GEORGE FISHER.

JANUARY 16, 1841.

Read, and laid upon the table.

Mr. GIDDINGS, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was committed the memorial of George Fisher, report:

The petitioner alleges that in 1813 and 1814 he owned and possessed great numbers of cattle and hogs, and large quantities of corn and wheat, and other produce, within the then Territory of Mississippi : that, in consequence of Indian hostilities, he and his hands were compelled to leave his plantation and property : that, while he and his hands were thus absent, great numbers of his cattle and hogs were killed by the United States troops and Indians ; and his wheat, corn, and other crops, were taken and used by the said troops and Indians. His estimated loss is more than twelve thousand dollars, for which he asks compensation.

As to so much of the claim as relates to the property taken or destroyed by the Indians, it may be remarked, that the Government have at no time been held responsible for loss of property destroyed by savage foes ; compensation in such cases would be opposed to the entire legislation of Congress on that subject. (Vide Rep. No. 301, 2d sess. 24th Congress.)·

The memorialist chose to take up his residence in a part of the country exposed to Indian depredations. This was an act of his own, for which Government can in no way be liable. His loss was a consequence of his own act ; of course, he ought not now to ask the Government to bear his misfortunes.

As to so much of the claim as relates to property taken for the use of the troops of the United States, there is not, in the opinion of the committee, such proof as will authorize compensation.

The number of cattle or of hogs, or the quantity of wheat, corn, or other property, used or destroyed by the troops, is entirely indefinite and uncertain. There is no proof that enables the committee to approximate towards the amount or value of the property thus used or destroyed. But it has never been the practice of Government to grant indemnity for property unnecessarily destroyed by the United States troops, or for property taken and used by individuals, unless such taking was by order and direction of the commanding officer. (Vide rules prescribed by Mr. Madison, A. D. 1817 ; and report of Committee of Claims, House of Reps. No. 841, at the 2d s ss. of the 25th Congress.)

It should also appear that such taking and use were necessary for the public service. The certificate of the officer, setting forth the taking of the property, its *price* as valued at the time, and that such taking was neces-

sary, is the first species of evidence required in cases of the character with that of the claimant. If such certificate be not produced, its non-production must be satisfactorily accounted for, before other evidence will be permitted to supply its place.

There is in the present case no such certificate; nor is there any reason assigned why it is not produced. There is no proof that the property was necessary for the support of the troops, that its value was ascertained at the time by the proper officer, or that it was taken by order of an officer authorized to issue such order. The committee, therefore, report to the House, for adoption, the following resolution:

Resolved, That the petitioner is not entitled to relief.