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William Brook et al

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WILLIAM BROOK ET AL.

DECEMBER 31, 1845.

Read, and laid upon the table.

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

REPORT:

The Committee of Claims, to whom were referred the petitions of Wm. Brook, Wm. Harris, Eby Ackley, Patrick Cunningham, George Hollenback, George B. Hollenback, and George B. Hollenback, administrator of Clark Hollenback, citizens of Kendall county, Illinois, have had the same under consideration, and report :

That the petitioners allege that their property, in the year 1832, was destroyed by the Sacs and Foxes, then at war with the United States. Their losses they allege to have been as follows :

William Brook lost property worth	-	-	\$100 00
William Harris lost property worth	-	-	1,094 00
Eby Ackley lost property worth	-	-	505 00
Patrick Cunningham lost property worth	-	-	635 00
George Hollenback lost property worth	-	-	788 00
George B. Hollenback lost property worth	-	-	1,080 00
Adm'r of Clark Hollenback lost property worth	-	-	1,939 87

In their petitions it is not claimed that their property was ever in the use or occupancy of the United States, but they rest their case upon the assertion that the "losses occurred in consequence of the want of that protection which the government, in good faith, is bound to afford them, as citizens of the United States." Suppose the assertion true and susceptible of the clearest proof, it does not follow that government is responsible to them for the amount of their losses, either in law or equity. Good governments labor to preserve their citizens from all harm ; but no government whose policy is known to this committee undertakes, like an insurance company, to insure its citizens against losses from the speculations and robberies of private, or the depredations of public enemies. Private property, destroyed by a public enemy, *because* occupied by government as a fort, barrack, magazine, or for other military purposes, must be paid for. But even *then* it must have been in the actual occupancy of the government *at the time of its destruction*, to authorize a public enemy to destroy it, or to compel government to pay for it. An invading enemy may not, according to the generally recognised rules of modern warfare, indiscriminately destroy all the buildings belonging to private citizens which a retreating force may have temporarily occupied, but such only as they

may actually *find* in the military occupancy of the opponent for purposes of military annoyance. The destruction of private property, contrary to the laws of war, is a wanton act, reflecting disgrace upon the enemy, but against which government never insures; for its perpetration must necessarily be beyond its control.

In the present case, the destruction of private property, by a public and savage enemy, was a wanton act, committed without excuse, and in defiance of the efforts of the government to prevent such outrages. Against their recurrence government anxiously guards, and sometimes is able to obtain for the citizen, of the savage, partial or full indemnity, but never taxes the people with the payment of the amount of the loss. If afflicted with a war, government assiduously labors to avert its horrors, but does not guaranty its citizens freedom from them.

The committee are therefore compelled, by a sense of duty, notwithstanding the hardship of the case, to recommend to the House the adoption of the following resolution:

Resolved, That the prayer of the petitioners be not granted.