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Report : Mr. Willey

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IN THE SENATE OF THE UNITED STATES.

JUNE 25, 1868.—Ordered to be printed.

Mr. WILLEY, from the Committee on Claims, submitted the following

REPORT.

The Committee on Claims, having considered the petition of Jerome J. Getty, of Stearns county, Minnesota, asking payment for certain property destroyed by United States troops in said State in the winter of 1864-'5, beg leave to make the following report :

The petitioner states that he "was the owner of a dwelling-house in said county, which he occupied from 1857 to 1861, when he temporarily left it, intending to return with a large amount of stock, but, in consequence of the 'Indian outbreak' in 1862, he was deterred from doing so; that while he was thus absent, and when the said house was unoccupied, during the winter of 1864-'5, a company of United States volunteers (Captain Slaughter's company E, 2d Minnesota cavalry) were on duty, with detachments at Sauk Centre and Lake George, and had patrols marching frequently between said posts, in a course about north and south, and on a route that passed not far from the said house; that on a rainy night, on or about the 15th day of December, 1864, seven men of said company quartered in said house, the same being otherwise vacant and unoccupied, and the following morning the said house was discovered to have been burnt to the ground."

The petitioner files the affidavit of Jacob Hurley, living near the said house at the time it was burnt, who says :

About sunset of that day affiant was passing the house of said Getty, on his way from Sauk Centre, and observed that seven soldiers of Captain Slaughter's company E, 2d cavalry, Minnesota volunteers, then stationed at Sauk Centre, were encamped in the said house of J. J. Getty, and, as affiant believes, they were on their way from Lake Patranal to Sauk Centre; that the weather was wet, and said soldiers had a fire in said house to warm and dry themselves, and they also had some of their horses standing outside of said house; that affiant passed on and stopped over night at the place where he was building, (not far from said Getty's house;) that next morning he again passed where said Getty's house stood, and it had been burned down. * * * There can be no reasonable doubt but the destruction of the house was caused by the negligence of the soldiers who camped therein.

There is no other evidence in the case; and upon the case as thus stated and proved the petitioner claims that he should be paid the sum of \$1,071 76, which he estimates to be the value of his house at the time it was destroyed. There is no other estimate of value excepting the sworn statement of the petitioner himself.

The committee are of the opinion that the claim cannot be allowed. Conceding that the house was burnt in the manner alleged, it was clearly the result of a mere trespass of soldiers, without any rightful military authority, for which the government cannot be held responsible; and the petitioner having vacated the house, and left no one to hold and protect it, its destruction must be regarded, to some extent, as the consequence of his own negligence. The committee therefore report back the said petition, with the recommendation that the prayer of the petitioner be not granted.