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Econchatimico, Indian chief

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ECONCHATIMICO, INDIAN CHIEF.

JANUARY 11, 1845.

Read, and laid upon the table.

Mr. J. B. HUNT, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the petition of Econchatimico, an Indian chief, respectfully report:

That the petitioner resides in the Territory of Florida, on a reservation granted to him by the government of the United States, on the Apalachicola river. It appears, from the papers submitted with the petition, that he had abandoned the Indian nation, and had become a citizen of the Territory, under the laws of the United States.

The claim is for the payment of twenty negro slaves, alleged to have been stolen from him by Alexander Robinson, Hezekiah Douglass, and others, white men residing out of the Territory of Florida, and alleged to be citizens of Georgia. It appears that these negroes descended from a stock which had been in the possession of the maternal grandfather of the petitioner. A dispute had arisen in relation to whom these slaves had descended. The cousin of the petitioner had, it appears, set up a claim, on the ground that they had once belonged to his father, and that he had assigned his claim to a man by the name of John Milton. Milton commenced a suit in attachment for the recovery of the property in the district court of the United States for West Florida. After the cause was at issue, Milton discontinued the suit, and assigned his interest to Robinson, who, with the others, and by force and violence, seized and carried away the slaves. Robinson and the others were indicted for the offence; and, after some time, a *nolle prosequi* was entered on the indictments. Application was then made by the petitioner to the United States government for payment. The department referred the question of title in these slaves to the Hon. J. A. Cameron, judge of the United States district court of West Florida. He reported to the War Department, that, according to the Indian law in existence at the time these slaves came into the possession of the petitioner, and for long afterwards, these slaves, after the decease of the sons of the original proprietor, descended to the daughter in preference to the grandsons, and to the son of the daughter, Econchatamico, the petitioner; and that he was the legal owner of the slaves at the time they were taken away.

By a resolution of the Senate, dated February 7, 1837, the papers in this case were referred to the President, with a request that he would direct a suit to be commenced and prosecuted to judgment, to procure indemnity for the negroes alleged to have been stolen. The district attorney of the United

States reported the proceedings had by indictment against the aggressors; and stated that, under the excitement then prevailing in Florida against the Indians, there was no probability that a jury would find a verdict in favor of the claim or rights of the petitioner, but that the claim of the petitioner should not be prejudiced on that account.

The act to regulate the trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, provides that all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana or the Territory of Arkansas, and also that part of the United States east of the Mississippi river, and not within any State to which the Indian title has not been extinguished, for the purposes of said act be taken and deemed to be the Indian country.

By the sixteenth section of the act, it is provided that upon the commission of any offence by a white person within the Indian country, and the property of a friendly Indian taken or destroyed, and a *conviction had* for the offence, the offender is to pay twice the amount of the value, &c.

The law requires the offence to be committed in the Indian country, and the offenders prosecuted and convicted.

It can hardly be said that the law applies to the petitioner. He resided on a reservation in the Territory of Florida. He had placed himself under the protection of the laws of the United States. His political connexions with the Indian nation had terminated, and he was, in fact, a resident under the laws of the Territory, like any other citizen residing there. The law was intended for those Indians who had not become citizens, but continued to reside in the Indian country, and not under the regular protection of the laws of any of the States or Territories;—for the friendly tribes living together as a nation in the Indian country, and, not like the petitioner, a resident on a reservation in a Territory under the regular law of the government.

The petitioner was a friendly Indian; had not sought to revenge his wrongs; he had done what he could to bring the offenders to justice in the manner provided by law; he had done what any other good citizen would do, under the like circumstances; and the law officer of the government admits that justice for him could not be obtained in the ordinary method; yet the government is not bound to sustain the loss which one of its citizens may inflict upon another. The petitioner, not being able to obtain payment in any other manner, applied to the government for relief. The War Department says, "The remedy is in the wisdom of Congress." This is an admission that the law has provided no remedy for this case; and the question arises, whether a special law should be enacted for the payment of this claim.

If the robbery had been committed on the high seas, it would have been an act of piracy; but the government has never been held responsible for damages incurred in that way. The robbers in this case were land pirates; and even if the petitioner had succeeded in convicting them of the offence, the government would not have been liable, for it was done in the Indian country. It is not perceived that this case differs from any robbery committed by one of our citizens upon another; and although it is admitted that such a state of public feeling existed that justice could not be obtained, yet if this state of things had not occurred, and a conviction had taken place, the government would not have been liable for the damages, because the petitioner was not within either the letter or the spirit of the statute.

It is an unfortunate case for the claimant, but it is contrary to the whole policy of our laws to repair individual damages out of the public treasury. If a practice of this kind should be countenanced, the suitors in our courts of law would soon be transformed into applicants at the Treasury Department, and the enactment of special laws would be required to meet each particular case.

The following resolution is respectfully recommended :

Resolved, That the petitioner have leave to withdraw his petition.