

GAD. HUMPHREYS.

[To accompany Senate bill No. 484.]

FEBRUARY 23, 1855.

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

R E P O R T .

*The Committee on Claims, to whom was referred Senate bill 484, "for the relief of Gad. Humphreys," report :*

That they have considered the claim for which this bill provides, and are of opinion that the claim ought not to be allowed. The Senate committee which examined the claim and reported the bill, thus state their views of the subject :

"The petitioner claims indemnity for property which he alleges was destroyed at Micanopy, in Florida, during the Indian disturbances in 1836.

"The claim has been repeatedly submitted to the examination of committees of both houses of Congress, and several reports have been made in favor of the claimant. Two bills granting relief have passed the Senate.

"It appears that Micanopy was occupied as a military post by the United States troops under the command of Colonel Pierce. When it was determined to abandon the post, Colonel Pierce ordered all property which could not be removed to be destroyed, to prevent its falling into the hands of the enemy.

"The committee do not admit that a simple order for destruction of property by a United States officer constitutes a sufficient foundation for a claim to indemnity.

Troops employed for the defence of private property may be withdrawn when circumstances may require it, and the withdrawal may render it certain that the property will fall into the hands of the enemy, and be lost to the owner. The withdrawal, in that case, would not sustain a claim for indemnity. Nor would an order to destroy property, necessarily abandoned under such circumstances in order to prevent its falling into the hands of the enemy, sustain such a claim; for the order, in such a case, would not be the cause of the loss.

"If, however, troops of the United States are stationed at a particular point, not for the defence of person or property there, but for the general objects of the war, and in consequence of that the attacks of the enemy are drawn to that point, and it becomes necessary to abandon the post, and under such circumstances the commander orders the

destruction of private property, the committee are inclined to think that the owner ought to be compensated.

"In accordance with this view, and in deference to the opinions of former committees, the committee ask leave to report a bill."

This committee cannot concur in the doctrine that, "if the troops of the United States are stationed at a particular point, for the general objects of war, the owner of private property ought to be compensated, if the enemy are drawn to that point in consequence of such stationing, and the owner's property is destroyed by the order of the commander of the troops."

The United States undertakes to defend the lives and the property of its citizens by stationing troops at points deemed judicious, but does not *insure* such lives and property thus sought to be protected by government. If a nation fails *to be able* to protect the property of a citizen, it does not hold itself called upon to make good the loss sustained by such failure in its efforts to protect the citizen. In waging war, armies march, to the injury of citizens, through cultivated fields, to a point of attack—such a march is more or less devastating, and is an evil incident to war, and as such is not held to call for indemnity. Nor when, (whether in battle or skirmishing) a wall, a bridge, a wood, or a building, is destroyed, (by either party,) compensation is not made to the injured party; the loss would be a casualty of war, caused by an effort put forth by the nation to protect, (among others,) the very persons unavoidably injured by such an attempt at defence.

It is a misfortune, incident to war, that the location of troops at almost any given point attracts the enemy to that point. The injury of fields, groves, gardens, buildings, and other property, by both contending parties, is the necessary result of a hostile collision; but neither this or other nations make compensation for the desolations which a warlike movement occasions. Severe and wide-spread as these losses and ravages often are, they are never ascertained, nor paid for; no treasury could indemnify the losses caused by large defensive and aggressive armies marching through and alternately occupying an invaded country. Hence the *importance* of peace and security to citizens who have families and property to protect.

Were the doctrine uttered by the Senate committee to prevail; were this nation to undertake, in time of war, to indemnify its citizens for the property which they might lose, an invading enemy would find no means so efficient to disband our armies as the burning and destroying of cities, villages, farm-houses, &c., belonging to our citizens; for every outrage they committed would tend to the exhaustion of our public treasury. The destruction of the property in a single city, if paid for by the United States, would empty the national treasury and leave not a dollar with which to sustain an army and navy.

The doctrine is new, at war with precedents, and, if sanctioned and lived up to, *would make it to the interest* of an enemy, in any future war, to commit depredations upon the property of our citizens, and thus aggravate and multiply the horrors and desolations of war. To destroy or to seize upon and appropriate private property, is an act not allowed to an invader by the rules of warfare recognised by civilized nations. He may, however, destroy private property which has been converted

into a means of annoyance: as, for instance, if troops of an invaded country convert a private residence into a fort, or a barrack, or a place of military deposite, the invader may, under the law of nations, rightfully and properly destroy it; and where, for the public good, a house has been converted from a private property, which has a right to protection, into a military depot, which is *not* entitled to protection, but rightfully may be and actually is destroyed by an invading enemy, the nation (it has been held by Congress) must make compensation for the property of which it was the direct cause of destruction. But even this is a relaxation of the rules of other nations; no other nation, it is believed, ever pay for property thus destroyed.

It is certainly inexpedient, in the view of this committee, to go further; especially when the effect would be to *tempt* nations that may hereafter war with us to violate the laws of war recognised by civilized nations. A rejection of the bill is therefore recommended.