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Report : Claim of O. Love

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Recommended Citation

S. Rep. No. 295, 33d Cong., 1st Sess. (1854)

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IN THE SENATE OF THE UNITED STATES.

MAY 30, 1854.—Ordered to be printed.

Mr. SEBASTIAN made the following

REPORT.

[To accompany Bill S. 390.]

The Committee on Indian Affairs, to whom was referred the claim of Overton Love, a Chickasaw Indian, report:

That sometime in December, 1847, or January, 1848, a band of nine or ten armed men, from the State of Texas, crossed Red river and forcibly took from the premises of Overton Love four of his slaves, named Patrick, Malinda, Lucinda, and Susan, the right to which he acquired from a devise of Nancy Guest to his wife. And at the same time and place they also seized and abducted their slaves named Harriet and her infant, and a boy named Andy, the property, under the same will, of John Guest, a minor and brother of Mrs. Love. The value of the aforesaid slaves, according to the lowest rate established by depositions before Agent A. J. Smith, was for those of Overton Love, \$2,400, and for those of John Guest \$1,300. These slaves were the property of Chickasaw Indians, and were taken from their possession in the Chickasaw district of the Choctaw nation. The facts were duly communicated to the Commissioner of Indian Affairs, and the case was referred to the Solicitor of the Treasury, who instructed the district attorney of Texas to institute civil proceedings in the district court of the United States for that State, against the offenders. A report from the district attorney, after great delay, disclosed the fact that the defendants were all irresponsible, and either dead or fled to California or Mexico, and beyond the reach of process. The suit was, therefore, abandoned. The slaves were removed to parts unknown, and have never been recovered. The owners have not only not resorted to any violence or retaliation, but have patiently awaited the result of tedious and ineffectual legal proceedings for redress. They now ask that the United States pay the value of said property, as prescribed in the 16th section of the intercourse law of 1834. The section above referred to, is as follows:

“That when, in the commission by a white person of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted, shall be sentenced to pay to such friendly Indians to whom the property may belong, or whose person may be injured, a sum equal to twice the just

value of the property so taken, injured, or destroyed ; and if such offender shall be unable to pay a sum equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States : *Provided*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence : *And provided, also*, *That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury as aforesaid.*"

It is said that the property was taken under some pretext of a claim—a pretext which is scarcely plausible even, when the character of the offenders, and their final concealment of the property and of themselves is considered. Such a claim, if honestly entertained, could not otherwise palliate the act, than to reduce the guilt of the parties from a larceny or robbery to a trespass. The property had been in the peaceable possession of the claimants and of the testator who bequeathed it to them ; and the seizure of it by strong hand, without legal process, and within the territories of a nation with whom the United States were, and ever have been, at peace, was, to say the least, "an offence or misdemeanor," and, therefore, within a class of cases for which that act provides. The other conditions of the act have been fulfilled, and their right to the payment is now clear and absolute. They have not sought revenge or private satisfaction, and the offenders "cannot be apprehended and brought to trial." The committee, therefore, report a bill for the relief of the claimants.