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Report : Petition of C. Wetle

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1874.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Clement Wetle, of Saint Cloud, Minn., praying compensation for losses sustained at the hands of the Sioux Indians, in June, 1861, have had the same under consideration, and respectfully submit the following report :

The claimant shows that in April, 1861, he and two other persons located themselves in an unsettled region of country on the southwest shore of Ashley Lake, Pope County, Minnesota, about 70 miles from Saint Cloud, under the pre-emption law; that he took with him some personal property, and among other things the Durham cow hereinafter referred to; that he got together a portion of the materials for building a house and cleared up a few acres of land, and planted some three acres in potatoes; that on the 4th of June, 1861, a band of about one hundred Sioux Indians, under "Little Crow," then engaged in hostilities with the Chippewas, came into the neighborhood, and a portion of them came to the residence of claimant, and, against his consent, drove off his said cow to their camp, about two miles distant, and "killed her and used her meat;" that the cow was worth \$75; that "they came into his house and took and carried off provisions, and brandished their weapons and manifested so much hostility in various ways as to lead him to feel that his life would be in danger if he continued longer to reside in that vicinity;" that he thereupon, about June 4, 1861, abandoned his settlement and improvement, and moved to Saint Cloud, and of course was obliged to abandon his said three acres of potatoes, which would have yielded one hundred bushels to the acre; and that potatoes were worth, in money, at the least, seventy-five cents per bushel. This is claimant's statement under oath, which is supported by the affidavit of one other witness, who lived near him, and removed with him to Saint Cloud.

There could be no pretense of obligation on the United States to pay for depredations of the Indians, were it not for the legislation of Congress on the subject; and of course any one setting up a claim to indemnity under such voluntary obligations, must bring himself within such legislation and the conditions therein prescribed.

This claim is, no doubt, intended to be preferred under section 17, act of June 30, 1834, (4 Stat. at Large, p. 731,) providing redress when Indians shall pass from the Indian country into a State or Territory, and there "take, steal, or destroy" property belonging to any citizen or inhabitant, if such citizen or inhabitant shall pursue the course there prescribed; which is by applying "to the proper superintendent, agent, or sub-agent, and furnishing him with the necessary documents and proofs;" who thereupon, under direction of the President, is required to make demand of the nation or tribe to which such Indians belong, for satisfaction.

This application by the claimant to the superintendent or agent is required by the same section of the law to be made *within three years*. This limitation is prescribed, no doubt, so that the Government may secure reimbursement from the Indians while the transaction is susceptible of easy proof and can be brought home to the perpetrators of the injury. In a case covered by this statute, and where its requirements have been pursued, the "United States guarantee, to the party injured, an eventual indemnification."

Claimant's loss, if any, on account of his potatoes is not covered by this statute. After they had been planted a few days claimant abandoned them, and so far as appears, the Indians did not "take, steal, or destroy" any of them at all. Yet claimant asks to be paid for his prospective crop at the rate of seventy-five cents per bushel for the three hundred bushels to be grown on three acres of land. There is not the shadow of a claim for redress on this account.

If there ever was any ground for claiming compensation for claimant's cow, he has failed to pursue the course prescribed by the statute so as to enable the Government to make itself whole out of any annuity due the depredating Indians. True, he says that on the 13th of June, 1861, at Saint Cloud, he made "affidavit to the loss of the cow," and through his attorney "sent it to Joseph R. Brown, agent for the Sioux Indians, in the hope of getting pay out of the annuities of said Indians, but nothing was ever paid;" nor does it appear that even this affidavit ever reached the agent.

This does not approach compliance with the law, which requires that the superintendent or agent be "furnished with the necessary documents and proofs" within three years after the commission of the injury, otherwise "the same shall be barred." Claimant seems to have taken no further action in the matter until 1867, when he presented his claim to the Interior Department, where it was rejected, the Secretary referring to the fact that by the act of July 16, 1863, the treaties with the Indians mentioned had, in consequence of hostile acts, been abrogated, and their annuities forfeited. There was no recognition of the claim, as the reference to the statute was sufficient to relieve the Department of its consideration.

But if there were any merit in claimant's case, it is transferred, in the opinion of the committee, to the jurisdiction of the Secretary of the Interior, under the provisions of section 7 of an act of Congress approved May 29, 1872. See 17 Stat. at Large, p. 190, which reads as follows:

"SEC. 7. 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 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 is based: *Provided*, That no payment on account of said claim shall be made without a specific appropriation therefor by Congress."

Your committee being of the opinion, therefore, that claimant is not entitled to relief on account of the matters set forth in his petition, report the same back to the Senate, and ask to be discharged from the further consideration thereof.