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Alexander Watson.

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H.R. Rep. No. 1001, 25th Cong., 2nd Sess. (1838)

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ALEXANDER WATSON.

JUNE 27, 1838.

Laid upon the table.

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of Alexander Watson, of the Territory of Florida, report:

That the petitioner states that the buildings and edifices on his plantation, situated at Suwanee Oldtown, on the Suwanee river, in said Territory, were occupied and used by the militia of Florida in the service of the United States, as a depot, from the 15th of January to the 18th of June, 1836; that on said 18th day of June, 1836, (and then being actually occupied by said troops in the service of the United States,) the said plantation was laid waste, and the buildings and edifices burnt and totally destroyed by the hostile Seminole Indians. He asks such relief as Congress in its wisdom and justice may see fit to grant. He accompanies his petition with a schedule of his property which was destroyed, amounting to thirty-two thousand three hundred and nine dollars and fifty-one cents.

The cost of sugar-house and engine-house amounts to	\$10,640 08
The cost of dwelling-house, kitchen, and smoke-house, amounts to	4,003 88
And the personal property to	17,665 55

\$32,309 51

John Miller and J. W. Dabney, planters, and neighbors to Mr. Watson, testify that they have examined the account of Mr. Watson for his expenditures on his plantation, and from their intimate knowledge of said plantation they believe that all the items charged in said account were on the plantation (except a part of the provisions taken by the troops in the service of the United States, then at war with the Seminole Indians) when the same was burnt and laid waste by the said Seminole Indians, on the 18th day of June, 1836. Mr. Miller testifies that he saw the buildings burnt. They unite in saying that said account, amounting to said sum of thirty-two thousand three hundred and nine dollars and fifty-one cents, is just and correct.

L. G. Rayland testifies, he was quartermaster to a detachment of Florida militia, under the command of Majors McLemore and McCants, stationed at Fort Dabney, Suwanee Oldtown, on the Suwanee river, from the 15th of January, 1836, to July, 1836; that while acting as such

quartermaster, he issued rations, such as corn, pork, sugar, molasses, salt, &c., to the troops in the service of the United States, then at war with the Seminole Indians, from the buildings of Alexander Watson, which were distant from the fort as aforesaid from three to four hundred yards, said buildings being taken and guarded as a depot to said post by part of the company, and that he did deposite in said buildings, muskets and ammunition for the purpose of keeping the same dry and free from damp, not having any place within said fort to deposite the same; that while said depot was thus occupied, it was burnt by the Indians at noon-day on the 18th of June, 1836. The force at Fort Dabney was not sufficient to prevent the Indians from destroying the aforesaid buildings of Alexander Watson.

J. McCants testifies that he commanded the detachment at J. W. Dabney's; that the buildings of Alexander Watson most contiguous to said station, being from three to four hundred yards distant, were occupied for the use of said troops as places of depot for provisions; that a large quantity of provisions was kept there for the use of said troops, there being no suitable houses at Dabney, unoccupied, for their reception; that he continued to use said buildings for the purposes aforesaid, until they were burnt by the Indians; that he occupied said station and held command as major under the orders of his excellency Governor Call, and that the plantation of Mr. Dabney was occupied at the time as a military post.

William Townsend testifies that he was captain of a company of Florida militia, and was stationed at Fort Dabney from the 4th of March, 1836, to the 14th of July of the same year; that the buildings contained large quantities of provisions, such as corn, sugar, molasses, lead, medicines, &c., belonging to the said Alexander Watson, distant from the fort three or four hundred yards; that, from believing it of much importance to the maintenance of the post at Fort Dabney, as well as for the use and service of the troops in the service of the United States that might come to that quarter, to fight against the Seminole Indians, as also to prevent the provisions in the buildings of said Watson from falling into the hands of the Seminole Indians, then at war with the United States, he did take possession of the buildings of the said Watson, as a depot to the said post or fort, and that he took from the said buildings as a depot, at different times, as required, sugar, molasses, and lead—the latter for musket-balls for his men.

He says said buildings were destroyed by the Indians at noon-day, on the 18th of June, 1836; and that he was not able to protect the same in consequence of the superior force of the enemy.

If this case was of the class of cases coming within the letter or spirit of the act of April 9th, 1816, before any allowance could be made there must be proof that the destruction was in consequence of the occupation. No such proof is presented.

The ground for remunerating those who lost their buildings by the destruction thereof by the enemy, when occupied by our troops during the last war with Great Britain, was, that the enemy, by the law of nations, had a right to destroy public property, such as arsenals, barracks, fortifications, and public store-houses; and that the same law justified the destruction of private buildings, if a national character was given to them by their military occupation.

This applied to a war with a civilized nation; and the principle is not

applicable to a war with a tribe of Indians, whose purpose, as well as practice, is to wage war against property as well as against life.

It has been the settled policy of the Government, from its organization, not to pay for Indian depredations in time of war; nor in time of peace, except under treaty obligations. In the case now under consideration, it is stated by the witnesses that the buildings of Mr. Watson were used as a depot for provisions; and that provisions were issued from them, to wit: corn, sugar, molasses, &c. Captain Townsend testifies that one object in taking possession of the buildings of Mr. Watson was, to prevent his provisions from falling into the hands of the Seminole Indians. The force must have been stationed there to protect the property, and for the security of the petitioner rather than that of the public.

It does not appear that the occupation excluded Mr. Watson from his possessions. The decision by Congress of claims for Indian depredations is deeply interesting to those who have suffered the destruction of their property by Indian hostilities; and the subject has been deliberately considered by this committee at this session.

They have examined for precedents as far as their other engagements have permitted. At the third session of the thirteenth Congress, on the 21st of January, 1815, a memorial was presented to the Senate of the United States from the Legislature of the Territory of Mississippi, which recites injuries and depredations so similar to those that have recently been inflicted, that the committee will incorporate it in this report, and they will notice the report of the committee thereon.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, respectfully sheweth: That the eastern part of this Territory has been visited by the calamities of war, waged by an enemy unrestrained by any principles that govern warfare among civilized nations; that public and private property has been taken off by the desolating hand of the savage; and a settlement, hitherto prosperous, and possessing the advantages of wealth, has been reduced, by the unrelenting enemy, if not to indigence, yet to a situation much less comfortable than that in which Providence and industry had placed them. Your memorialists conceive that, in a war between two civilized nations, if either should depart from the known rules of warfare, and commit lawless depredations on the other, at a treaty of peace the nation which had thus departed from the usage of nations would be bound to make reparation for its unwarrantable injuries. This rule applies with equal force to the Creek nation of Indians, who have overcome and much injured our eastern settlements: reparation, it is thought, is due for the property which they have wantonly destroyed. But it is to the General Government we look for a redress of our grievances. They have the power of concluding a peace, and prescribing the terms. Your memorialists believe that a treaty has been made with the Creek Indians, and that a large tract of valuable land has been ceded by them to the United States. Believing that indemnification for losses sustained ought to be made out of the ceded property, and that a law of Congress guaranties to individuals reparations for injuries sustained from Indians, it is prayed that Con-

gress will take the subject into their most serious consideration, and devise some method by which justice may be done to the sufferers of our country, who, in addition to the misfortunes already mentioned, have had the life of the citizen converted nearly into that of the soldier, without the indemnification arising from pay or bounty to those regularly in the service. It is therefore represented that those losses could be conveniently ascertained by a board of commissioners, and be by them reported to Congress.

Wherefore it is respectfully prayed that a board may be constituted for the purpose aforesaid, or such other relief granted as Congress in their wisdom may deem expedient.

REPRESENTATIVES CHAMBER, *December 23, 1814.*

DANIEL BURNET,

Speaker of the House of Representatives.

COUNCIL CHAMBER, *December 23, 1814.*

THOMAS BARNES,

President of the Legislative Council.

L. P. JANUARY, *Clerk.*

FELIX HUGHES, *Secretary.*

This memorial was referred to a committee, from whose report, made on the 21st of February, 1815, the following extract is taken: "Your committee have no doubt that the losses sustained by the inhabitants of this section of country are great, and that their sufferings have been severe; but, conceiving that other cases may furnish claims to reparation, they are of opinion that any proceeding on the subject should not be partial in its object or effect. Abstaining from all remarks as to the important and extensive principle which this subject involves, your committee believe that it would be proper to ascertain, without unnecessary delay, all such losses, whether from English or Indian depredations, as may hereafter claim the attention of Congress when the general question of indemnity may come before them; and in this view of the subject, and also with due regard to the particular case presented by the memorialists, they offer the following resolution to the consideration of the House:

"Resolved, That the President of the United States be requested to take such measures as may be convenient for the purpose of obtaining satisfactory evidence of all losses of property which have been sustained in consequence of the depredations of the British or Indians, or of the troops of the United States, during the late war; and that the memorial above considered be transmitted to him for his information on the subject to which it relates."

The report was not afterwards taken up, nor was the resolution agreed to.

The committee have not been able to find that any relief has been granted to the sufferers mentioned in the memorial. Soon after the report was made, the subject of losses during the war with Great Britain, which commenced in 1812, was fully discussed in the thirteenth and fourteenth Congresses.

The act of April 9th, 1816, was the result of the most protracted and

mature deliberation that was given to the subject. That act requires that the property should have been in the military occupation of the United States by order of an officer, and to have been destroyed in consequence thereof.

The subject of Indian depredations had been brought to the special notice of Congress, and yet no provision to meet that particular class of cases was made in the act of April 9th, 1816, nor in any of the subsequent acts amendatory thereof. Indian depredations were coeval with the settlement of the country; but they have not been considered to raise an obligation on the Government to recompense the aggrieved party. Such was the principle laid down, by a committee in the Senate, on the petition of David Smith, on the 23d of January, 1800. (American State Papers, vol. Claims, page 222.)

The case of Elizabeth House, widow of Joseph House, same volume, page 813, is one of great hardship. Their residence, in the summer of 1777, was in Montgomery county, New York. Joseph House, for most of the revolutionary war, was a ranger in the American service. He was on duty from home in the summer of 1777, when his dwelling-house was attacked by a party of Indians, plundered, and all the property in and about the house, together with the buildings, was burnt. Mrs. House and her two infant children were taken prisoners; her eldest child was murdered; and she was compelled to perform a journey of about three hundred miles, to Fort Niagara, through the wilderness, most of the way on foot, with her infant in her arms. The savages treated her and her surviving child with great inhumanity. At Niagara she had a violent attack of fever, which continued for about two months, during a great part of which time her life was despaired of. She was taken to Detroit, and returned to Fort Niagara, where she was renewedly attacked with a fever. After her recovery she was sold to Colonel Johnston of the British army, in whose service she continued about four years. Her husband ascertained her place of residence, and brought her home. The committee say, if all the facts stated were proved to be true, it would be inexpedient to afford relief. "The sufferings of the petitioner, it is admitted, present strong claims upon our sympathies; but they are common to many others, upon whom like cruelties have been practised by the Indians. If the present claim be allowed, others of a similar character cannot, with propriety, be rejected. Allow this claim, and a principle is established which makes the Government responsible for all the outrages which have been or may be committed by a savage enemy upon the persons or property of our citizens: a principle, in the estimation of your committee, destructive to the resources of the nation."

The sufferers in Michigan, and on the Western frontiers, by Indian depredations, during the last war with Great Britain, have not been relieved. The outrages in Michigan were committed against the articles of capitulation. Those articles guaranteed that private property should be protected; but, as soon as the American troops surrendered, the Indians plundered the inhabitants without restraint. The sufferers have repeatedly applied to Congress for relief. They alleged, as the sufferers in Florida and elsewhere now do, that the Government was bound to protect them; and that the many should contribute from the common treasury to relieve those who had lost their whole property in a common cause.

"That, by this violation of the capitulation, the petitioners acquired a just claim upon the British Government for indemnity and satisfaction, which they expected the Government of the United States would have prevailed upon that of Great Britain to make, by paying the petitioners for all the losses and damages sustained by them in consequence thereof.

"That the United States having concluded a treaty of peace, and subsequently a commercial treaty, with Great Britain, without mention being made of Michigan, or of the claims of the petitioners, they thereby lost their claim of redress and indemnity upon the British Government; but that the obligation of making it thereby devolved upon the United States, to whose justice and liberality they appealed accordingly for remuneration and payment."

The commissioners appointed to treat of peace between the United States and Great Britain were instructed, under date of January 28th, 1814, to claim indemnity for the destruction of property contrary to the laws and usages of war. Mr. Adams, in a report made to the House of Representatives on the 17th of December, 1817, on the petition of sundry citizens of the United States, inhabitants of the district of Detroit, in the Territory of Michigan, says the commissioners "urged a provision of indemnity for the citizens of the United States who had suffered loss or damages, such as those complained of by the petitioners. This provision was insisted on until it was distinctly known that the only alternative to its abandonment was the inevitable continuance of the war." (State Papers, vol. Claims, page 529.)

The inhabitants in Indiana, Illinois, and Michigan, since that war, and particularly in the war with Black Hawk in 1832, have suffered severely in the destruction of their property by the Indians; but their losses and damages have not been paid.

Several reports have been made against allowing those claims.

The committee desire to satisfy the petitioner, and all other claimants for remuneration for Indian depredations, that the settled policy of the Government has been to disallow all similar claims. The committee refer to a report made on the 14th of May, 1838, on the memorial of the Legislature of Alabama, and to a report made on the 17th of May, on the petition of George and James Anderson. The following resolution is submitted:

Resolved, The petitioner is not entitled to relief.