

CHARLES H. WILGUS.

MARCH 3, 1859.—Laid upon the table, and ordered to be printed.

Mr. HUMPHREY MARSHALL, from the Committee on Military Affairs,
made the following

REPORT.

The Committee on Military Affairs, to whom was referred the petition of Charles H. Wilgus, praying compensation for property lost at Tampico, Mexico, during the war with Mexico, report:

That Charles H. Wilgus, the memorialist, is a native of the United States, but resided near Tampico during our war with Mexico, where he was "a co-proprietor with his wife" of a rancho used as a dairy farm.

He complains of spoliation on his property, committed by American volunteers who were encamped near his place in the winter of 1846-'47, but says these men were not under orders nor justified by their officers. They were not in the line of their duty, and were simply trespassers, and were personally responsible. It is not perceived how a government can be rendered legally or morally responsible for the conduct of individuals, though they are soldiers, who, in violation of their duty and orders, may commit trespasses upon the property of persons in whose vicinity they may be posted. They would be punished if they could be detected; but, in the absence of all attempts to detect the offenders, it cannot be admitted that Mr. Wilgus has a good claim against this government for trespasses committed by individuals who were not acting under the authority of the flag or the orders of a superior officer, but who were confessedly "a party of soldiers separating themselves from the command."

The memorialist has presented a bill of particulars specifying the items of damage, but he has not introduced a single witness who testifies to any particular item. They aver their general estimate to range from "about \$2,500" to "near and not less than \$3,000," which the memorialist himself, though submitting an itemized account amounting to \$3,112, only brings himself, in his deposition before the alcalde of Tampico, up to the general statement that he sustained a loss of "more than \$2,500."

The Committee on Military Affairs do not regard this claim as good, because the extent of the interest of the memorialist is not so stated as

to render it certain to what portion of the damages he would be entitled. 2d. Because he has not proved specifically the amount of any particular item of damage. 3d. Because a general statement that his damages in gross amounted to not less than \$2,500 is too vague to found thereon a specific verdict against the government. 4th. Because the government is neither morally nor equitably bound to compensate a citizen residing in an enemy's country in time of war for the destruction of property when committed by individuals separated from the command, who are simply pillaging or depredating of their own wrong and in violation of orders and without the authority or presence of the flag to which they belong. Such a precedent would render the government responsible for every horse and cow and calf that may have been killed while our army was in Mexico, for every house that was burned, for every personal assault that was sustained, and for every species of wrong the inhabitants may charge to volunteers who belonged to the service. Such a rule does not obtain in any service, and is not practiced upon by any government.

The committee report adversely, and ask to be discharged from the further consideration of the memorial.