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Letter from the Secretary of the Interior, relative to the claim of M. Desmarais & Co. for depredations committed by Cheyenne Indians

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M. DESMARAIS & CO.

LETTER

FROM THE

SECRETARY OF THE INTERIOR,

RELATIVE TO

The claim of M. Desmarais & Co. for depredations committed by Cheyenne Indians.

FEBRUARY 25, 1873.—Referred to the Committee of Claims and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington City, February 21, 1873.

SIR: In compliance with the terms of the seventh section of the act approved May 29, 1872, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1873, and for other purposes," I have the honor to transmit herewith the claim of M. Desmarais & Co. for compensation on account of depredations committed by Cheyenne Indians.

A letter (copy inclosed) dated the 15th day of February, 1873, from the Commissioner of Indian Affairs, reporting the nature, character, and amount of said claim, is accompanied by the evidence presented in support thereof, and shows the action taken by that officer, under the rules and regulations prescribed by this Department for the investigation of such claims; all which is respectfully submitted for the consideration of Congress, as contemplated by said seventh section of the act aforesaid.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

The Hon. the SPEAKER of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington D. C., February 15, 1873.

SIR: I have the honor to submit herewith, for the action of the Department, a claim of M. Desmarais & Co. for \$19,050, on account of a depredation alleged to have been committed by Cheyenne Indians.

From the evidence adduced, it appears that claimants' train of wagons, loaded with about fifty thousand pounds of goods, and drawn by sixty-seven mules, was attacked at "Pawnee Forts," Kansas, on the 19th August, 1868, by an irresistible force of Cheyennes; that the same Indians then and there stole from the claimants twenty of their mules, valued at \$250, and forty-seven others, valued at \$175; also two horses—one valued at \$200, and the other at \$125. It further appears that, in consequence of the loss of their mules, the claimants were put to an expense of \$3,000 (being 6 cents per pound on the fifty thousand pounds of freight referred to) in procuring oxen to transport the wagons and goods in question, from the point at which the attack was made to Las Vegas, New Mexico, their place of destination; and moreover they had to pay thirteen men to guard the property during the delay necessarily incurred awaiting the arrival of the oxen, wages and board, at \$50 each per month for two months; and also to pay a wagon-master for the same time, \$250. The claimants also say that, because of the delay so caused, the value of the goods on arrival at Las Vegas was "diminished" to at least the sum of \$1,000. These losses and damages make up the sum of \$19,050.

The allegations in the case are thought to be sustained by the proofs submitted. United States Agent Darlington reports on the [1st February, 1872, (a copy of his report is herewith,) that the matter of the claim was carefully explained to the Cheyennes in council, and that they "acknowledged to have committed the depredation therein set forth."

This Office recommends that the claim be allowed in the sum of \$10,250, by estimating the value of the sixty-seven mules at \$150 each, and the two horses at \$100 each, and rejecting the charges, which, being in the nature of consequential damages, are deemed inadmissible.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

CLAIM OF DESMARAIS AND BERNARD.

Petition.

UNITED STATES OF AMERICA,
Territory of New Mexico, County of San Miguel.

To the Superintendent of Indian Affairs for the Cheyenne Indians, or the agent of said tribe of Indians.

Your petitioners, Miguel Desmarais and Joab M. Bernard, loyal citizens of the United States, residents of the town of Las Vegas, in the County of San Miguel, Territory of New Mexico, and partners in mercantile business in the said town of Las Vegas, under the name and style of M. Desmarais & Co., would respectfully state that in the summer of 1868 they purchased in the States a large stock of goods, wares, and merchandise for their store in Las Vegas, and were transporting said goods from Kansas City to Las Vegas, New Mexico, a distance of about seven hundred and seventy-five miles, in nine wagons, containing about 50,000 pounds of goods, and drawn by sixty-seven mules, belonging to your petitioners. Your petitioners would further state that after arriving at a point on the Arkansas River in the State of Kansas, called Pawnee Forts, distant from Las Vegas about three hundred and fifty miles, their said train was, in the day-time, attacked by a party of Cheyenne Indians under the leadership of a chief of said tribe called "Lame Wolf." Said Indians making said attack, and in sight at the time, numbered over one thousand Indians. Your petitioners would further state that said tribe of Indians were then at amity with the United States, and on the 19th day of August, 1868, said party of Cheyenne Indians took, stole, robbed, and carried away of the property of said petitioners,

twenty mules of the value of \$250 per head, forty-seven mules of the value of \$175 each, one horse of the value of \$200, and one other horse of the value of \$125, making in all the sum of \$13,550 so taken and carried away by said Indians. Your petitioners would further state that at the time said property was stolen and robbed from them by said Indians, said wagons were being lawfully and peacefully transported along the public highway between Kansas City and Santa Fé, New Mexico, and no cause was given to said Indians to commit said robbery. The said robbery of said property was committed by the superior and irresistible force of said Indians in spite of all due care taken by the said petitioners to prevent it. Your petitioners would further state that they have never been able to recapture or obtain from said Indians any of said mules or horses, nor has ever from any source received any payment or satisfaction for said property so lost. Your petitioners would further state that they have never, either in person or by agent or by attorney, sought or attempted to obtain any private satisfaction or revenge from said tribe of Indians for or on account of said loss of property. Your petitioners would further state that by means of the said capture of their said train of mules they were put to great expense in procuring the transportation of said wagons, having to delay some two months and send over three hundred miles for oxen to transport said wagons with the goods, and at a cost of six cents per pound, which on the said number of 50,000 pounds amounts to the sum of \$3,000. Your petitioners would further state that they had, during said delay, thirteen men in their employ to guard said goods and wagons, at a cost of \$50 each per month for wages and board, which, for the two months, amounted to the sum of \$1,300, and one wagon-master at wages of \$100 per month and board worth \$25 per month, which for the two months' delay caused an expenditure of \$250, making an actual expense additional, resulting from said loss of said mules, amounting to the sum of \$4,550 without regard to the diminished value of the goods on arrival at Las Vegas, arising solely for and on account of said delay, which your petitioners aver amounted to at least the sum of \$1,000. Your petitioners ask that such steps be taken in the premises as will enforce payment for the property so lost and the damages so sustained out of the annuities of said Indians as is promised by the laws of Congress relating to said subject under the treaty with said Indians.

All of which is respectfully submitted.

MIGUEL DESMARAIS.
JOAB M. BERNARD.

TERRITORY OF NEW MEXICO, *County of San Miguel:*

We, the said Miguel Desmarais and Joab M. Bernard, upon our oath, state that the matters and things in the above petition contained, so far as stated from our own knowledge, are true in substance and in fact; and so far as stated from the information of others, they believe them to be true.

MIGUEL DESMARAIS.
JOAB M. BERNARD.

Sworn to and subscribed before me this 22d day of March, A. D. 1869.

[SEAL.]

DEMETRIO PEREZ,
Clerk of the Probate Court, County of San Miguel.

UNITED STATES OF AMERICA,

Territory of New Mexico, County of San Miguel:

We, Charles Blanchard and George Maxwell, residents of the town of Las Vegas, New Mexico, upon our oath state, that we are well acquainted with Miguel Desmarais and Joab M. Bernard, loyal citizens of the United States, residents in Las Vegas, New Mexico, and doing business as merchants, under the name and style of M. Desmarais & Co. We further state that we were along with the train of nine mule-wagons, belonging to said Desmarais & Bernard, on the 19th day of August, 1868, when said train was attacked by the Cheyenne Indians, under their captain, "Lame Wolf," at a point on the road to Santa Fé from Kansas City, called Pawnee Forts, on the Arkansas River, in the State of Kansas, about four hundred miles distant from Kansas, and over three hundred miles distant from Las Vegas, New Mexico, the destination of said train. Said affiants state that said attack was made in the day-time, and by about twelve Indians, who ran into the herd of mules and horses, and stampeded and drove them away; and within sight and in aid of said Indians there were Cheyenne Indians, to the number of over one thousand, ready to aid and assist said Indians in said robbery, and to prevent a recapture of said property. Said affiants further state, that at the time and place aforesaid said Cheyenne Indians, then at amity with the United States, took, stole, robbed, and drove away, of the property of said Desmarais & Bernard, twenty mules, of the value of \$250 each, and forty-seven head of mules, of the value of \$175 per head; one horse, of the value of \$200, and one horse of the value of \$125. Said affiants further state, that they know said Indians were of the tribe called Cheyennes, for they had

been for several days previous at their camp and along with said train, and had been treated with great kindness and hospitality by the said train of Desmarais & Bernard. Said affiants further state that it was impossible to prevent said robbery, or recapture from said Indians said property, on account of the number of said Indians, and the danger to the lives of the whole party which would have resulted from any effort forcibly to recapture said mules; and said Indians being well mounted, and the party in charge of said train being on foot, any attempt at the recapture of said property would have been useless. We further state that said train was delayed for two months before other animals could be obtained to transport said goods to their destination, and that the wages and board of thirteen men engaged in guarding said goods and waiting for other transportation for said wagons was worth \$50 per month, and the wages and board of one wagon-master was worth \$125 per month; and said fifteen men remained so employed, at such cost, for two months. We further state that it was worth and cost not less than six cents per pound to procure other animals and transport said wagons and goods to their destination, there being nine wagons and 50,000 pounds of goods, wares, and merchandise. We further state that we are familiar with prices of goods in New Mexico, and the importance of the early arrival of goods to secure a ready and profitable sale, and we state that the loss in the value and sale of said goods, on account of said detention, could not have been reasonably less than \$1,000. We further state that we are well acquainted with the value of said mules at the time and place when stolen, and their value was as above stated. We further state that none of said animals were recaptured, nor has any payment or satisfaction ever been made to said Desmarais & Bernard for said property, nor have they sought or attempted to obtain from said Indians any private satisfaction or revenge for or on account of said loss of property. And we further state that we have no interest in this claim whatever; but being along with said train at the time, and knowing the facts to be as above set forth, we state them under oath, in order that the Government of the United States may have a proper foundation on which to compel said Indians to make indemnity for said loss; and further we say not.

CHAS. BLANCHARD.
GEO. MAXWELL.

Sworn to and subscribed before me this 22d day of March, A. D. 1869.

[SEAL.]

DEMETRIO PEREZ,

Clerk of the Probate Court, San Miguel County.

UNITED STATES OF AMERICA,

Territory of New Mexico, County of San Miguel :

We, Domingo Tapia, Agapito Ortiz, and José Sais Tafoya, residents of Las Vegas, New Mexico, upon our oath state that, on the 19th day of August, 1868, on the Arkansas River, in the State of Kansas, at a point on the road to Santa Fé from Kansas City called Pawnee Forts, a party of Cheyenne Indians, then at amity with the United States, in number over one thousand, stole, took, and ran away, in the day-time, of the property of Miguel Desmarais and Joab M. Bernard, loyal citizens of the United States, twenty mules, of the value of \$250 each; forty-seven mules, of the value of \$175 each; one horse, of the value of \$200; and one horse, of the value of \$125. We further state that we were present at the time of said robbery, and could not prevent it; and we also state that the said train of nine wagons, in consequence of the loss of said mules, were detained two months; and other animals had to be obtained at great expense from New Mexico, three hundred miles distant, to transport said wagons to Las Vegas. We further state that said wagons were in the care of a wagon-master and thirteen hands, and that the usual wages paid was \$25 per month and board to the hands, and \$100 and board to the wagon-master. We further state that we have no interest whatever in this claim, and only state the facts of the case as known to us from our presence at the time as teamsters in the said train of said Desmarais & Bernard; and further we say not.

his
DOMINGO + TAPIA.
mark.

his
AGAPITO + ORTIZ.
mark.

his
JOSÉ + SAIS.
mark.

Sworn to and subscribed before me this 29th day of March, A. D. 1869.

[SEAL.]

DEMETRIO PEREZ,
Clerk of the Probate Court.

CHEYENNE AND ARAPAHO AGENCY, INDIAN TERRITORY,
Secondmonth 1st, 1872.

ENOCH HOAG, *Superintendent Indian Affairs:*

The claim of M. Desmarais & Co. for a depredation alleged to have been committed by Cheyenne Indians, was submitted to the chiefs and head-men of the Cheyenne tribe in council. After a careful explanation of the claim, the Indians acknowledged to have committed the depredation therein set forth. Satisfaction therefor was demanded. From all the facts obtainable in this case, I believe the acknowledgment to be just.

Respectfully,

BRINTON DARLINGTON,
United States Indian Agent, Cheyennes and Arapahoes.

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