

CHARLES W. DENTON.

MAY 24, 1872.—Committed to a Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 2901.]

Your Committee of Claims, to whom was referred Executive Document No. 96, Forty-second Congress, second session, in relation to the claim of C. W. Denton for depredations committed by the Indians in Oregon from 1854 to 1860, have considered the same, examined with care the evidence and the law, and find: That Charles W. Denton was the owner of certain lands near the Dalles, Oregon; that this land was occupied by a large number of Indians, placed there by the United States authorities, from 1854 to 1860, preventing him from using and occupying the lands during the whole of that time, and causing the destruction of large quantities of the timber growing thereon, for which this claimant asks to be allowed the sum of \$25,000.

If this is to be regarded as a claim in the nature of a depredation by Indians, under the seventeenth section of the law of June 30, 1834, then it is clearly barred by the limitation clause in said section, not having been presented for adjustment within three years; but we are of opinion that it ought not to be so regarded.

It appears that the claimant, in 1853, became lawfully the possessor of a tract of land in Wasco County, Oregon, upon which he settled; that he fenced and cultivated a part of the same, and was preparing to make further improvements, when (in 1854) a number of friendly Indians were, in consequence of the outbreak of Indian hostilities in Oregon occurring at that time, brought by United States military authorities and placed upon his land for the purpose, as stated to the claimant by Colonel Wright, commanding Fort Dallas, of having them where they could be controlled; that these Indians occupied all of his tillable ground, fenced and not fenced; that they used and wasted his timber, and that this condition of things continued from September, 1854, until the spring of 1860, whereby he was prevented from cultivating the land and prosecuting a profitable business of market-gardening and farming.

We submit that the settling of the Indians upon claimant's property not being their own voluntary act, and their continued occupation of the same being by constraint, whatever injury may have resulted therefrom to the claimant was not an Indian depredation, but must be regarded as constituting a case of use and waste by the Army for its own purposes, just as much as if, instead of Indians, the military authorities had placed cattle or horses upon the claimant's land. Nothing appears in evidence to prove that any injury done the claimant resulted from malice

on the part of the Indians toward the Government or toward the claimant personally. We are not, therefore, disposed to regard this case as coming within the scope of the law referred to, relative to depredations by Indians against citizens.

We further concur in the opinion of the Acting Commissioner that the testimony adduced appears to sustain the statements of the claimant, that his property was occupied as hereinbefore recited, and that he suffered appreciable loss thereby.

The losses of the claimant are of such a nature that it is exceedingly difficult to determine their extent. He claims \$25,000, or \$5,000 a year, and several of the witnesses sustain fully this claim; but we can hardly credit the opinion that he could have realized any such sum from the occupancy of this tract of land, and believe that \$5,000 will compensate him for the use of the same, and for all injury done to the timber. Such is the opinion of Hon. F. A. Walker, Commissioner, from whom we have drawn largely for this report.

We recommend the payment of said \$5,000, and to that end the enactment of the accompanying bill.