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Gad. Humphreys

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

REPORT.

The Committee on Claims, to whom was referred Senate bill No. 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 Troops employed for the defence of private property may be withdrawn when circumstances may require it, and the withdrawal may render it certain that the property will fall into the hands of the enemy, and be lost to the owner.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 gov-
ernment. 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 inci-
dent 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 build-
ing, 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 un-
avoidably 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 con-
tending 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 los-
es 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 in-
vaded 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.