., deceased, claim compensation for the real and personal property of deceased on his plantation, called Bulowville, in Florida, destroyed by the Indians in the Seminole war in consequence of the occupation of his premises as a military post by a detachment of the Florida militia under Major Benjamin A. Putnam.

This claim was presented to Congress at the 2d session of the 24th Congress when the Committee of Claims reported favorably upon it. They also reported a bill for the relief of the petitioner, which passed the Senate but failed in the House.

Subsequently, in the 2d session of the 25th Congress it was favorably reported on by the Senate Committee on Claims accompanied with bill No. 22, for relief; in the 3d session of the same Congress, another favorable report was made by the same committee in the Senate, accompanied with a bill. This was recommitted with instructions, and a second report at the same session was made for the petitioner's relief.

At the 1st session of the 26th Congress, bill No. 109, for the relief of the petitioner, was introduced by the Committee on Claims, and laid on the table. In the 2d session of the same Congress still another bill No. 96, was reported. This, too, failed to pass the Senate.

Again, at the 1st session of the 29th Congress, the Committee on Claims in the Senate submitted another report in favor of the claim, accompanied by a bill. With this report, No. 76, the evidence in support of the claim was printed, and it exhibits—

1. A statement of the property destroyed, amounting to \$83,475 ; the items and their value sworn to by John J. Bulow.

2. The affidavit of Francis Pellicur, that he had been for several years Mr. Bulow's overseer; that he is well acquainted with the circumstances of this case, and that from his knowledge of the property destroyed or taken by the Indians, he believes the account rendered by Mr. Bulow, of his losses is just and correct.

3. The affidavits of three citizens of the same county with Mr. Bulow, viz: Joseph Hunter, William H. Williams and David R. Dunham, in which they assert their full knowledge of the extent and value of the property of Mr. Bulow, which was destroyed by hostile Indians, and that, from their knowledge they believe Mr. Bulow's account to be correct. Appended to these affidavits is a certificate of Thomas Douglass, the United States district attorney for East Florida, who vouches for the respectability of the affiants, and also of Mr. J. J. Bulow. That the appraisement was submitted to other disinterested men of intelligence, and by them all pronounced fair and just.

4. A second deposition of Francis Pellicur, to the effect, he saw the cotton on the plantation converted into breastworks around the house, and that all the boats, canoes, and flats were impressed into the United States service, and subsequently lost or taken and destroyed by the Indians; that two wagons, with four horses each, three ox teams, with six yoke of oxen each, were impressed into the United States service by Major Putnam for the use and service of the troops, and that all fell into the hands of the Indians.

5. George L. Phillips, in his deposition, says that he had examined the buildings of Mr. Bulow, and knows them to have been of the best quality, and that he considered Mr. Bulow's appraisement as under their actual value; that he saw the bales of cotton that had been taken and piled up into breastworks.

6. By the certificates and deposition of Joseph M. Hernandez, commanding the forces at East St. Augustine, the certificate and deposition of Major B. A. Putnam, who was the commander of the forces at Bulowville, the depositions of J. G. Andrews, George L. Phillips, Captain D. Dammitt, Francis Pellicur, Colonel Joseph S. Schanck and others, it is shown that the plantation of the said J. J. Bulow was selected and occupied as a military position by the proper officers, and made the headquarters of Major Putnam's command; that the entire property on the plantation, so far as it could be made useful to the troops, was converted to their use; the dwelling house was barricaded with cotton taken on the plantation, and that for nearly two months this was made the headquarters for hostilities against the Indians, and was only abandoned after it was ascertained that the Indians were so strong that it was deemed unsafe to try to hold it longer, and that after its abandonment it was entered by the Indians and everything about it taken by them and carried off or else destroyed.

In addition to all this, the testimony of the officer in command of the troops, Major B. A. Putnam, is offered, and from this it appears that the plantation of Mr. Bulow was not occupied in any sense for the purpose of protecting or defending it, but because it was an eligible position for conducting military operations. Its occupation as a military post was forcibly and violently resisted by Mr. Bulow. But he could not help himself, for the premises were taken and forti-

fied—his horse and ox teams, together with his negroes, were compelled to the service of the United States. That the place was held so long as it was deemed safe, and by reason of the great annoyance which it gave the Indians was especially marked by them for vengeance; that it was left by the troops in the night, and was destroyed by the Indians very shortly after.

The proof seems conclusive that the property was taken for the use of the troops and by the proper officer, and despite the resistance of the owner, and that by reason of this occupancy it was seized and destroyed by the Indians. By the act of Congress of 1816, it is provided "that any person who has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a place of military deposit by authority of an officer or agent of the United States government, shall be allowed and paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."

By the act amendatory of the act passed March 3, 1817, that section was construed "to extend only to houses or other buildings occupied by an order of an officer or agent of the United States as a place of deposit for military or naval stores, or as barracks for the military forces of the United States;" and by the fourth section of this last act, this principle was extended to embrace cases "of property lost, captured or destroyed in the wars with the Indian tribes subsequently to the 18th of February and prior to the 1st of September, 1815, in the same manner as if captured or destroyed in the late war with Great Britain." This act established a distinction between losses incurred from the Indians in time of war and those depredations that the white settlers are subject to at all times from Indians along the frontier settlements.

In the 2d session of the 27th Congress a report was made by the Committee of Claims in the House of Representatives, adverse to this claim. In this report it was assumed that the losses of Mr. Bulow were in the nature of ordinary Indian depredations, and had it been so this report would have been just and right, for Congress has never, it is believed, recognized the validity of any claim on the government resulting from mere Indian depredations. But this was not an act of depredation. It was an act of hostility and revenge to which the Indians had been provoked by the attempt of the government of the United States to remove them from their old camping ground to the west of the Mississippi.

Previous to this the Indians of Florida were at peace with the white inhabitants of that Territory. To effect their removal the army of the United States was ordered into Florida, and it is now well known that though there was no formal declaration of hostilities, yet the Indians were forcibly removed, and so much against their will that it amounted to virtual war. The United States troops forcibly undertook to remove the Indians. They resisted and refused to leave, and defended themselves as best they might. They did not commit depredations as a general thing on peaceable citizens not engaged in driving them off, and until this work of removal was commenced there were no depredations committed. The offensive acts of the troops provoked

the Indians, and they retaliated on the soldiers and destroyed the property in question, because the premises were the quarters for the United States troops, which were acting hostilely against them. There was nothing in the conduct of the Indians like their ordinary acts of depredation. As appears by the testimony, the Indians destroyed those buildings which were fortified and left many of those that were unfortified unharmed, notwithstanding they had been greatly exasperated by the troops against the white people.

Briefly, it appears, then, that by the authority of the proper officers this property of Mr. Bulow was occupied for the public use at a time when actual hostilities existed between the Indians and the troops that had been sent to remove them. By reason of this public use of Mr. Bulow's property it was destroyed, for which reasons it is believed that relief should be granted.

The committee therefore report the accompanying bill.