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Letter from the Secretary of War, to the Chairman of the Committee on Indian Affairs, on the subject of compensating the militia who attended the payment of the annuity to the Pottawatamie Indians in 1836

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LETTER

FROM

THE SECRETARY OF WAR,

TO THE

*Chairman of the Committee on Indian Affairs, on the subject of compensating the militia who attended the payment of the annuity to the Pottawatamie Indians in 1836.*

MARCH 27, 1838.

Referred to the Committee on Indian Affairs, and ordered to be printed.

DEPARTMENT OF WAR,  
March 26, 1838.

SIR: Permit me, through you, to lay before the Committee on Indian Affairs, for its consideration, the enclosed communication of the Commissioner of Indian Affairs, and the documents accompanying it, on the subject of compensation to the militia which repaired to the place of paying the annuities of the Pottawatamie Indians of Indiana, in 1836, with a view to prevent and repress threatened disturbances, and of indemnification to them of the expenses which they thereby incurred.

Very respectfully,

Your most obedient servant,

J. R. POINSETT.

Hon. H. L. WHITE,

*Chairman Com. Ind. Affairs,  
Senate.*

WAR DEPARTMENT,  
Office Indian Affairs, March 24, 1838.

SIR: At the request of Co.onel Ewing, a party interested, I have the honor to lay before you, for transmission, if you think proper, to the Committee of Indian Affairs of the Senate, with a view to such action in Congress as justice may seem to demand, the copy of a communication from that gentleman in regard to certain expenses incurred in calling out the

militia at the payment of the annuities to the Pottawatamies in 1836, together with copies of sundry papers and endorsements connected with the same.

Very respectfully,

Your most obedient servant,

C. A. HARRIS,  
Commissary

Hon. J. R. POINSETT,  
Secretary of War.

WASHINGTON CITY,  
March 17, 1838

SIR: By reference to a return made about a year since by his excellency Noah Noble, late Governor of the State of Indiana, to the honorable Secretary of War, on the subject of services rendered by three companies of Indiana militia, to the United States, you will there have the particulars to which I desire most respectfully to call your attention at this time.

The necessary expenses incurred by myself and the other officers upon that occasion, you will find, upon a reference to the bills accompanying the return, to be

The amount per diem usually allowed volunteers or mounted gun men, such as ours were, is one dollar per day. There were about one hundred men, and they served seven days each, would be, say

\$878 89

700 00

\$1,578 89

The amount appropriated by the bill reported in the House of Representatives on the 25th January last, by the honorable E. Whittlesey, chairman of Committee of Claims, (a copy of his report and bill are herewith submitted)

889 62

Balance unprovided for is

\$689 27

Without presuming for a moment to doubt the correctness or the propriety of the course adopted upon this occasion by the committee who reported this bill, (for I feel persuaded that they have been governed in this case by the same rule that has governed them in all cases of a similar character,) yet I am far from believing that this balance should not be suitably provided for and paid in some way by the Government. The Government officer, A. C. Pepper, Indian agent, in his official report to the honorable Secretary of War, on the subject, clearly shows and admits that it was a case of *great emergency*; and "that justice to the Indians and a proper respect for the laws, demanded the presence of an adequate military force, &c.;" "that those three companies of troops were promptly brought on to the ground;" "that the exigency that produced the requisition for an armed force could not have been anticipated;" and, consequently, he, the Government officer, when they did come, was not prepared to furnish them with the necessary rations and forage. The officer of the Government, by his requisition on the commandant of the 78th regiment of Indiana militia, which will be found with the returns, required the troops. I therefore ordered them to repair with all possible haste and despatch to the place de-

signated in my orders, which I caused to be served upon the commandants of the respective companies. They obeyed, and in less than twenty-four hours after the time the requisition was served on me, the troops were on the ground, a distance of nearly thirty miles from where the most of them resided; there was no time for delays for preparing rations for the men, or forage for their horses. It was a forced march, and it should not be forgotten that, by this *prompt* action, they completely affected the object for which they were called out, (see A. C. Pepper's report for this.) They were not regular troops, but were of that description of troops commonly called "mounted gun men," or "volunteers," who are seldom called into actual service (nowadays;) and, therefore, they were not fully prepared, at so short a notice.

On arriving at the camp, or treaty ground, as before stated, the Government officer, A. C. Pepper, Indian agent, was applied to for rations and forage for the troops. His reply was, that he had none, nor could not get any; that in consequence of the unexpected length of time consumed in affecting the several treaties, and paying out the annuities, the supply of provisions, which he had provided for the occasion, was nearly or quite exhausted, but that I must provide for the troops the best way that I could. I therefore despatched a forage master, who succeeded in procuring for the horses some corn and sheaf oats. My issuing commissary was less successful, and failed to obtain any rations for the men. We were in a sparsely settled portion of the country, bordering upon the Indian lands, where provisions were not to be procured, and the only chance left me for feeding the troops was the course which I reluctantly adopted. It was both necessary and right they should have something to eat, nor was I compelled to do what could not be done, namely, obtain provisions and issue regular rations to the men. Had I neglected or refused to furnish them something to subsist on, they would of necessity have abandoned the service, and returned home.

I advanced my own private funds, to the amount of between three and four hundred dollars, to pay these expenses, and the captains did the same, (though not to so large an amount,) for it was not to be expected that the Government would refuse a just compensation for *necessary services* rendered, or for necessary expenses incurred.

One of the captains has been sued, and a judgment rendered up against him, for a part of these expenses incurred in feeding his men; will he not, if not otherwise paid, look to Colonel Pepper, (the Government officer,) or to me, for pay, under the same laws, and bring suit, as suit has been brought against him?

The report of the commissioner (A. C. Pepper) to the honorable Secretary of War, wherein he spoke of having called out the troops, has been sanctioned by an official communication; therefore it would seem but proper that those *necessary* and *unavoidable* expenses should be provided for. A similar emergency might occur in your effort to treat with the Miami Indians, and the Government may want the services of the same men to protect her agents in the discharge of their official duties.

The money expended and liabilities necessarily incurred by the officers, as shown by their returns, I think ought to be paid. The amounts are small, truly, but too much for individuals to lose; besides, it would be manifest injustice, in my humble opinion, to make them lose it. They acted promptly, and in good faith, and they rendered valuable service, both to the country, and to the friendly Indians; nor do I doubt but that their appearance there

so opportunely was alone the cause that prevented a massacre and much bloodshed. It was the intention of the hostile Indians that the chiefs and all who had signed the treaties on that ground should be killed. Hence it was that *they* claimed the protection of the Government, which had been promised them. By a reference to each of the treaties made with them on the 20th, 22d, and 23d of September, 1836, you will find the following provision, namely: "Section 4. The United States stipulate to provide for the payment of the *necessary* expenses attending the making and concluding this treaty." The same provision is in each of these treaties.

The Indians say to Colonel Pepper, among other things, (see his report,) "They would, therefore, accept the good advice of their great father, and were ready now to sign a treaty for *all* their remaining land." But they said "there were many disaffected men among their own people, as well as among the northern Indians, who threatened to *kill* the *chiefs* if they sold the land, and if they did sell, they should look to their great father to protect them from the execution of these threats." They were told, said the commissioner, Colonel Pepper, (see his report,) "*they should be protected,*" &c. "With this assurance they signed the treaty, and for a short time there seemed to be less excitement and discontent than before."

Again, he says in his report, "at this stage of the business, the chiefs were apparently much alarmed, (an Indian will not say he is afraid;)" "they reminded me that protection had been promised, &c., that a council had been held by the disaffected Indians, and that a man had been appointed to kill certain chiefs designated to the council;" and hence his requisition for the troops, who were, as he says, *promptly* brought on to the ground. This well timed manœuvre, and the sudden appearance of the troops, "seemed to affect the object intended." Hence much good was done, and bloodshed thereby prevented. The necessary expenses of making and concluding these treaties certainly should embrace the necessary and unavoidable expenses incurred by myself, and the other officers, (as found in my returns,) in repairing thus by a forced march, upon a call of great *emergency* to the treaty ground with those troops, and supplying them whilst they were necessarily detained there. I think I have clearly shown that the troops were necessarily called out by a treaty making commissioner on the part of the United States, whose conduct in that particular was sanctioned by the War Department; that in the treaties he then made, "the United States stipulated to pay the necessary expenses attending the making and concluding the same;" and that therefore the expenses I have been at, as well as the other officers, in this matter, should be paid as provided by the 4th article of the treaties referred to. I therefore most respectfully request that you will cause the amount required to pay these expenses to be provided for as early a day as may be convenient, in order that those who may be entitled to receive the money may get it early this spring. The amount which I advanced, I would be glad to get now. It is near four hundred dollars, which I have been deprived of the use of since September, 1836. Having full and entire confidence in your high sense of honor and of justice, I submit this matter, in the hope that it may soon be suitably provided for and paid.

I have the honor to remain, with great respect,

Your most obedient and very humble servant,

GEO. W. EWING,

Commandant of the 78 regiment, Indiana militia.

Hon. C. A. HARRIS,

Commissioner of Indian Affairs.

OFFICE OF INDIAN AFFAIRS,  
March 20, 1838.

Respectfully referred to the Secretary of War, for his decision, should it be determined that the proper claims within referred to, not provided for in the bill reported, should be paid, without the action of Congress, the amount would seem to be a proper charge against the appropriation for paying the expenses of annuity payments, and other incidental matters, or it might be estimated for on one of the items of the cost of negotiating the treaties, both objects having been effected at the same time.

C. A. HARRIS,  
Commissioner.

This claim having been submitted to Congress, and acted upon by the Committee of Claims of the House, is not within the jurisdiction of the department. If the parties desire it, this memorial will be submitted to the Committee on Indian Affairs, if they think proper, after a review of the whole case, to do so.

J. R. P.

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IN THE HOUSE OF REPRESENTATIVES.

JANUARY 25, 1838.

*The Committee of Claims, to which was referred the claim of three companies of Indiana militia for their services in protecting certain Indians, and others, near the Tippecanoe river, on the 19th of September, 1836, report:*

That this claim was examined at the 2d session of the 24th Congress, and a bill was reported on the 8th of February, 1837. It was not reached during the session. The claim has been again examined, and the former report and bill are again presented to the favorable action of the House.

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FEBRUARY 8, 1837.

*The Committee of Claims, to which was referred the claim of three companies of Indiana militia for their services in protecting certain Indians, and others, near the Tippecanoe river, on the 19th of September, 1836, report:*

That it appears from a report made to the Secretary of War, in October last, by Mr. Pepper, Indian agent, that a meeting of Pottawatamies was held on the 19th of September last, at a place designated, near the Tippecanoe river, in Indiana, to receive their annuities. At that assemblage, for certain causes mentioned in the report, it became necessary, to preserve the peace and to protect certain Indians and others, to call out three companies of militia. The muster-rolls state they were on duty seven days.

The requisition of the Indian agent on Colonel Ewing, and his orders to the commandants of the companies, are among the papers, and appear to be regular.

The Indians having been assembled under a treaty with the United States, it appears to the committee that they, with all other persons necessarily employed, were to be protected at the expense of the United States.

Relying on the report of Mr. Pepper for a correct statement of the facts, the committee think the exigency authorized the agent to call out a suitable military force; and it appears that the force so called out was not disproportioned to the occasion.

The Secretary of War furnished the committee with all the papers in his possession relative to the claims presented. Among the papers are three muster-rolls, and various bills for forage, victuals at taverns, and other expenses. The bills amount to \$878 89.

The committee think, when troops are called into the service of the United States, whether for long or short periods, their pay and allowances should be regulated by existing laws. If they incur extraordinary expenses at taverns, such expenses are not to be allowed against the United States. The committee, therefore, disallow the bills, with the exception of two of them. One of them is for ammunition and for cleaning guns; and the other is for money paid for expresses and for ammunition. In the last bill, ammunition and provisions are blended in the same item.

The committee recommend that \$103 87, the amount of these bills, be appropriated, leaving it to the proper officer to pay so much as he shall think right for ammunition, cleaning of guns, (if that is a proper charge,) and for sending expresses.

They sent the muster-rolls to the Paymaster General for his estimate for the pay of the officers and men. They amount to \$785 75; for which, and the expenses mentioned above, the committee report a bill.

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#### INDIAN AGENCY, LOGANSPOUR,

October, 1836.

SIR: I have the honor to report that on the 19th day of September, 1836, the Pottawatamies of the Indian agency assembled at the place designated, near the Tippecanoe river, to receive their annuity. There were also on the ground about 300 northern Indians, belonging to the Chicago agency, some of whom had been with the Wabash Indians all summer, and who had been encouraged, by that portion of Catholic Indians opposed to emigration, to settle and live upon their reserves. These northern and Catholic Indians, headed and advised, as I have great reason to believe, by some white men, insisted that the annuity should be divided amongst the whole number of Indians on the ground; that the proper chiefs of the Wabash Pottawatamies should sell no more land, but reserve what they had for the common use of all. The proper chiefs insisted that the annuity should be paid to the Indians of this agency only; that they had a right to sell all the land belonging to the Pottawatamies in Indiana, and to dispose of the proceeds as they might think proper. The above conflicting views were subjects of frequent and angry debate among the Indians, before any council was called. I determined that this would be a favorable opportunity to lay

before the chiefs the propositions embraced in your instructions of January, 1836. I therefore assembled them in council; had a full and free interchange of opinions with them; urged them, in mild but strong terms, to accept of the invitation of their great father to sell all their reserves, and to remove to their country west of the Mississippi.

They replied, that their great father had always given them good advice; that they had listened well to his advice for many years, and that they had become convinced that they could not stay much longer in this country; they would, therefore, accept the good advice of their great father, and were now ready to sign a treaty for all their remaining land. But, they said, there were many disaffected men among their own people, as well as among the northern Indians, who threatened to kill the chiefs, if they sold the land: and that, if they did sell, they should look to their great father to protect them from the execution of these threats.

They were told that they should be protected; that the man who raised his hand to strike a chief, for exercising the duties and powers of his office, should be deemed an enemy to the Government, and would be pursued, overtaken, and punished, if he ran as far as the west side of the great river. With this assurance the chiefs signed the treaty, and, for a short time, there appeared to be less excitement and discontent than before.

On the 24th of September, the Indians were called in council to determine in what manner they would receive their annuity. When the council assembled, the Wabash Pottawatamies were invited to take their seats together and consult; but one or two of the chiefs seated themselves on the opposite side, with the Chicago Indians, and seemed determined to confound the councils of the proper tribe. I advised the Chicago Indians to leave the ground; assuring them they could receive no portion of the present annuity.

Captain Simonton told the Indians he would protect them, while the payment was being made, if he were compelled to send to Chicago for troops.

The Chicago Indians, and some of the disaffected Indians of this agency, immediately raised an impudent shout, mounted their horses, and left the council. The Wabash Indians then continued the council, and informed Captain Simonton that they had decided that the whole annuity for lands formerly sold, and recently ceded, should be paid to the chiefs, and receipted for by them.

The chiefs informed Captain Simonton and myself, in open council, that they intended to apply a part of their money to the payment of their debts; and that they had appointed two persons, viz: Colonel George W. Ewing and Cyrus Tabor, to investigate the claims against their tribe, and to assist them in counting and distributing their money. On the following day, in conformity to law and the above decision of the Indians, Captain Simonton delivered the money to the chiefs, and took their receipts. Captain Simonton and myself now supposed that we had no other duty to perform than to protect the Indians a sufficient length of time to enable them to distribute the money according to their wishes; and, to afford them such protection, Captain Simonton had selected and employed twenty men, who were placed under the command of Major Andrews, with instructions to prevent the distribution of whiskey to the Indians, to preserve order, and to protect the house in which the money was deposited.

Soon after the two persons appointed by the Indians, as above stated,



commenced counting money in the house, the crowd out of doors complained, alleging that, as the commissioners appointed had claims to a very large amount against the Indians, justice would not be done to minor claimants; the tumult increased, and at last a rush was made to the front of the money-house, by claimants and others, who pushed the guard aside, and demanded that the commissioners appointed by the Indians should be turned out, and others appointed in their stead.

Another party of white men insisted that the commissioners should not be interrupted. At the same time, the disaffected Indians, with some white men at their head, assailed the house in the rear, and called aloud to each other to *pull down the house*, and scatter the money to the Indians. Captain Simonton and myself had been at dinner, and, when the disturbance arose, were some one hundred yards distant from the scene. I arrived in time to hear the language above stated, and immediately attempted to clamber on the top of a cabin adjoining the one in which the money was deposited; and, while accomplishing this object, one of the logs of the money-house was forcibly pulled down. As soon as I reached the top of the house, I called the attention of the crowd, harangued them at some length, advising them to desist from the perpetration of lawless acts, and unite in restoring peace.

The angry excitement in the mean time somewhat abated, and a proposition was made, and agreed to by the crowd, that Captain Simonton and myself should adjust the claims against the Indians, and pay out the money. But, not having the sanction of law, nor instructions from the Government to interfere in any manner with the settlement of common debts against the Indians, we declined the charge.

A proposition was then made that we should select disinterested persons as commissioners to perform the duty. This we consented to do, provided the chiefs, in whose hands the money had been legally placed, requested. They were consulted, and did so request; whereupon Captain Simonton and myself selected William Polke, Ebenezer Ward, Robert B. Stevens, Edward V. Cicott, Benjamin Burthelett, and Daniel D. Pratt, to assist the chiefs in adjusting the claims against the Indians, and to apply part of the annuity to the payment thereof, and distribute the balance to the heads of families.

Some delay was unavoidable in selecting and bringing together the above named gentlemen, one of whom was distant thirty miles from the ground.

The disbursing agent and myself, at the request of the Indians, consented to take charge of the money until the commissioners could be assembled. At this stage of the business, the chiefs were apparently much alarmed; (an Indian will not *say* he is afraid.) They reminded me that protection had been promised; said that a council had been held by the disaffected Indians, and that a man had been appointed to kill certain chiefs designated to the council. There was, indeed, great reason to fear that these threats would be carried into execution, and that the angry excitement that prevailed among the claimants would be renewed whenever the newly selected commissioners commenced investigating and paying their claims.

These well-founded apprehensions forced my mind to the conclusion that justice to the Indians, and a proper respect for the laws, demanded the presence of an adequate military force to suppress the lawless spirit that prevailed in the camp, and to preserve peace and good order during the

further progress of the business. I consulted Captain Simonton, whose views corresponded with mine, and despatched an express to the settlement, with a requisition for three companies of militia. In consequence of the requisition and regimental order of the colonel of the regiment, three companies, consisting in all of about one hundred men, were promptly brought on to the ground.

My presence being demanded at the payment of the Miamies, the money was now delivered into the possession of the last selected commissioners; and, at their request, the troops were placed at their disposal. The commissioners, in the discharge of their duty, proceeded to distribute to the heads of families and bands, the money retained by them for equal distribution among themselves; after which they adjourned, on the same evening, (27th September,) to Judge Polke's, about three miles distant from the camp, taking the remaining money with them.

The appearance of the troops seemed to effect the object intended. The effect among the Indians and white men were awed from further acts of intimidation and lawlessness; and the commissioners, after a session of two days at Judge Polke's, uninterrupted by any attempts to interfere with their decision, proceeded to distribute to claimants, in the proportion agreed on, the remaining money in their hands.

The exigency that produced the requisition for an armed force on the ground could not have been anticipated. The measure, however, it is believed, was not disproportioned to the emergency. It suggested itself to my mind as the only resort to insure protection to the chiefs who had signed the treaty and thrown their protection upon me, and to bring to peaceful termination the adjustment and payment of the claims against the Indians by the commissioners.

I am, sir, with great respect,  
Your obedient servant,

A. C. PEPPER,  
*Indian Agent.*

To the Hon. SECRETARY OF WAR,  
*Washington city.*

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## IN THE HOUSE OF REPRESENTATIVES.

JANUARY 25, 1838.

MR. E. WHITTLESEY, from the Committee of Claims, reported the following bill:

*A bill providing for paying three companies of militia, in the State of Indiana, called into the service of the United States.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, on the requisition of the Secretary of War, out of any money in the Treasury not otherwise appropriated, seven hundred and eighty-five dollars and seventy-five cents, for paying three companies of Indiana militia, called into the service of the United States by Colonel Ewing, on the twenty-*

fifth of September, one thousand eight hundred and thirty-six, on the requisition of A. C. Pepper, Indian agent at Logansport, for the purpose of protecting certain Indians assembled to receive their annuities, and to protect other persons, necessarily employed relative to said annuities; and that the further sum of one hundred and three dollars and eighty-seven cents be, in like manner, appropriated, for paying for ammunition delivered to said militia, and for expenses of expresses in calling out said militia, and for other expenses legally incurred.

The Secretary of War has reported to the House of Representatives that the sum of one hundred and three dollars and eighty-seven cents has been appropriated for the purpose of protecting certain Indians assembled to receive their annuities, and to protect other persons, necessarily employed relative to said annuities; and that the further sum of one hundred and three dollars and eighty-seven cents be, in like manner, appropriated, for paying for ammunition delivered to said militia, and for expenses of expresses in calling out said militia, and for other expenses legally incurred.

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