

JAMES DEVINE.

MARCH 9, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LAWLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3765.]

The Committee on War Claims, to whom was referred the bill (H. R. 3765) for the relief of James Devine, have considered the same, and respectfully report:

A bill (H. R. 1150) for the relief of this claimant was introduced in the Forty-second Congress, second session, and referred to the Committee on Claims. That committee reported the bill favorably, and upon a full examination of the evidence on file in support of the claim this committee finds that the report of that committee (No. 1587) is in accordance with the facts, and the same is hereby adopted and attached hereto.

Your committee accordingly report back the bill and recommend its passage.

[House Report No. 1587, Forty-sixth Congress, second session.]

The Committee on Claims, to whom was referred the bill H. R. 1150 for the relief of James Devine, have considered the same, and respectfully report:

That James Devine was the owner of certain lands in the State of Minnesota, viz, the SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ and lot No. 6 of section No. 23, and lot No. 8 of section No. 33, and the NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$ of section No. 34, in township 108, range 31, containing 157 acres, 60 acres of which was timbered. During the Indian outbreak, known as the Sioux massacre of 1862, Company I, Minnesota Mounted Rangers, was stationed on said land for the protection of the settlers and built a stockade or fort thereon, 100 feet long, 75 feet wide, and about 10 feet high. They also built on said land four buildings of various sizes. All the logs, roofing, and shingles for said buildings were taken from the land of Devine. The troops occupied the fort, and used timber for fuel for a period of two and one-half years, and when the troops were removed they took some of said houses with them to other locations.

James Devine testifies that he was at the time the troops occupied the land, and is now, the owner thereof, having a patent for the same from the United States; that there is 157.72 acres of land, 60 of which was timbered; that less than one-fourth of said timber was left standing, the balance, 40 acres, being cut by the troops. The value of timber land at that time was from \$20 to \$50 per acre, and his loss by said damage was not less than \$700, and at the time said timber was taken he was a resident of Milwaukee, Wis., and did not return to his land in Minnesota until 1866; that he has never received any pay or compensation for said loss.

Guttora Thorsdson and Tergrim Tergrimson testify that they own and live on lands adjoining the lands of James Devine; that there was no timber cut on said land before the troops entered thereon to build the fort. The timber land at that time in the vicinity of Devine's land was worth from \$20 to \$50 per acre; that the troops were

there for two and one-half years, and the damage to Devine by loss of timber was not less than \$700.

Iver Iverson testifies that he knows the property of James Devine, and to his positive knowledge there was no timber cut off said land previous to the occupancy by the troops, and that the loss to Devine was not less than \$700.

John Hauenstein, a second lieutenant of Company I, Minnesota Mounted Rangers, testifies that he commanded said company at Fort Hauska, in township 16^e, range 31; that the fort and buildings were being erected during the time he had command; that the logs, roofing, shingles, etc., were taken from the land of James Devine; that Fort Hauska was built on Devine's land, and to the best of his knowledge there was about 60 acres of timbered land, and the actual loss at the time to James Devine's property by the destruction of the timber was not less than \$700.

Mr. Devine being a resident of the State of Wisconsin from 1857 until 1866, when he returned to Minnesota, he learned for the first time that the State had adjudicated such claims, for which the United States reimbursed the State.

A bill for the payment of damages was presented to the State legislature, which received a favorable report, was passed to a third reading and defeated because the time expired that had been set for the State to pass on such losses.

Mr. Devine's absence from the State kept him in ignorance of the method of prosecuting his claim until some years after the property had been taken. When he was aware of the manner in which such property was paid for, he presented his claim to the legislature of the State of Minnesota. Payment was refused, it being a claim against the United States.

Your committee believe the property was taken by the troops for their use, and that the amount asked for the same is just and reasonable, and recommend the passage of the bill.

C