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TREATY WITH POTTAWATOMIE INDIANS.

FEBRUARY 11, 1876.—Ordered to be printed and recommitted.

Mr. VAN VORHES, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 157.]

The Committee on Indian Affairs, to whom was referred House bill 157, report the same back to the House with the following observations and recommendations in relation thereto :

By the tenth article of the treaty with the Pottawatomie Indians, dated February 27, 1867, it is provided :

That upon the presentation to the Department of the Interior of the claims of said tribe for depredations committed by others upon their stock, timber, or other property, accompanied by evidence thereof, examination and report shall be made to Congress of the amount found to be equitably due, in order that such action may be taken as shall be just in the premises.

Under this provision there were, in 1869, presented to the Department of the Interior the claims of numbers of said tribe for depredations, which, after examination in the Department, were forwarded to the then agent of the tribe, J. H. Morris, with instructions to him to examine the claims, hear the testimony presented in their support, and return them to the Department with such recommendations as should be proper. The agent thereupon proceeded to take the testimony of the claimants and their witnesses, and transmitted the claims of the persons named in the annexed schedule, with the testimony, to the Department, with his recommendation in each case. The testimony was thereupon examined by the Department, and the amounts found equitably due the claimants were reported to Congress by the Secretary of the Interior on the 20th day of December, 1871. The official correspondence in relation to this matter is herewith submitted.

The evidence accompanying these claims is quite voluminous, and has been examined with much care by your committee. The claimant in each case makes affidavit before a notary public to the losses sustained by him or her while a member of the tribe, and upon the reservation in Kansas. The articles stolen and destroyed are specifically enumerated; the value thereof, and the circumstances under which the property was taken, are testified to by two or more witnesses claiming to be conversant with the facts and circumstances of the case. The agent certifies, in each case, that the testimony was taken in his presence; that the witnesses are truthful and entitled to credit; that the valuation of the property is fair, and that he believes the claim to be equitable and just.

The greater part of the losses for which compensation is claimed appears from the evidence to have been sustained during the great emigration to California and Colorado. Their reservation was situated in the Kansas Valley, through which the great thoroughfare of these em-

grants passed for a distance of over thirty miles. The losses cover a period from 1847 to 1866.

The Indians were at the time far removed from civil protection, the military was not within their reach, and the Indians were powerless to protect their property against the depredations that are shown to have been committed by the more lawless persons who passed through their reservation.

The agent seems to have taken great care in carrying out his instructions from the Department. To ascertain the value of the property alleged to have been stolen, he took the affidavits of three persons whom the agent certifies to be honest, intelligent, and disinterested, and who had lived upon the reservation during the entire period covered by these losses. These affidavits show the general value of the property on the reservation during that period.

The prices at which the property is listed are low, and seem to be fair. The evidence has every appearance of having been fairly and honestly taken. The claims have been presented as contemplated by the treaty and come within the scope of its provisions, and it now becomes the duty of Congress to take such action thereon as the treaty contemplates.

In order to ascertain the duty of Congress in the premises, and to determine what "action" shall be taken by Congress under the provisions of said article, "that such action may be taken as shall be just in the premises," your committee have examined the previous laws and acts of Congress bearing upon this question.

The laws of Congress passed in 1830 (vol. 4, Statutes at Large, page 411) provide that the President of the United States shall protect in person and property all Indians upon their reservations west of the Mississippi River, to which they shall remove in pursuance of any treaty then or thereafter to be made. The act of Congress passed in 1834 (vol. 4, Statutes at Large, page 731) provides that in the commission by white men of depredations upon the property of friendly Indians in the Indian country—

That if such offender cannot be apprehended and brought to trial, and the amount of such property cannot be recovered from the trespasser, the value of such property shall be paid out of the Treasury.

The testimony submitted shows that the claimants and their tribe were at all times peaceable, sought no private revenge, and never received any compensation for their losses. That subsequent to the legislation referred to, and in 1837, these Indians commenced removing, and from that time did remove, to their home in Kansas, where they resided at the time of the commission of these depredations.

The treaty of 1867 provides for a full settlement between the Government and the Pottawatomies. By its terms the Indians relinquished all claims upon the Government for future annuities, and assumed the duties and obligations of citizens. The Government patented to them their lands in severalty; paid over to them the funds held for them in trust, and agreed to take such action as should be just as to their claims for depredations. The language of the treaty implies that the Pottawatomies, in this settlement, made this one of the conditions of their final settlement; and that the Government recognized it as an obligation that it was bound to pay, which obligation is clear under the acts of Congress of 1830 and 1834, by inducements, of which, among others, these Indians ceded to the Government their reservations in the States of Michigan, Illinois, and Indiana, and removed to the then Indian country in Kansas.

Your committee, therefore, report back the bill with the following amendments, to wit:

1st. By striking out in line 41, page 3, "five hundred and fifty-five dollars," and insert *four hundred and forty-five dollars*.

2d. By striking out in line 84, page 4, the word "seven," and insert *five*.

3d. By striking out all of line 107, page 5, and recommend that the same do pass.

N. H. VAN VORHES.
CHARLES H. MORGAN.

Letter of transmission by Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., December 20, 1871.

SIR: I have the honor to transmit herewith a copy of a report dated the 6th instant, from Commissioner of Indian Affairs, together with the claims therein referred to of certain Pottawatomie citizens, for depredations committed upon their property while they were members of the Pottawatomie tribe of Indians.

The tenth article of the treaty with said Indians of February 27, 1867, provides that the claims referred to, accompanied by the evidence taken therein, shall be reported to Congress with the amount found to be equitably due, in order that such action may be taken as shall be just in the premises.

The claims, with the evidence taken, and a schedule thereof, with the amounts allowed in each case as reported to the Department by Commissioner of Indian Affairs, are respectfully submitted to Congress for such action as the treaty contemplates.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

HON. JAS. G. BLAINE,
Speaker House of Representatives, Washington, D. C.

REPORT OF COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., December 6, 1871.

SIR: The tenth article of the treaty with the Pottawatomie Indians, of February 27, 1867, (Stat., vol. 15, p. 533,) provides "that upon the presentation to the Department of the Interior of the claims of said tribe for depredations committed by others upon their stock, timber, or other property, accompanied by evidence thereof, examination and report shall be made to Congress of the amount found to be equitably due, in order that such action may be taken as shall be just in the premises."

Under this provision of the treaty a number of claims were presented by late Agent Palmer, under date of December 24, 1869, extending as far back as the year 1846. These, after examination in this Office, were, on the 27th February, 1870, reported to the then Secretary of the Interior, with the statement that, from the loose and defective character of the evidence, it was impossible to reach an intelligent decision as to the amount equitably due any one of these claimants, and it was therefore recommended that the papers be returned to Superintendent Hoag for re-examination by the present agent for the Pottawatomie Indians, Mr. J. H. Morris. This recommendation was concurred in by the honorable Secretary, and the claims were accordingly returned on the 8th March, last, with instructions for the agent's guidance in the examination to be made by him; the claimants to submit new claims, or verify those already made within a reasonable time.

In compliance with these instructions, a copy of which is herewith inclosed, Agent Morris transmitted to this Office, under date of November 9, 1871, ninety claims, amounting in the aggregate to \$49,547.80, and allowed by him in the sum of \$48,332.80, with the statement that he has carefully investigated each separate claim, and examined the witnesses as to the character of the several claimants for truth and veracity, and that all claims which appeared to him spurious or dependent upon evidence of a doubtful character had been rejected.

I inclose herewith an abstract made in this Office of the various claims now presented

showing the names of the claimants, with the amount claimed and amount awarded placed opposite their respective names.

A uniform course seems to have been adopted in the examination of the various cases with little or no variation. The claimant makes deposition before a notary public that he is a Pottawatomie citizen and had property stolen from him while a member of the tribe, specifying the articles thus lost, the circumstances connected therewith, and the value of the property at the time it was taken. This statement is corroborated by affidavits of two or three persons claiming to be conversant with the facts and circumstances of the case, and by the agent's certificate that the evidence was taken in his presence; that the valuation of the property lost is fair, and that he believes the claim to be equitable and just.

As the agent appears to have carried out his instructions in the investigation with which he was charged, I have the honor to submit the claims for consideration and appropriate action by the Department.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

Report of Agent Morris.

POTTAWATOMIE INDIAN AGENCY,
Eleventhmonth, 9th, 1871.

To the Hon. Commissioner of Indian Affairs, Washington, D. C. :

Respectfully I herewith forward ninety-one claims of Pottawatomie Indians for depredations committed upon their stock, timber, and other property, while living upon their reservation in Kansas, for the payment of which provision is made by the tenth article of the treaty of February 27, 1867.

In accordance with the instructions of the honorable E. S. Parker, Commissioner of Indian Affairs, dated at Washington, D. C., March 8, 1870, I have given notice to all Indians having claims to present, to come forward and prove them up, and also employed J. S. Merritt, a notary public of Pottawatomie County, Kansas, duly commissioned and qualified, to take affidavits.

For my guidance in ascertaining the true value of property upon the reservation, I called upon Alexander Peltier, Sidney W. Smith, and John D. Lasley, three disinterested, intelligent, and honest men, who have lived upon the reservation during the period covered by the losses for which claim is made, and I consulted with them frequently during the taking of the proof of the claims, and have had them subscribe the accompanying affidavits. I have taken especial care to guard against spurious claims that might have been presented, and I carefully investigated each claimant and the witnesses he introduced to prove up his or her claim as they presented themselves. I also inquired into the character of the claimants for truth and veracity, and such claims as were to all appearance spurious or dependent upon the testimony of witnesses not truthful for their substantiation, I have rejected, and refused to present them to the Department for consideration.

From the testimony of all, there were many depredations committed upon these Indians during the great immigration to California and Pike's Peak. Through this reserve was the main thoroughfare upon which many of the principal stock-growers and farmers lived, over which these immigrants traveled, and they seemed to be lawless when they had reached so far west as to be beyond civilization; and there is no doubt in my mind, from the testimony of all the witnesses, that these Indians suffered very much at their hands. It appears that immense trains of immigrants passed along this road daily during the immigration, and were constantly driving off their stock and destroying their timber and other property, and the Indians were powerless to oppose them, there being no law in force to which they could appeal for protection.

Very respectfully,

J. H. MORRIS,
United States Indian Agent.