30th Congress, 1st Session. [SENATE.] Rep. Com., No. 57.

IN SENATE OF THE UNITED STATES.

February 4, 1848.

Submitted, and ordered to be printed.

Mr. Bradbury made the following

REPORT:

[To accompany bill S. No. 129.]

The Committee of Claims, to whom were referred the petition of James F. Sothoron, praying for indemnity for property destroyed by the enemy during the late war with Great Britain, have had the same under consideration, and report:

That your committee adopt, as a concise narrative of the facts presented by the testimony, the language of a report made to the Senate in February, 1836, by the Committee of Claims, on an application then pending for indemnity for the loss of the claimant's *buildings*.

The report states: "That Alexander Lyon, Joseph B. Burroughs, John B. Burroughs, and Hanson Burroughs, testify that they were private soldiers in a company of Maryland militia commanded by the petitioner, and were encamped, with other troops, under the command of the late General Philip Stuart, near the farms of the said petitioner, during a part of the summer of the year 1814; that, in the early part of July in the said year, they were ordered by Captain Sothoron, the petitioner, together with others, to march down upon his farm on the Patuxent river and occupy his houses, as a corps of observation; that the guard or troops did, according to his orders, occupy the houses, both dwelling and out-houses, for the space of thirty days, when they were driven therefrom by the enemy landing and attacking them with a superior force; that they effected their retreat with difficulty, leaving behind their baggage, ammunition, and provisions; and that the enemy fired cannon into the house, damaged and nearly destroyed the dwelling, and burnt a large barn with upwards of forty hogsheads of tobacco, and pulled down other houses, such as the granary, quarters, &c.

"When the troops were driven from their first position, they retreated to an adjoining farm, also belonging to the said petitioner, and occupied the dwelling-houses and buildings upon it; the next day the enemy pursued them, drove them from their new position, injured and nearly destroyed the dwelling-house, and burnt a large

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barn containing one hundred and twenty-three thousand pounds of tobacco. They further testify that the troops under the command of General Stuart had not, at the time they were ordered to occupy Sothoron's houses, any tents at all, and the detachment had no other shelter from the weather than the houses of the petitioner.

"John B. Burroughs testifies that, about three or four days after the burning of the petitioner's barns and the damage done to his dwelling-houses, he heard a conversation between his father and three British officers, at his father's house, during which conversation the British officers declared 'that it was their orders to burn and destroy all property occupied by the militia in any way, and if that property (meaning the petitioner's) had not been so occupied, they would not have burnt and destroyed it.'

"The character of the persons who testify to the above facts is vouched for by the certificate of Charles C. Egerton, William Ford, and William Floyd, three justices of the peace.

"The petitioner alleges in his memorial that, while under the command of General Stuart and encamped with his company about five or six miles from the river, 'he was ordered by General Stuart to detach a portion of his company, under the command of a subaltern officer, to march down upon the said Sothoron's farm, there to occupy his houses, and remain as a corps of observation.' Against this order the petitioner alleges he remonstrated, stating the consequences that might result from such occupancy, but he was nevertheless obliged to comply with the said order, and did detach a part of his company for that service accordingly, which was the cause of the destruction of the petitioner's property by the enemy."

It will be perceived that the facts stated applied as well to the loss of the *personal property* as of the *real estate* of the claimant; and that he asked, in his former application, to be remunerated for the *latter* only.

The committee are not disposed to give sanction to the practice of dividing claims, by listening, without good reasons, to a second application, when the subject of it was involved and should have been considered with the first. In this case, however, it is shown by the evidence that the petitioner was induced, by advice of members of Congress who had charge of his former petition, to postpone his claim for loss of *personal property*, and to ask, at that time, indemnity for the destruction of his *buildings* only, as coming within the principles of the act of 1816.

It is difficult to draw a distinction, in equity, between a claim for loss of *buildings* and of the *personal property* they contain; and as the petitioner was entitled, according to the evidence, to remuneration for the loss of the *former*, he is, as we believe, for that of the *latter*.

The committee, therefore, recommend the passage of the accompanying bill.