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Joseph Howsley. Letter from the Secretary of the Interior relative to the claim of Joseph Howsley for depredations committed by Navajo Indians in 1868.

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JOSEPH HOWSLEY.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

RELATIVE TO

The claim of Joseph Howsley for depredations committed by Navajo Indians in 1868.

JANUARY 25, 1872.—Referred to the Committee of Claims and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 25, 1872.

SIR: The claim of Joseph Howsley, for depredations committed on his property by Navajo Indians, in 1868, is herewith submitted for the consideration and action of Congress, under the fourth section of the act making appropriations for the Indian Department, approved 15th July, 1870, (16 Stats., 360.)

A copy of a report of the Commissioner of Indian Affairs, dated the 3d August, 1870, in relation to said claim, is also herewith transmitted.

Very respectfully, your obedient servant,

G. DELANO,
Secretary.

Hon. JAMES G. BLAINE,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., August 3, 1870.

SIR: I have the honor to inclose herewith, for your consideration and decision, a claim of Joseph Howsley for alleged depredation upon his property by Navajo Indians in 1868.

This case, with a report thereon, was submitted to you (under date of April 5, 1870) for decision, and the opinion expressed by this office that it was not sufficiently established, which opinion was concurred in by you, and the claim returned rejected.

A reconsideration of the case is now asked for by the claimant, who furnishes additional testimony, as follows, viz: the joint affidavit of C. De Leon and M. Werner, who testify that, at the solicitation of Major

Whiting, (who had charge of these Indians while being removed from the Bosque Redondo reservation,) they examined the matter, and assessed damages to the claimant to the extent of \$350. It will be seen that the amount of damages claimed when the claim was first presented was \$2,133.

Should you be of the opinion that the claim as resubmitted is sufficiently established, and allow the same, I beg leave to state that there are no moneys at the disposal of the Department applicable to the payment thereof, and claimant must look to Congress for a special appropriation in the case.

Very respectfully, your obedient servant,

WM. F. CADY,
Acting Commissioner.

Hon. J. D. Cox,
Secretary of the Interior.

CLAIM OF JOSEPH HOWSLEY.

To Major WILLIAM CLINTON, *Superintendent of Indian Affairs, Santa Fé, New Mexico :*

Your petitioner, a resident of Albuquerque, in the county of Bernalillo and Territory of New Mexico, would respectfully represent to you, that about the month of July, A. D. 1868, the Government of the United States was removing the Navajo Indians from Bosque Redondo, (Fort Sumner,) to their new reservation in the Navajo country, and that, while the said Indians were encamped near the town of Albuquerque, a party said Indians, in amity with the United States, came to his ranch, and destroyed the following property belonging to your petitioner, viz :

1,800 grape-vines, valued at \$1 each	\$1,800 00
2,000 head of cabbages, valued at 10 cents each	200 00
400 beets, valued at 2 cents each	8 00
100 tomato-vines, valued at \$1 each	100 00
50 small apple-trees, valued at 50 cents each.....	25 00
Making the total value of.....	<u>2,133 00</u>

Your petitioner would state, also, that he has never been engaged in, or aided, or abetted the late rebellion against the United States or this Territory. He would further state that he has never sought, or attempted to seek, private satisfaction or revenge of said Indians for said losses.

Your petitioner would further state that he has never received pay or compensation from any officer or agent of the Government of the United States, nor from any other source whatever, for the injury sustained, as aforesaid; and that he has never violated any of the provisions of the intercourse law, approved June 30, 1834.

In order to obtain indemnity for said losses or damages, your petitioner respectfully submits this his petition for your consideration and action thereon.

And your petitioner will ever pray.

JOSEPH HOWSLEY.

TERRITORY OF NEW MEXICO, *County of Bernalillo :*

Sworn to and subscribed before me this 2d day of November, A. D. 1869; and on the same day and year, before me, personally appeared Miguel Lopez and Cristobal Aliré, both residents of Albuquerque, county of Bernalillo, New Mexico, to me well known to be respectable persons and entitled to credit, who, being duly sworn according to law, declare and say that they are well acquainted with Joseph Howsley, who signed the foregoing petition in their presence, and made oath to the correctness of the same; that they have read over and examined the petition of the claimant, and find that the property destroyed by the Navajoe Indians, as set forth in his foregoing petition, is correctly stated, and the valuation just and true; that they, the deponents, were present at the ranch of the petitioner when a party of Navajo Indians, about the month of July, A.

D. 1868, and while en route to their reservation, destroyed all the property mentioned in the foregoing petition of the petitioner. They further declare that they have no interest whatever in giving this testimony, or result thereof.

MIGUEL LOPEZ.
CRISTOBAL ALIRE.

Sworn to and subscribed before me this 2d day of November, 1869, and I hereby certify that I am not interested in any manner in taking this testimony.

SIMON H. SMITH,
Justice of the Peace.

TERRITORY OF NEW MEXICO, *County of Bernalillo:*

I, Harry R. Whiting, clerk of the United States district court in and for the second judicial district and Territory aforesaid, do hereby certify that Simon H. Smith, esq., before whom the foregoing declarations and affidavits were made, was, at the time of so doing, a justice of the peace in and for the county and Territory aforesaid, duly elected and qualified to act as such, and that his above signature is genuine.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 23d day of November, A. D. 1869.

[SEAL.]

HARRY R. WHITING, *Clerk.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 14, 1870.

SIR: The claim of Joseph Howsley for alleged depredation upon his property by Navajo Indians (transmitted to this office by you under date of December 29 ultimo) is herewith returned. It should be presented to the Navajo tribe and demand made for satisfaction, as required by the seventeenth section of the act of June 30, 1834, regulating trade and intercourse with Indian tribes. You will instruct Agent Bennett to carefully investigate the case and report to this office, returning claim for such further action as may be deemed proper.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

Major WILLIAM CLINTON, U. S. A.,
Superintendent Indian Affairs, Santa Fé, New Mexico.

[Indorsements.]

OFFICE SUPERINTENDENT OF INDIAN AFFAIRS,
Santa Fé, New Mexico, January 25, 1870.

Respectfully referred to Captain Bennett, whose attention is called to section 17, page 5, laws, regulations, &c., Indian Bureau, who will make the investigation required by said section and return these papers with report to this office.

WM. CLINTON,
Major United States Army, Superintendent of Indian Affairs for New Mexico.

UNITED STATES NAVAJO AGENCY, FORT DEFIANCE,
New Mexico, March 14, 1870.

Respectfully returned to Major William Clinton, United States Army, superintendent of Indian affairs, Territory of New Mexico, with the information that I have carefully investigated this case, and examined all my employes who were with the Navajoes at the time of their removal from Fort Sumner, and also all the principal chiefs, who all say they know nothing of this case; and as they were particularly vigilant when passing through or camping near any Mexican town, they are of the opinion that they would have known if had the Navajoes committed this depredation. The chiefs positively deny the justice of this claim, and protest against the amount being paid from any money due them; and they, as well as myself, wonder that the claim was not made at the time, instead of waiting so long.

F. T. BENNETT,
Captain United States Army, Agent for Navajoes.

OFFICE SUPERINTENDENT OF INDIAN AFFAIRS,
Santa Fé, New Mexico, March 22, 1870.

Respectfully returned.

WM. CLINTON,
Major United States Army, Superintendent of Indian Affairs for New Mexico.

SANTA FÉ, NEW MEXICO, *May 13, 1871.*

SIR: On the 14th of April, 1870, the claim of Joseph Howsley was rejected by the Secretary of the Interior, Hon. J. D. Cox, on the ground that "the claim was not satisfactorily established," and the papers were returned to the claimant at Albuquerque, New Mexico. While at Albuquerque, Howsley came to me with the papers, and wished me to undertake the case. I put him off, in order that I might ascertain if Howsley was a man of truth and honesty, and to inquire of the leading citizens of Albuquerque if the facts as stated by Howsley were true, as I did not desire to present any case that was not just and legal. I was told by the best men of Albuquerque that Howsley was an honest and hard-working colored man, who had resided twenty-five years in New Mexico, had married a widow Mexican lady, and had raised and educated his children and step-children creditably, and had a daughter then teaching school in Albuquerque, and a step-son clerk of the probate court of San Miguel County, and that it could be proved by fifty witnesses that the Navajo Indians camped for near a week at his garden and vineyard, and utterly destroyed it. It was also stated to me that Colonel Whiting, in charge of the removal of said Navajoes, admitted the damage to have been done by the Navajo Indians, and that he had selected two prominent citizens of Albuquerque to examine the premises and assess the amount of damages; and that said persons (Dr. De Leon and Mr. Werner) had assessed the damages at \$350. With this state of facts before me, I proceeded to make the petition and proof in the case of Joseph Howsley, and sent it to Hon. E. S. Parker, Commissioner of Indian Affairs, July 25, 1870. During my last visit to Washington City, I called on the Indian Department to urge the payment of this claim, and I then ascertained that said claim had been presented to the Navajoes, and that they denied having done the damage, and that the Navajo agent of the United States expressed his opinion in support of the truth of that denial of the Navajoes. Now, if the sworn statements of intelligent and honest citizens, who were present and know the facts, is to be ignored, and the lying statements of a set of savages not under oath, who have been constantly stealing and murdering for over a hundred years, is better evidence of truth than the evidence of such citizens, then it is a waste of time for the injured and plundered citizen to make out his papers and present his claim to the government for redress. The agent of the Navajo Indians had the sworn statement of Howsley before him, supported by the affidavits of Dr. De Leon and Mr. Werner, postmaster, and must have known that the statements of the Navajoes were utterly false, yet attempts to shield these lawless vagabonds and thieves from responsibility for this damage and outrage upon a good and peaceable citizen. The people of New Mexico pay heavy taxes, and pay them cheerfully, to raise funds to pay in large amounts annually to these Indians, and if the citizen, with full and clear proof in his case, is to be denied his rights on the second-hand report of an Indian lie, it will not be long before this law-abiding and peaceful people of New Mexico will be educated to the commission of such acts of lawless violation of the peace as was recently perpetrated at Camp Grant, Arizona Territory. I hope the honorable Secretary will look into this case, and direct Howsley's claim to be paid out of the first funds in the hands of the Indian Department applicable to such purpose; and if no funds are available for such purpose, that the claim will be allowed and sent to Congress, with an estimate for its payment.

Yours, respectfully,

JOHN S. WATTS,
Attorney for Joseph Howsley.

Hon. C. DELANO,
Secretary of the Interior.

UNITED STATES OF AMERICA,
Territory of New Mexico, County of Bernalillo :

To the Hon. E. S. Parker, Commissioner of Indian Affairs, Washington City, D. C. :

Your petitioner, Joseph Howsley, would respectfully state to you that he now is and always has been a loyal colored citizen of the United States, but not entitled under the Government of the United States until recently to any rights which the white man or Indians were bound to respect, except the right to labor for the benefit of others, without compensation. Your petitioner would further state that he is now sixty-three years old, and has been all his life an honest, industrious, hard-working, law-abiding citizen. Your petitioner would further state that he came to New Mexico about thirty-eight years ago, and married a Mexican lady, at Santa Fé, New Mexico, by whom he has a family of children, and with whom he now resides, in the town of Albuquerque New Mexico. Your petitioner would further state that he settled in the town of Albuquerque about sixteen years ago, and has been engaged in milling, farming, and gardening for his support and that of his family; and New Mexico cannot produce a single man who works harder or more constantly than himself.

Your petitioner would further state that he owns, adjacent to the town of Albuquerque, a small tract of land suitable for fruit and vegetables, and in order to make some suitable provision for the support of himself and family, when he was too old to work, he, in the year 1866, procured and planted out a vineyard numbering two thousand eight hundred vines, and twenty-eight apple-trees, for which he paid \$1 each, and a portion of said land was used by him as a vegetable garden for supplying his own wants, and selling for profit in the market of Albuquerque. Your petitioner would further state that he had built on said land a small house, in order to use during the summer season, to remain and take care of his vegetables and garden by night and day; and in the month of July, 1868, his said vineyard had been planted two years; was in fine growing condition, and ready to produce grapes in 1869 in considerable quantity. Your petitioner would further state that in the spring of 1868 he had purchased \$15 worth of garden seeds, and planted on his said land a large garden for his own use, and for sale in the market of Albuquerque, and in July, 1868, his vegetables, consisting of beets, peas, parsnips, cabbage, lettuce, onions, beans, and red pepper were up, and growing finely, with a promise of an abundant crop, and was worth at least the sum of \$300. Your petitioner would further state that, under and by virtue of a treaty made between the two great sovereignties, the United States and the Navajo Nation, it was provided that said Navajo Nation should change their residence from the Pecos reservation, on the east side of the Rio Grande, to the Cañon de Chilly, on the west side of the Rio Grande, distant some three hundred miles from the Pecos. Your petitioner would further state that, in the national chase of the great Navajo Nation under said treaty, in the month of July, 1868, said Navajoes, to the number of about eight thousand, honored the vicinity of Albuquerque with a stay of six days for repose, recreation, and in order to be ferried across the Rio Grande River. Your petitioner would further state that this great nation of Navajo Indians, consisting of eight thousand half-naked, lazy, worthless, thieving, plundering men, women, and children, done your petitioner the honor to select his shanty as the center of their camping-ground during their six days' repose, and appropriating his garden and vineyard to the use and convenience of the Navajoes. Your petitioner further states that, in the month of July, 1868, while said Navajo Nation of Indians, then at amity with the United States, were so camped on his premises, all his vegetables were pulled up and destroyed and trampled under foot, his said garden and vineyard having been turned into a play-ground, for the amusement and recreation of several hundred little active and lively "papooses." Your petitioner would further state that the provident and interesting better halves of said Navajo Nation, commonly called "squaws," having occasion to cook their steak and broil their mutton for their hungry lords and vast retinue of ferocious little darlings, and wood being twenty miles distant, all the grape-vines of your petitioner, costing him two years' labor and attention, and to the number of two thousand eight hundred growing vines, were pulled, destroyed, and used for fuel, as is well known and susceptible of proof by at least fifty witnesses now residing in Albuquerque. Your petitioner would further state that every one of said vines so planted out and growing were worth to him at least 50 cents each, and the twenty-eight apple-trees were worth \$3 each per tree. Your petitioner would further state that he made complaint to Major Whiting, United States Army, and Colonel Doore, Navajo agent, as to the damage done, and asked that it be paid him, and Major Whiting appointed Dr. De Leon and Mr. M. Werner, two honest, intelligent, and leading men of the town of Albuquerque, to examine and assess the damages, and after examination said damages were assessed at \$350, which amount Major Whiting approved and promised faithfully should be immediately paid. Your petitioner does not believe, in a just government justly administered, that said Navajo Indians have the right to take possession of his property and ruin and destroy the fruit of his labor and industry without being compelled to make adequate satisfaction and indemnity, and where the trespass and damage was, as in this case, wanton, malicious, and without excuse or justification, a just nation, disposed to protect the rights of a humble colored citizen of the United States, ought not to haggle and jew about the exact value of the damages done as something is sometimes done by way of "smart money," and to teach the trespasser in the future to respect the property and rights of even the poorest colored citizen in the land. Your petitioner would further state that it will be seen by reference to the Compiled Laws of New Mexico, page 62, that such damages occasioned by the Indians are to be assessed and paid for. Your petitioner knows that this worthless, thieving, plundering, murdering nation of Navajo Indians are paid out of the Treasury of the United States over two hundred thousand dollars, collected by taxation from a patriotic people, and your petitioner wishes to test, in the fullest manner, whether said Indians have the right to plunder him and destroy his property in open day-light, in the presence of many witnesses, and then to be protected in the outrage by the Government of the United States through its ministerial agent. Your petitioner would further state that for near two years he has been confidently expecting a draft for the amount of the damages sustained by him, and was greatly surprised at the receipt of the following letter:

"DEPARTMENT OF THE INTERIOR,
"Washington City, April 14, 1870."

"SIR: I return herewith the claim of Joseph Howsley for alleged depredations upon his property by Navajo Indians, in July, 1868, which was submitted in your letter of the 5th instant, and concur with you in the opinion that the claim is not satisfactorily established. It is therefore rejected.

"Very respectfully, your obedient servant,

"J. D. COX, Secretary.

"Hon. E. S. PARKER,
"Commissioner of Indian Affairs.

"A true copy :

"WM. CLINTON,
"Major U. S. A., Superintendent Indian Affairs for New Mexico."

Your petitioner would further state that, as it was well known to many witnesses, the Navajo Indians committed the outrage above mentioned, and as Major Whiting, in charge of said Indians, admitted it, and appointed two good men to assess the damages, and approved the assessment after it was made, and recommended its payment, that the calling of his just and well-established claim an "alleged depredation," occurred in the amiable levity of official correspondence rather than from a careful examination of the facts of the case. Your petitioner would further state that, if his claim was not satisfactorily proven, it would be right and proper to notify him of that fact, and afford him the opportunity to produce further proof to satisfy incredulity itself of the justice of his claim. Your petitioner herewith submits further and additional proof herein, and asks of the honorable Commissioner of Indian Affairs a reconsideration of this case; and, if denied him, he asks an appeal to the honorable Secretary of the Interior; and, if denied by the Secretary of the Interior, he asks an appeal to his excellency the President; and, if denied by the President, he asks that a certified copy of all the evidence in the case be sent to Congress for the purpose of determining whether an honest colored citizen of the United States can be plundered with impunity by a nation of worthless vagabonds; all of which is respectfully submitted.

his
JOSEPH + HOWSLEY.
mark

Attest:
HARRY R. WHITING.
JNO. W. PHIPPS.

UNITED STATES OF AMERICA,
Territory of New Mexico, County of Bernalillo :

This day personally appeared before me, Harry R. Whiting, clerk of the United States district court in and for the second judicial district in and for the Territory of New Mexico, the above-named Joseph Howsley, to me personally known as a man of truth and veracity, and being by me duly sworn, upon his oath states that the matters and things stated and set forth in the above petition, so far as stated from his own knowledge, are true in substance and in fact, and so far as stated from the information of others, he believes them to be true. I further certify that I have no interest in this claim, nor am I related to the claimant.

Witness my hand and seal of court this 7th day of May, 1870.

[SEAL.]

HARRY R. WHITING, Clerk.

UNITED STATES OF AMERICA,
Territory of New Mexico, County of Bernalillo :

We, C. De Leon and M. Werner, upon our oath, state that we have known Joseph Howsley, a colored citizen of Albuquerque, New Mexico, for the last fourteen years, and he has during all that time been esteemed as a hard working, honest, law-abiding colored man. We further state that in June, 1868, the Navajo Indians were camped for about a week in his shanty, and adjacent thereto, to the number of about eight thousand. We further state that at that time said Joseph Howsley had a vineyard and garden at the camping-place of said Indians, which he complained had been injured and destroyed by said Indians, and Major Whiting, United States Army, in charge of

said Indians, requested us to examine and assess the amount of damages done to said garden and vineyard by said Indians, and we examined the garden and vineyard of said Joseph Howsley and assessed the damages at \$350, which we, upon our oath, state was a very low amount for the actual damages done to said garden and vineyard.

And further say not.

D. CAMDEN DE LEON.
MELCHIOR WERNER.

Sworn and subscribed to by Melchior Werner before me this 20th day of June, A. D. 1870.

[SEAL.]

HARRY R. WHITING, *Clerk.*

Subscribed and sworn to before me by D. Camden De Leon, this 10th day of July, A. D. 1870.

[SEAL.]

WM. BREEDEN,
Clerk United States District Court First District New Mexico.