

MARY M. JONES

FEBRUARY 12, 1927.—Committed to the Committee of the Whole House and ordered to be printed

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

REPORT

[To accompany H. R. 5622]

The Committee on Claims, to whom was referred the bill (H. R. 5622) for the relief of Mary M. Jones, having considered the same, report thereon with a recommendation that it do pass with the following amendments:

In line 6, after the word "appropriated," add "in full settlement against the Government,".

Also, in line 6, strike out the figures "\$1,950" and insert in lieu thereof "1,035."

STATEMENT OF FACTS

This is a claim for damages caused and sustained to property of the claimant, Mary M. Jones, Linn County, Oreg., due to fire set from burning material from an Army airplane on or about July 1, 1924, the said airplane being in fire-patrol service under the direction of the Forest Service.

The damage was investigated by a board of officers which heard all available witnesses and visited the burned area, the following being an extract of the findings and recommendations:

That the fire was accidental; that all necessary precautions as were possible were taken to prevent fire, and that the damage and loss was not due to the carelessness, fault, or neglect of any officer or agent of the United States Government or any other person or persons concerned.

Recommendations.—It is recommended that the owners of the properties destroyed be not penalized for the attempted fraud of their attorney, Mr. N. M. Newport, but that direct settlement to them in full payment of damages sustained in the following amount be paid:

For the loss of real property, etc., the sum of \$1,035 be paid to Mary M. Jones, 3618 Sixty-ninth Street, Portland, Oreg., or her trustees, Bessie M. Haynes, same address, and Mrs. Hattie Drake, 290 East Thirty-second Street, Portland, Oreg.

In view of the foregoing your committee recommends payment of \$1,035.

Attached herewith is correspondence from the War Department, which is made a part of this report.

WAR DEPARTMENT,
Washington, February 3, 1927.

HON. CHARLES L. UNDERHILL,
*Chairman Committee on Claims,
House of Representatives.*

DEAR MR. UNDERHILL: Further reference is made to your letter to The Adjutant General, dated January 21, 1927, concerning H. R. 5622, a bill for the relief of Mary M. Jones.

Please be advised that the War Department has no objection to the passage of this bill, but believes the amount should be \$1,035, instead of \$1,950, for reasons appearing in attached copy of letter from the Secretary of War to Senator Rice W. Means, dated January 26, 1927. There is no doubt that the claimant suffered a loss from fire caused by an Army airplane, but the War Department was unable to find that the damage was caused by negligence on the part of any employee or agent of the Government, and being for more than \$1,000 believed it did not come within the purview of the act approved December 28, 1922. However, the claim being meritorious, favorable action as above indicated is recommended.

Sincerely yours,

DWIGHT F. DAVIS, *Secretary of War.*

JANUARY 26, 1927.

HON. RICE W. MEANS,
Chairman Committee on Claims, United States Senate.

DEAR SENATOR MEANS: Receipt is acknowledged of your letter of December 20, 1926, inclosing copy of S. 4749, a bill for the relief of Mary M. Jones, in the amount of \$1,950, as compensation for damages caused and sustained to the property of the claimant in Linn County, Oreg., due to a fire alleged to have been set from burning insulation dropped from an Army airplane on or about July 1, 1924. It appears that on the above date the airplane in question flew over the property destroyed by fire immediately preceding the conflagration. The generator on the airship burned out during this time, and it is alleged that the fire was caused and resulted from particles of burning matter falling from the airplane.

From the evidence it appears that a string of fires 2 or 3 miles long followed the path of the airplane, and a total of some 20 fires was started along this line, the most damaging one resulting in the destruction for which reimbursement is sought in the instant case. The property burned was unoccupied and the owner carried no insurance.

Although this airplane was loaned to the Department of the Interior and was piloted under the jurisdiction of that department as a fire patrol at the time of this accident, a board of officers was appointed by this department to investigate the claim and made the following findings and recommendations, which were approved July 3, 1925:

FINDINGS

* * * That said fire was caused and resulted from particles of burning matter falling from an Army airplane; that said airplane was being operated by Staff Sergeant Fred Kelly, R-1185667, Ninety-first Observation Squadron, Air Service, while on a duly authorized forest patrol mission * * *.

That said fire was unavoidable and due to the breaking of safety of generator, thus causing radiogenerator to become overheated and burn out, and that this was occasioned through no fault or neglect of any person or persons concerned.

* * * * *
That the actual and total value of the property destroyed is not in excess of the following:

House.....	\$700
Plumbing.....	20
Furniture.....	20
Water tank and tower.....	80
Barn.....	125
Fruit house.....	40
Shed and chicken house.....	50

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The board then recommended that the owner of the property in question be paid \$1,035 as settlement in full for the damages sustained and that the military and other air-service Government agencies be relieved of all accountability and responsibility resulting from the aforementioned fire. A copy of this board's proceedings is inclosed for your information.

The claimant, at the time, signed a release to the Government on the basis of a \$1,035 reimbursement, but this department could make no final settlement on that basis, due to its inability to pay more than the maximum limitation of \$250, as provided in the act of June 30, 1921 (42 Stat. 73). A settlement of \$210 for a Ford car belonging to another party and burned in the same fire has already been paid under the authority of the act above quoted. These two claims appear to be the only two arising out of this incident.

A similar bill (H. R. 5622) was introduced in the House of Representatives during the first session of the Sixty-ninth Congress, and on January 28, 1926, I wrote the chairman of the House Committee on Claims that this case appeared to merit legislative relief in some amount, and I am still of the same opinion.

The proposed legislation has been submitted to the Director of the Bureau of the Budget, who advises that same is not in conflict with the financial program of the President if the amount is limited to \$1,035.

Sincerely yours,

DWIGHT F. DAVIS, *Secretary of War.*

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