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Report : Petition of H. Peterson

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IN THE SENATE OF THE UNITED STATES.

APRIL 10, 1876.—Ordered to be printed.

Mr. COCKRELL submitted the following

REPORT:

[To accompany bill S. 709.]

The Committee on Claims, to whom was referred the petition of Hans C. Peterson, of New Ulm, Brown County, Minnesota, have considered the same, and submit the following report:

In August, 1862, the Sioux Indians made an outbreak in Minnesota, and destroyed much property and did an immense amount of damage.

Congress passed an act entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863. (See United States Statutes at Large, vol. 12, pages 652, 653, and 654.)

In pursuance of this act the President duly appointed three commissioners, A. W. V. White, Eli R. Chase, and Cyrus Aldrich, "for the purpose of ascertaining the whole amount of said damages and the persons who have suffered the same."

By this act two hundred thousand dollars, out of the annuities of said Indians, to be paid out by said commissioners as directed in said act, were appropriated. Said commissioners duly qualified and proceeded to the discharge of the duties imposed by said act, and on November 30, 1863, made to the Secretary of the Interior their report. (See Executive Documents No. 27 to No. 50, first session Thirty-eighth Congress, vol. 9, 1863-'64, accompanied by their books, papers, and awards.)

A condensed statement of balance of awards made by this Sioux commission is as follows, to wit:

Amount allowed	\$1, 370, 374 00
Present relief	200, 000 00
Balance of awards	1, 170, 374 00
Statement of balance of awards, after deducting amount of awards to merchants and licensed traders, retained in the Department for further consideration:	
Balance of awards	\$1, 170, 374 00
Awards to merchants and traders	208, 303 00
Balance	962, 071 00

On May 28, 1864, Congress passed an act entitled "An act making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled 'An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians, approved February sixteenth, eighteen hundred and sixty-three,'" (see vol. 13, United States Statutes at Large, pages 93-5,) whereby there was appropriated the sum of \$28,411, or so much thereof as may be necessary, "for the payment of the several amounts awarded by the commission to the several persons, firms, estates, and corporations, respectively, to whom such amounts

were awarded by said commissioners, except the following persons, estates, and firms to whom awards were made as aforesaid, to wit: Antoine Roberts, J. C. Toberer, Gilbert & Co., W. L. Sumner, C. L. Mendelsohn, D. C. Marvin, Joseph Popp, B. Heinbach, W. W. Pendergrast, Louis Theobald, J. and C. M. Dailey, B. H. Randall, Louis Robert, W. H. Forbes, estate of S. B. Garvie, deceased, A. Voyer and Brother, T. I. Pierce, estate of Francis Labattie, deceased, S. A. Hooper, estate of James C. Dickinson, deceased, Henry Apple, Theodore Crone, Charles Jacobs, F. Immel, H. C. Cooper, H. D. Cunningham, Joseph Descotean, and Henry Behuke, which last claim is numbered 366 on the books of said commission." (See section 1 of said act.)

By section 2 of said act the further sum of \$241,963 was appropriated "for the payment of so much of said awards made by said commissioners to the persons, firms, and estates specifically named in the first section of this act, as the Secretary of the Interior shall upon examination find to be due to them, respectively, under said act approved February 16, 1863."

The claim of Hans C. Peterson was not included in the claims allowed, nor in the specifically excepted cases for which provision was made as above set forth. These Sioux Indian commissioners in their report state:

The raid of 1862 has produced in the State of Minnesota the complete depopulation of nineteen counties and of parts of four others, and not a family has hitherto returned to any portion of this Territory. The outbreak occurred in the height of a harvest of unusual abundance and luxuriance. Fields were abandoned to desolation; and household goods, farming utensils and live stock were left a prey to conflagration, spoliation, or rapine. Many houses, barns, and fences, hay and grain stacks and implements of husbandry were burned by the Indians, and many have since been consumed by prairie-fires. And where they could not drive away cattle and hogs, they often in their wantonness shot them. The town of New Ulm, on the south bank of the Minnesota River and fifteen miles below the lower agency, was the nearest village to the Sioux reservation. It was a German settlement, contained a population of some fifteen hundred souls, and was rapidly increasing in wealth and prosperity. * * * Teutonic pride had clustered around this town, and many of its inhabitants were educated people. The settlements around New Ulm were attacked with an unwonted ferocity. Almost at the same hour the massacre began at the lower agency. The town itself, crowded to excess with helpless refugees from the country, was in a state of siege for seven days and was twice vigorously attacked. The Indians burned up nearly one-half of the town. * * * On the evacuation of the town, on the morning of the 25th of August, very few of the personal effects of the inhabitants that had escaped destruction from the crowd during the preceding week could be removed.

The commissioners further say: "We have examined and audited two thousand eight hundred and eighteen claims and made awards thereon, which from time to time, with the complaints and proofs in each, have been transmitted to you by mail. Of the cases so audited, one hundred and eighty-three have been rejected, and in two thousand six hundred and thirty-five damages have been allowed. No testimony has been offered in seventy-six cases, and forty-six complaints, after being filed and registered, have been withdrawn by the parties or their attorneys. The petitions remaining on our files, in which there has been no proof or award, are herewith transmitted to you for such disposition as your Department or Congress may think proper to make of them.

"It is proper to say that of the cases rejected some were thus adjudicated for want of sufficient evidence, and some because, in our opinion, they did not fall within the class for which the act contemplated relief.

"As to a few of the former class, it has been represented that, in the pressure of our business, the facts were misapprehended by us and the decision was consequently erroneous. In others, that there was a hasty submission on insufficient testimony, owing to unavoidable embarrassments, which defect the parties can now supply. Some of this evidence, received since our awards were made, we herewith transmit to you."

The claim of H. C. Peterson was one of the class last referred to. The testimony taken by the commissioners, and that subsequently filed in the Interior Department, have been furnished to your committee upon written application therefor.

On March 3, 1868, the Senate passed a resolution directing the Secretary of the Interior to report to the Senate the names of the several claimants for indemnity for depredations by Sioux Indians under act February 16, 1863, whose claims were unadjudicated upon by the commissioners. In obedience thereto the Secretary of the Interior, under date March 14, 1868, transmitted to the Senate two schedules of such names: Schedule A, embracing names of seventy-nine claimants, by whom no proof was submitted; and Schedule B, embracing names of twelve claimants, in regard to whose claims the commissioners reported "the hasty submission on insufficient testimony, owing to unavoidable embarrassments, which defect the parties can now supply."

In this Schedule B, containing these twelve names, appears the claim of Hans C. Peterson, as follows:

"No. 931, H. C. Peterson, \$4,842.42, rejected."

The claimant, H. C. Peterson, at the time of the outbreak in August, 1862, owned and was cultivating a farm containing about fifty acres in cultivation, about one mile from New Ulm, and with his family was residing in a rented house in the suburbs of the town of New Ulm. When New Ulm was evacuated, as shown in the report of the commissioners, Peterson and family fled with the others, and when the town was first attacked he and family had to flee into the town, leaving their rented house, wherein they had all their furniture, clothing, bedding, provisions, &c., to the savages, who at once burned the house and contents. Peterson returned in November, 1862, to New Ulm, and on December 13, 1862, made out a complete schedule of all his losses, itemizing all the property he had lost with the utmost particularity, and made and subscribed an affidavit to its correctness, and also had two witnesses, Peter Mack and H. Kattman, on said 13th day of December, 1862, to make and subscribe an affidavit to the correctness of the schedule. In this schedule each kind and article of property destroyed is named, and the price set opposite in figures, and the whole is added up and set down at \$2,842.42; and near the close of the affidavit, in giving the general value, the figures \$4,842.42 are inserted, evidently by mistake of the scrivener. Hence the error in the amount of his claim, as reported in Schedule B from Secretary of the Interior, where it is put \$4,842.42.

On April 6, 1863, Peterson makes another affidavit, partly printed and partly written, wherein he "claims in his own right the sum of \$2,842.42 as the amount of direct damages sustained by the depredations of said Indians."

On August 28, 1863, Mr. Peterson appears before the commissioners, and presents an additional schedule, of articles of property and their value, claimed to have been destroyed, amounting to \$323.80 more, and was then duly sworn, and examined and cross-examined before said commissioners, the same being reduced to writing. In this affidavit he gives a particular account of the loss, and refers to his property by the schedule and additional schedule, and also corrects the schedule by striking from it 100 pounds of ham, 1 cow, 1 calf, and 1 steer, 24 plates, and 700 feet lumber, all charged at \$73, and to be deducted from the schedule. He also states that he received pay for one horse from the State board of auditors, and that this horse is not charged for in the schedule. Mr. Peterson wholly fails to explain why the articles specified in the additional schedule, then presented for the first time, were

not specified in his schedule made out and sworn to on December 13, 1862.

Henry Hoffman, a witness for claimant, was also examined by the commissioners, and his evidence reduced to writing. This was all the evidence submitted to the commissioners, and upon this they did not then allow the claim. Their rejection of the claim is dated November 3, 1863.

Subsequent to this date, and on November 20 and 21, 1863, additional evidence was taken, and the following-named witnesses, Henry A. Subilia, Helene Wehrs, D. J. Schillock, and William Pfasuder were examined and cross-examined, and their examinations reduced to writing and duly signed and certified, and returned by said commissioners with said claim, but no formal action was had by them upon this additional evidence.

In June, 1872, Hans C. Peterson makes another schedule, and swears to it, in which he states his total loss at no less than \$3,000, and also furnishes the additional affidavits of Henry Behuke and Albert Behuke, made June 24, 1872.

Your committee have carefully and patiently examined all the schedules, and carefully added the prices charged, and find an error of \$200 in the addition of the prices charged in the schedule, and that the true amount is \$2,642.42, and not \$2,842.42 as stated at the foot of the schedule-prices, and from this correct amount of \$2,642.42 is to be taken the \$73 for the before-mentioned items erroneously charged, leaving \$2,569.42.

After a careful examination, your committee find that the claimant, Peterson, has clearly shown that he sustained damages by reason of the depredations and injuries by the Sioux Indians, during said outbreak, as contemplated and provided for in and by said act of Congress, and for which he is justly entitled to compensation, as provided by said act, equally with those who have already been paid for such damages.

The only remaining question is the amount of such compensation. Your committee are satisfied that there are overcharges in the prices named in the schedule, and some articles charged for, for which he is not entitled to compensation, such as iron wedges, crowbar, dog and chain, and gold-headed cane.

These over and erroneous charges amount to \$285.50, which, deducted from \$2,569.42, leaves \$2,283.92. Your committee do not think the articles charged for in the additional schedule are sufficiently explained and established to justify their allowance.

Your committee, therefore, recommend that said sum of \$2,283.92 be allowed to said claimant, in full payment and satisfaction for all his said losses and damages, and herewith report a bill accordingly, and recommend its passage.

Your committee further report that Mr. Peterson is a gentleman of high character and strict integrity, fully indorsed by over fifty leading citizens and officials in Minnesota, who know him personally, and confirm the evidence as to his losses, and explain the reason of the hasty adjudication in his case very satisfactorily: that after the taking of the evidence at New Ulm, the commissioners went to Minneapolis, and there a worthless, malicious vagabond testified against this claim, and the commissioners then rejected it, and forwarded their report. As soon as claimant learned this he satisfied them of the untruthfulness and maliciousness of the witness, and they then heard and took additional evidence in his case, and transmitted same for action of Congress or the Secretary of the Interior.