

FRANCES H. PLUMMER.

JUNE 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4152.]

The Committee on War Claims, to whom was referred the bill (H. R. 4152) for the relief of Frances H. Plummer, report as follows:

The facts out of which this claim for relief arises will be found stated in House report of the Committee on War Claims, No. 1015, second session Forty-fifth Congress, a copy of which is hereto appended.

Your committee adopt the said report as their own, and report back the bill with the recommendation that it do pass.

The Committee on War Claims, to whom was referred the claim of Frances H. Plummer, widow of the late General J. B. Plummer, of the United States Army, respectfully report:

That the claim is for \$2,120, the alleged value of personal effects belonging to General Plummer (when a captain in the United States Army), which were taken by the Confederate forces at the time of the evacuation of Fort Cobb, Indian Territory, in May, 1861.

The goods claimed to be lost consisted chiefly of scientific and other books, household goods, clothing, pictures, ornaments, &c., which were at Fort Cobb, Indian Territory, at the time of its evacuation.

At the time of the breaking out of the war, Fort Cobb, Indian Territory, was commanded by Capt. J. B. Plummer. Learning that General Twiggs had given in his adhesion to the Confederacy and surrendered the forces in his command, and that an armed force was marching to attack Fort Cobb, Captain Plummer, on May 5, 1861, evacuated the fort and marched across the country to Kansas, and thus saved his command. Of the four officers at Fort Cobb at the time of the evacuation Capt. S. M. Barton and Lieut. W. E. Burnet joined the rebellion.

Captain Plummer by his prompt action (which was approved by the War Department) saved his command and the guns and supplies of all kinds at his post.

The seven wagons at the post were used to convey away government supplies for his troops, &c.

The claimant's petition sets forth that he was compelled to leave behind his own personal effects, which he boxed up and intrusted to a sutler by the name of Tucker Barton to attempt to take to Fort Smith, Arkansas, from thence to be shipped by him to Saint Louis.

Tucker Barton says he was to take them to New Orleans and ship them from thence to New York City.

The affidavit of Tucker Barton shows that some irregular Texas troops took all of Captain Plummer's goods from his train, because they belonged to a Union officer.

Tucker Barton's goods were respected mainly because he proposed to join the Confederacy with his brother, Captain Barton aforesaid.

Tucker Barton in his affidavit says "that he was sutler at Fort Cobb, in the Indian Territory, at the time of the evacuation of that post, in the latter part of April or first of May, 1861; that at the time of said evacuation the United States did not have sufficient transportation for the baggage and effects of the officers stationed at said post, for which reason Capt. J. B. Plummer, First Infantry, United States Army, intrusted to him, to be taken to New Orleans, and thence shipped to New York, if possible, several (he thinks seven) large chests, which he represented contained articles of great value, the collection of a lifetime; that a few days after leaving Fort Cobb his train was approached and surrounded by a large body of armed men from Texas, several hundred in number; that he was made prisoner by them, on the ground that he was giving aid and comfort to the United States, the parties claiming to hold commissions from the State of Texas; that the chests, being marked in the name of the said Capt. J. B. Plummer, United States Army, were declared forfeited, and were forcibly taken from his possession by said body of armed men. This was done partly in the Indian Territory and partly in the State of Texas, in the month of May, 1861."

Captain Plummer afterward became a brigadier-general in the Volunteer Army of the United States, and served with distinction in many battles. He was severely wounded at Wilson's Creek, Missouri, in 1861, from which, after long suffering, he died, August 9, 1862, at Corinth, Miss., leaving a dependent widow.

The testimony as to the value of the property thus lost is not entirely satisfactory.

Your committee is of the opinion that it is fairly worth the sum of \$1,500.

Your committee recognize the fact that when war is actually going on there are many kinds of property that the government is not liable to pay officers for in case of loss by capture or otherwise, for the reason that at such a time officers must necessarily take the risk and hazard of the service themselves. The government has, however, provided by law for the payment to officers for horses killed or lost in battle, or by the dangers of the sea while being transported (Revised Statutes, sec. 3482); and also for losses by officers, non-commissioned officers, or privates in the military service, while in the line of duty, of horses and certain other property, by capture or necessary abandonment, &c. (Revised Statutes, sections 3483, 3484, and 3485.) No provision of law, however, gives the right to any department, officer, or court to pay this claim.

In analogy to the foregoing legal provisions a part of your committee think this claim should be paid. A portion of the committee finds the claim should be paid, for the further reason that governments have usually undertaken to reimburse their citizens for property lost which was at the outbreak of a war in an enemy's country and seized and confiscated.

At the time war was declared with Mexico an American citizen was in the port of Vera Cruz with his ship, which was seized and confiscated. The United States Government paid for this vessel and its cargo. If a government should pay to its private citizens such losses, much more favorably should it regard the claims for losses of its own officers who are so unfortunate as to be serving, when war breaks out, under orders in a territory which becomes, without fault of theirs, insurrectionary or enemy's territory. Some of the committee think this claim should be paid as an exceptional case; others of the committee think it should be paid as a matter of right, justice, and public policy; all agree that the claim should be paid; and all of the committee agree that its payment is no precedent for the payment generally of captured or abandoned property in an enemy's country.

No unpaid claim similar to this is known to exist in the United States.

Your committee therefore report the accompanying bill, appropriating to Mrs. Frances H. Plummer the sum of \$1,500, and respectfully recommend its passage.