

## MESSAGE

FROM THE

# PRESIDENT OF THE UNITED STATES,

RETURNING,

*Without his approval, "An act for the relief of J. Milton Best."*

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JUNE 1, 1872.—Read, referred to the Committee on Claims, and ordered to be printed.

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### *To the Senate of the United States :*

I have examined the bill entitled "An act for the relief of J. Milton Best," and, being unable to give it my approval, return the same to the Senate, the House in which it originated, without my signature.

The bill appropriates the sum of \$25,000 to compensate Dr. J. Milton Best for the destruction of his dwelling-house and its contents by order of the commanding officer of the United States military forces at Paducah, Kentucky, on the 26th day of March, 1864. It appears that this house was one of a considerable number destroyed for the purpose of giving open range to the guns of a United States fort. On the day preceding the destruction the houses had been used as a cover for rebel troops attacking the fort, and, apprehending a renewal of the attack, the commanding officer caused the destruction of the houses. This, then, is a claim for compensation on account of the ravages of war. It cannot be denied that the payment of this claim would invite the presentation of demands for very large sums of money, and such is the supposed magnitude of the claims that may be made against the Government for necessary and unavoidable destruction of property by the Army that I deem it proper to return this bill for reconsideration.

It is a general principle of both international and municipal law that all property is held subject not only to be taken by the Government for public uses, in which case, under the Constitution of the United States, the owner is entitled to just compensation, but also subject to be temporarily occupied, or even actually destroyed, in times of great public danger and when the public safety demands it, and in this latter case governments do not admit a legal obligation on their part to compensate the owner. The temporary occupation of, injuries to, and destruction of property caused by actual and necessary military operations are generally considered to fall within the last-mentioned principle. If a government makes compensation under such circumstances, it is a matter of bounty rather than of strict legal right.

If it be deemed proper to make compensation for such losses, I suggest, for the consideration of Congress, whether it would not be better, by general legislation, to provide some means for the ascertainment of the damage in all similar cases, and thus save to claimants the expense,

inconvenience, and delay of attendance upon Congress, and, at the same time, save the Government from the danger of having imposed upon it fictitious or exaggerated claims, supported wholly by *ex-parte* proof. If the claimant in this case ought to be paid, so ought all others similarly situated; and that there are many such cannot be doubted. Besides, there are strong reasons for believing that the amount of damage in this case has been greatly overestimated. If this be true, it furnishes an illustration of the danger of trusting entirely to *ex-parte* testimony in such matters.

U. S. GRANT.

WASHINGTON, June 1, 1872.

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Forty-second Congress of the United States of America, at the second session, begun and held at the city of Washington, on Monday, the fourth day of December, one thousand eight hundred and seventy-one.

AN ACT for the relief of J. Milton Best.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of twenty-five thousand dollars to Dr. J. Milton Best, of Paducah, Kentucky, in compensation for the destruction of his dwelling-house and its contents by order of Colonel S. J. Hicks, commanding the United States troops at Paducah, Kentucky, on the twenty-sixth day of March, eighteen hundred and sixty-four.

J. G. BLAINE,

*Speaker of the House of Representatives.*

SCHUYLER COLFAX,

*Vice-President of the United States and President of the Senate.*

I certify that this act did originate in the Senate.

GEO. C. GORHAM,

*Secretary.*