

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1517.]

*The Committee on Claims, to whom was referred the bill (S. 1517) for the relief of Elizabeth E. Sinclair, have considered the same, and respectfully report:*

This claim is for the value of property belonging to Col. Hardeman Owens, alleged to have been destroyed by United States soldiers in 1833 in the Creek Nation, now Russell County, Alabama.

The claimant states in her petition among other things that she is the only surviving child and heir of Col. Hardeman Owens, deceased, whose property was destroyed and who was murdered in July, 1833, by United States soldiers, at that time stationed at Fort Mitchell, in the Creek Nation; that said Owens had in January, 1832, moved with his family from Columbus, Ga., to the Creek Nation, where he had bought land of an Indian chief named John Carr, and was, at the time of his death, engaged in farming and in keeping a house of entertainment, and was buying the Indian reserves for a land company located at Columbus. A list of personal property alleged to have been destroyed, with an estimate of its value, accompanies the petition. The affidavits of the claimant and other witnesses are filed with the papers. The claimant states the circumstances of the killing of her father and the destruction of his property in detail.

The substance of her statement is that on the 30th of July, 1833, a United States marshal, accompanied by a lieutenant and sergeant and thirty-five soldiers from Fort Mitchell, Ala., came to her father's house; that the marshal sent for the chief, John Carr, who came with his warriors, and her father sent for two white men who lived in the neighborhood; that the marshal inquired of the Indians if they had any complaint to make against her father, who replied through their chief that they had not; that the marshal also inspected her father's land certificate.

This, she states, was not an unusual proceeding, as troops were sent through the nation occasionally to see that the whites were not intruding on the Indians; that before the marshal left that day he notified her father that he (her father) must leave the nation immediately; that the next morning her father, being told by a half-breed that he had heard orders given to the soldiers and Indians to kill him, sent his family to a neighbor's house and afterwards followed them and reported that he had been shot at twice by soldiers before he left his house, and

had jumped out of the back window and made his escape ; that at about 5 o'clock p. m. on the next day, her parents, supposing the soldiers were gone, returned home and found everything destroyed except the house, and that while they were looking at the wreck of the property a negro woman warned her father that the soldiers had returned, and in attempting to make his escape he was shot by a soldier who was concealed behind a pine tree.

Owing to the youth of the claimant when the transaction occurred (she being but ten years of age at the time) and the length of the time which has since elapsed, your committee are inclined to take her statement *cum grano salis*.

If this were a case in which any relief should be granted, the presence of the United States marshal and his order to Colonel Owens to leave the territory of the Creek Nation would require further explanation. Further evidence would also be required as to the description and value of the property destroyed. But the view which your committee takes of this case renders the testimony on those points immaterial. Relief must be denied the claimant under the principles which have heretofore governed the committee in similar cases. The destruction of claimant's property was either lawful under a process of a court, as seems probable from the presence of the United States marshal, was in pursuance of lawful orders of the military authorities, or was the wanton depredation of the soldiers, for which the Government is not liable.

The committee therefore recommend that the bill do not pass.