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12-13-1875

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Recommended Citation

S. Misc. Doc. No. 15, 44th Cong., 1st Sess. (1875)

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MEMORIAL
OF
POTTAWATOMIE INDIANS,

PRAYING

Payment, as provided by treaty, for depredations committed upon their reservation in Kansas.

DECEMBER 13, 1875.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives of the United States of America in Congress assembled :

Your memorialists, formerly members of the Pottawatomie tribe of Indians in Kansas, and claimants for compensation for depredations, under the tenth article of the treaty of February 27, 1867, respectfully represent that in the year 1869 they presented to the honorable Secretary of the Interior their claims for losses, as contemplated by said article, which provides "that, upon the presentation to the Department of the Interior of the claims of said tribes 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." (See vol. 15, Statutes at Large, p. 533.) These claims, with the testimony submitted in support of them, were, by the honorable Secretary, transmitted to the agent of the Pottawatomies, with instructions to the agent to take proofs of said losses and report the same to the Department of the Interior, "with such recommendation as should be just in the premises."

Your memorialists, as soon thereafter as the opportunity was given them, went before the agent and submitted to him their proofs of their losses by depredations committed by others upon their property on their reservation in Kansas, which claims, with the evidence taken in support thereof, were by the agent transmitted to the Department of the Interior with his report concerning them, which is hereto attached, marked A.

The claims, with the evidence, were investigated by the honorable Secretary of the Interior, and a list of those found equitably due your memorialists were allowed; and they, with the testimony, were, on the 20th of December, 1871, by the honorable Secretary submitted to Congress. (See letter of the honorable Secretary, marked B; also, report of Commissioner of Indian Affairs, marked C.)

Accompanying these claims of your memorialists and the evidence taken in support thereof are the affidavits of three white men as to the value of property upon the reservation during the period covered by these losses. These affidavits are hereto attached, marked D. The agent certifies that these white men are intelligent, disinterested, and honest,

and that in ascertaining the true value of the property lost by your memorialists he was guided by their testimony and information. It will be observed that the price fixed to each item of property is not only reasonable but very low. Each loss for which compensation is claimed is proved by the testimony of the individual claimant and at least two witnesses. The character of each of your memorialists and witnesses is certified to by the agent in the following language: "I carefully investigated each claimant and his or her witnesses. I also inquired into the character of each claimant for truth and veracity, and such claims as were in appearance spurious, or dependent upon the testimony of witnesses not truthful, I have rejected and refused to present them to the Department for consideration."

Only those claims which have been thus proved, found due, and allowed, do your memorialists ask Congress to act upon.

The evidence submitted shows these depredations to have been committed from 1847 to 1866, the greater part of them from 1855; that the reservation upon which these losses were sustained was situated on the Kansas River, about 100 miles in the interior of the State; that the Kansas Valley runs through the center of the reserve a distance of over 30 miles; that through this valley was located the Fort Riley military road, over which emigrants westward traveled in great numbers, and over which the Government troops passed in their expeditions to the frontier of the State. Along and upon this valley, which was the richest portion of the reserve, your memorialists located, made their farms, and bred and raised their stock, and being thus situated, and far away from civil or military protection, their property became an easy prey to evil-disposed persons passing through their country.

The evidence shows that during the great emigration to California and Pike's Peak the emigrants traveled over this thoroughfare in great numbers, many of whom when on the reservation beyond civilization and the power of the law became lawless, and wantonly trespassed upon the property of your memorialists, who were unable to protect themselves or resist these depredations, the military being beyond their reach, there being no local authority to which they could appeal for protection, and the intercourse-law, so far as its enforcement in this regard, being practically a dead letter.

The testimony further shows that at the time of the first discovery of gold at Pike's Peak thousands of men from the States started for the mines, and that the road through the reserve became their main thoroughfare; that when great numbers of them reached the more western part of the then Territory they were met by others returning from the mines, who reported that there was no gold at the Peak; whereupon, thousands of them turned back disheartened, many of whom became lawless and desperate, and returning through the reservation committed many depredations upon the property of your memorialists. They destroyed their timber and fences, killed their hogs and poultry, foraged on their grain, and seized and drove away their horses, ponies, and cattle, always selecting the most valuable upon which they could lay their hands. To these depredations your memorialists were forced to submit.

The correctness of these claims being established and the amount "equitably due" your memorialists having been found, as provided by treaty stipulation, your memorialists most respectfully submit that the "action" that should be taken thereon by Congress to carry out the manifest intent and purpose of said article under the provision "that

such action may be taken as shall be just in the premises," is to provide for the payment to your memorialists of the claims thus presented.

The laws of Congress passed in 1830 (vol. 4, Statutes at Large, page 411) provides 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 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, the amount of such property shall be paid out of the Treasury."

The testimony submitted by your memorialists shows that they were unable to apprehend the trespassers upon their property and bring them to trial, or recover either the property stolen or compensation for its loss; that no compensation has ever been made to your memorialists for such losses, and that they with their tribe were at all times peaceable.

It was with the protection guaranteed by the acts of Congress referred to that in 1837 your memorialists commenced removing and from that time did remove from their homes east of the Mississippi to their reservation in the then wild Indian country west of the Missouri.

Your memorialists respectfully submit that the obvious intention of Congress in enacting the laws referred to was to induce the removal of all Indians to the country west of the Mississippi, and it was the promise of this protection and remuneration for losses sustained by the Indians upon the reservations to which they should remove that in no small degree induced your memorialists and their tribe to give up their homes in Michigan, Indiana, and Illinois, for a home in the wilds west of the Missouri.

And your memorialists respectfully urge that, by their removal under these protective acts of Congress, such acts became contracts between the Government and your memorialists, to the carrying out of which the good faith of the Government is pledged; that this was the understanding between the Government and Pottawatomies is evidenced by the said tenth article of the treaty of 1867.

By this treaty of 1867 the Pottawatomies settled with the Government, the Indians relinquishing all claims upon the Government for annuities, and assuming the duties and obligations of citizens of the United States, in consideration of which the Government agreed to pay the Indians the moneys held in trust for them, and take such action as should be just upon their claims for depredations committed by others upon their property.

Your memorialists therefore most respectfully urge that, under the said treaty provisions and acts of Congress, the only action Congress can take which shall be just in the premises is to provide for the payment to your memorialists of the amounts so as aforesaid found equitably due them, and so found by a tribunal constituted by the Government itself, in the formation of which your memorialists had no part.

Very respectfully submitted.

KEEP-SHKUH-WID,
SHMAH-GAH, and others.

A.

POTTAWATOMIE INDIAN AGENCY,
Eleventhmonth 9, 1871.

To the honorable 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 Hon. 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, Sydney 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 claimant for truth and veracity; and such claims as were to all appearances 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 emigration 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 emigrants 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 emigrants passed along this road daily during the emigration, 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.

B.

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 the Commissioner of Indian Affairs, are respectfully submitted to Congress for such action as the treaty contemplates.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

C.

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, (St., 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 back as far as the year 1846.

These, after examination in this Office, were, on the 27th of 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 to 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.

D.

Alexander Peltier, Sidney Smith, and John B. Lasley, being duly sworn, on oath say: We have lived on the Pottawatomie reservation in Kansas since the year A. D. 1847; we have been since that time familiar with the prices of property on said reservation.

From 1847 to 1860 American horses were worth from \$60 to \$100; ponies were worth from \$25 to \$50; cows were worth from \$20 to \$30; yearlings were worth from \$7 to \$12; two-year-olds were worth from \$10 to \$15; three-year-olds were worth from \$14 to \$24; hogs were worth 5 cents a pound, net weight; corn was worth from 50 cents to 75 cents per bushel; potatoes were worth from 25 cents to \$1 per bushel.

From 1860 to 1867 property was much higher on said reservation. The drought in 1860, and the war afterward, raised the prices of all kinds of stock and produce. American horses were worth from \$80 to \$250; ponies were worth from \$40 to \$90; cows were worth from \$30 to \$55; yearlings were worth from \$12 to \$15; two-year-olds were worth from \$15 to \$22; three-year-olds were worth from \$25 to \$35; hogs were worth from 10 cents to 15 cents a pound, net; corn was worth from 50 cents to \$2.50 per bushel, and potatoes were worth from 50 cents to \$3 per bushel. We have no interest whatever in any claims made by the Pottawatomie Indians under the provisions of any treaty stipulations, claiming compensation from the Government of the United States for depredations committed upon their property, and have no interest, directly or indirectly, in their procuring compensation for the losses by them sustained.

ALEXANDER PELTIER.
SIDNEY W. SMITH.
JOHN D. LASLEY.

STATE OF KANSAS,
Pottawatomie County, ss:

On this 2d day of October, A. D. 1871, before me, the undersigned, a notary public in and for the county and State aforesaid, came Alexander Peltier, Sidney Smith, and John D. Lasley, who, being duly sworn, on oath say that the foregoing affidavit by them subscribed is true.

[SEAL.]

J. S. MERRIT,
Notary Public.