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JOHN JACKSON.

JUNE 9, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

Mr. SPARKS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1276.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 1276) for the relief of John Jackson, report:

That the bill provides for the payment of a claim of John Jackson for \$1,175, on account of a depredation suffered at the hands of the Kiowa Indians.

That the evidence seems sufficient to establish the fact that the said claimant did lose, by the depredations of said Indians, eleven saddle-horses, which he valued at \$75 each, aggregating \$825, but the testimony to establish the fact of the other losses for whose payment this bill provides, is not satisfactory.

That this case is one of a great number similar to it, in which it is claimed that the Government of the United States should re-imburse its citizens for losses sustained by Indian depredations, but though these losses are often severe, and bear sorely on the individual sufferers, demanding our sympathy, and possibly requiring that the United States should punish the guilty perpetrators as it should punish its own citizens for committing such wrongs, yet as the property thus lost is not lost in the service of the United States, it may be doubted whether it is in the constitutional power of Congress to grant the indemnity thus sought, or, if it were, it is not, in the judgment of this committee, either wise or equitable for this Government to act as the insurer of the property of its citizens against the aggressions of savage tribes, any more than it does against the aggressions of civilized nations when we are at war with them.

The committee therefore direct an adverse report upon the pending bill.

REPORT

Mr. LANE submitted the following as the

VIEWS OF THE MINORITY.

The undersigned, a minority of the Committee on Indian Affairs, to whom was referred (H. R. 1276) a bill for the relief of John Jackson, respectfully submit the following minority report:

This bill provides that the sum of \$825 be appropriated to pay the claim of John Jackson for depredations committed by the Kiowas and other Indians in the State of Texas.

The minority of the Committee on Indian Affairs believe that there exist both a moral and legal obligation upon the General Government to honor this character of claims. The moral aspect we will not consider. The laws warranting this conclusion are briefly as follows:

Congress, by the act entitled "An act to regulate trade and intercourse with the Indians, and to preserve peace on the frontiers," approved March 30, 1802, and by act entitled as above, approved June 30, 1834, guarantee ultimate indemnity to any citizen suffering losses by Indians in amity with the United States, whether such losses were suffered while said citizens were lawfully within the Indian territory or were caused by Indians passing from their own territory into the territory inhabited by the whites, upon condition that such persons so suffering loss should refrain from any attempt to seek private satisfaction and revenge, and upon the further condition that claim for indemnity should be presented and established in a mode and at a time prescribed by said act; such indemnity to be paid from the annuities due to the tribe of Indians committing such depredations, in case any annuities were due and payable to said tribe, or, if not, from the Treasury of the United States. (Statutes at Large, vol. 2, p. 143, section 14; vol. 4, p. 731, section 17.)

By these laws the liability of the Government was clearly fixed. Indemnity was absolutely assured. However, these laws were subsequently modified. Congress, by the eighth section of the annual appropriation act approved February 28, 1859, repealed as much of said guarantee as pledged payment out of the Treasury of the United States, leaving intact and unchanged the guarantee of indemnity out of the Indian annuities, where such annuities were due and payable by the Government. (Statutes at Large, vol. 11, p. 401, sec. 8.)

It will be observed that Congress still recognized the principle that it was the duty of the General Government to see to it that indemnification should be made. This law was intended not so much to limit or restrict the rights of the injured citizen, as to restrain the Indians from the commission of depredations, by requiring that pecuniary satisfaction should be made out of funds accruing to them from the General Government. This remained the policy of the Government for eleven years, when, its workings being manifestly unjust, a change or rather a return to the old system was deemed proper. Congress, by the fourth section of the annual appropriation act, approved July 15, 1870, repealed

so much of previous acts as allowed payment from said annuities of losses proven to have been sustained by citizens from said Indian depredations, and prohibiting payments for such losses until Congress should make special appropriation therefor, leaving intact the guarantee of 1802, as renewed in 1834. Said provision is as follows:

No part of the moneys which may be appropriated in any general act or deficiency bill making appropriations for the current and contingent expenses incurred in Indian affairs, to pay annuities due to or to be used and expended for the care and benefit of any tribe or tribes of Indians, shall be applied to the payment of any claim for depredations that may have been or may be committed by such tribe or tribes, or any member or members thereof. No claims for Indian depredations shall be paid until Congress shall make special appropriation therefor. (Sec. 2093, Rev. Stat. United States.)

Does not this section recognize fully and clearly that the Treasury of the United States is the only source of indemnification, and that in meritorious cases it is the duty of Congress to make adequate appropriation? If there be any doubt, it is wholly removed by subsequent legislation. By the seventh section of the act of Congress making appropriations for the Indian Department, approved May 29, 1872, it is enacted:

That it shall be the duty of the Secretary of the Interior to prepare and cause to be published such rules and regulations as he may deem necessary or proper, prescribing the manner of presenting claims arising under existing laws or treaty-stipulations, for compensation for depredations committed by the Indians, and the degree and character of the evidence necessary to support such claims; he shall carefully investigate all such claims as may be presented, subject to the rules and regulations prepared by him, and report to Congress, at each session thereof, the nature, character, and amount of such claims, whether allowed by him or not, and the evidence upon which his action was based: *Provided*, That no payment on account of said claim shall be made without a specific appropriation by Congress.

What is meant, if remedy at the hands of Congress is not designed? Is it a delusion and a snare? Is it a mockery? Is it intended to excite hope only to defeat its realization? The claim presented by this bill clearly falls within the limits and contemplation of the foregoing provision. The requisites of the law and the rules and regulations of the Department seem in this instance to have been fully and in every respect complied with.

The Indian Department, after examining the proofs, and being fully advised in the premises—the Indians having admitted the commission of the depredations complained of—recommend the allowance and payment by Congress of the sum named in said bill, to wit, the sum of \$825, the original claim being reduced by the Interior Department from \$1,175 to that amount. Accompanying herewith, and as a part hereof, is the report of the Commissioner of Indian Affairs transmitting this claim. The testimony in the case fully justifies the conclusion and recommendation of the Commissioner. We cannot believe that his report is entitled to no consideration; that it has no significance whatever; that, though required by law, it is designed for the edification of Congress, to uselessly consume its time or encumber its records, and not to guide its action nor to influence its legislation. We cannot arrive at this conclusion, however much we may regret to differ with the majority of this committee. Believing that this amount has been legally, properly, and carefully ascertained under the law; that there is a valid, binding, and solemn obligation upon the part of Congress to honor such claims, we very respectfully recommend the passage of this bill.

LAFAYETTE LANE.
W. W. WILSHIRE.
N. H. VAN VORHES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 21, 1875.

SIR: I have the honor to submit herewith a claim of John Jackson for \$1,175, on account of a depredation alleged to have been committed by Kiowas.

An account is presented by this claimant against the Government, amounting to the above sum, and accompanied by an affidavit, from which it appears that he resided at the time in the county of Shackelford, State of Texas, and claims to have lost, by the Kiowa Indians, on the 10th of April, 1871, eleven saddle-horses, valued at \$825, taken from Callahan County in said State; also, two in September, 1872, valued at \$175; one in March, 1872, valued at \$100, and one in December, same year, valued at \$75, these all being taken from Shackelford County. The particulars of these depredations are not fully set forth by him, and he alleges that but one of the horses has been recovered by him, and that no satisfaction has been made for the same.

The depredation that occurred April 10, 1871, is fully established by the evidence of two witnesses, who swear that they were present when the Indians made an attack upon their camp and took claimant's stock, and their estimate of its value is higher than his.

There is no satisfactory testimony in the case to establish the other losses, and as the Indians in council admit that they took the eleven horses, and deny all knowledge of the other depredations, I respectfully recommend that claimant be allowed \$825, estimating the eleven horses shown to have been lost at \$75 each.

Very respectfully, your obedient servant,

E. P. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

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