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Hubert La Croix, et al (to accompany bill H. R. 367)

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HUBERT LA CROIX, ET AL.

(To accompany Bill H. R. 367.)

JANUARY 14, 1829.

Mr. CLARK, of New York, from the Committee of Claims, to which was referred the case of Hubert La Croix, et al., made the following

REPORT:

The Committee of Claims, to which was referred the petition of Hubert La Croix, report:

The petitioner claims compensation for the destruction of a house by the British and Indians, on the morning of the 23d of January, 1813, at Frenchtown, on the River Raisin, while in the military occupation of the United States. This claim, together with the other River Raisin claims, was before the Commissioner; Mr. Lee, under the act of the 9th April, 1816, for adjustment, and subsequently before the Third Auditor. They were before Congress in 1822. The Committee of Claims, on the 25th January, in that year, made a report adverse to the claim. For a history of this case, and the other similar cases, the House is referred to that report and accompanying documents, in 1st volume of Reports of Committees, 1st session 17th Congress, No. 34.

This report and documents contain so full a statement of the facts, that it is deemed unnecessary here to repeat them.

Since the making of that report, additional testimony has been submitted.

The objection to the allowance of this claim heretofore has been, that it did not appear that the house was in the military occupation of the United States, by "order of an agent or officer of Government." Another objection is now raised, that, admitting such an occupation, it does not appear that it was so occupied "at the time of its destruction." It appears, from the testimony of Col. Lewis, commander of the detachment, (to be found in the printed report above referred to,) that these buildings, belonging to J. B. Jerome and others, were occupied, by his order, for the use of the wounded men; and that the town was taken possession of by the troops under his command, it being necessary, after dislodging the enemy. These three houses were burnt, in the general conflagration of the place, on the morning of the 23d, and have been paid for by the United States. At the time of their destruction, they were occupied by American prisoners, who had been put therein immediately after the battle of the 22d, and who were inhumanly butchered by the Indians, and burnt with the buildings. This was deemed a sufficient military occupation at the time of their destruction to authorise payment for their loss.

It appears from the reports of Gov. Cass, Messrs. Audrian and Larned, Commissioners appointed to take the examination of witnesses in relation to these claims, and contained in said printed report, "that, on the morning of the 23d of January, 1813, the prisoners, who were in the houses,

“(including that of the petitioner,) were massacred, and the buildings themselves burnt, in consequence of their previous occupation by the American troops.”

To obviate the objection as to the occupation by order of an agent or officer of Government, the petitioner has procured the deposition of Major Garrard, who testifies that he acted as Brigade Quartermaster in Col. Lewis's detachment; that, on the evening, and the next morning after the battle of the 18th, he was ordered by Col. Lewis to take possession of the buildings, for the accommodation of the wounded, and to shelter the men from the inclemency of the weather: and, in consequence of such order, the said buildings, (including the house of the petitioner,) were taken possession of by our troops, and were occupied by them until after the battle of the 22d January. It is further proved, by the testimony of Jno. M. McCalla, Adjutant in Col. Lewis's regiment, that the house of the petitioner was occupied by order of Col. Lewis.

In the opinion of the committee, these depositions establish the fact of military occupation by order of an officer of the United States. There appears to be no discrepancy between the statements of Col. Lewis and that of Garrard and McCalla. The former says, that “three of the houses were occupied by his order, for the use of the wounded men; that as many as six houses were occupied by our troops; and that the whole town was taken possession of by our troops.” Only three houses might have been occupied by Col. Lewis's order, *for the use of the wounded*, and yet what Messrs. Garrard and McCalla testify to be true—“that they did, by the order of Col. Lewis, take possession of the buildings, (the petitioner's among the number,) for the accommodation of the wounded, and also for the shelter of the men.”

The next question is, was the building in the military occupation of the United States at the time of its destruction? It is difficult to perceive why any just discrimination should be made, in this respect, between the case under consideration and that of Jerome and others, already paid for. The town was taken possession of by the enemy on the 22d. Had they commenced the work of destruction at the moment of their taking possession, it could not be contended, with any propriety, that the building was not then in the military occupancy of the Government. But the enemy continued in possession for some twenty-four hours, and then reduced the buildings to ashes: the petitioner's house amongst the number. The whole constituted one transaction: it was a continuous act.

Believing that the decision at the Treasury, in the cases of Jerome and others, to be correct, the committee are at a loss to discover any good reason why this case is not entitled to the same favorable consideration. The buildings, in both cases, were taken possession of at the same time, for the same military purposes, and both at the same time shared a common fate.

By a reference to the printed report, it will be seen that the value of the house, as sworn to by one witness, was eleven hundred dollars, and by another, twelve hundred. Another witness estimates the petitioner's whole loss, including his furniture, (burnt in the house of Mr. Jerome,) at four thousand. As it has not been the practice of Government to pay for the loss of personal property under such circumstances, the committee report a bill for eleven hundred and fifty dollars.