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Report : Petition of J. Cook

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IN THE SENATE OF THE UNITED STATES.

MAY 13, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1530.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1530) for the relief of the estate of John Cook, respectfully report :

A bill identical with this was introduced in the House of Representatives, referred to the Committee on Indian Affairs, and on April 11, 1884, favorably reported from that committee. Following is that committee's report:

The Committee on Indian Affairs, to whom the bill H. R. 4802 has been referred, have had the same under consideration, and submit the following report thereon :

That on the 26th of April, 1872, certain members of the Pillager band of Chippewa Indians proceeded to the residence of John Cook, near the village of Oak Lake, Minnesota, and murdered the entire family, consisting of John Cook, his wife, and three children, burning the house and carpenter shop, with all the furniture, clothing, bedding, and tools contained therein, except such articles as they carried away.

The circumstances of this depredation appear to have been carefully investigated by the proper agent of the Indian Department, and the Commissioner of Indian Affairs recommends an allowance of the claim to the amount of \$1,800.

A schedule of the items of the loss has been filed and sworn to by the administrator, the value of which is fixed at \$2,104.85, but your committee, after carefully scrutinizing these items, deem it their duty to recommend a reduction of the amount to \$1,500, as the articles are of such a nature, and the circumstances surrounding their destruction of such a character, as to render it improbable that the witnesses could judge accurately as to their precise value.

The fact of the destruction of the property as claimed, and as reported by the Department, is abundantly proven by the confession of one of the Indians, Kah-kah-be-sha, who was tried and convicted of the offense before the district court of Becker County, Minnesota, as well as by the testimony of the attorney-general of the State of Minnesota, who prosecuted the indictment under which Kah-kah-be-sha was convicted, and by the affidavits of witnesses who were neighbors living in the immediate vicinity of the murdered family. The certificate of the attorney-general is as follows:

I hereby certify that as attorney-general of the State of Minnesota I prosecuted the Indian Kah-kah-be-sha for the murder of the Cook family; that he was found guilty of the murder of John Cook, and that it appeared in evidence on the trial of his indictment that he belonged to the Pillager band of Indians, as certified to by James Whitehead in his foregoing certificate, dated December 17, 1873.

H. R. E. CORNELL,
Attorney-General.

The letter of the Commissioner of Indian Affairs transmitting the papers to the Secretary of the Interior contains a statement of the facts as shown by the evidence submitted to your committee, and is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., May 14, 1874.

SIR: I have the honor to submit herewith a claim presented by Franklin Cook, administrator of the estate of John Cook, deceased, for \$2,104.85, on account of a depredation alleged to have been committed by Pillager Chippewas in April, 1872.

The administrator testifies that on the 26th of April, 1872, Kah-kah-be-sha, and others of the Pillager band of Chippewas, entered the premises of his brother, John Cook, situated near the village of Oak Lake, Minnesota, and murdered the entire family, consisting of the said John Cook, his wife, and Frederick W. Cook, Mary E. Cook, and John W. Cook, their children; and that they then burned the house and shop, with all the goods and chattels enumerated in a schedule annexed to his (the administrator's) affidavit, except such articles as they stole and carried away. A gold watch, gold chain, and some few other things were recovered by purchase from the Indians, paying for them all that they were worth. The Indian charged with the murders was arrested, tried, and convicted; this appears from the evidence filed in the case, and, considered in connection with the testimony of several witnesses who testify as to the destruction of the property, the fact of the depredation is regarded as fully established.

It is shown by the testimony of James Whitehead that he was employed as interpreter at the trial of Kah-kah-be-sha before the district court in Becker County, Minnesota, and that after conviction the Indian confessed his guilt "and implicated others of the Pillager band, as being with him and assisting in the massacre"; that he also confessed that they "burned the house, with all the household goods, except such as were taken away," and that he took, in addition, between eighty and ninety dollars in currency and coin.

The agent reports that the Pillager Indians in council declared that they knew nothing of the murder and destruction of the property, except from hearsay, and that they did not regard Kah-kah-be-sha as a Pillager, he having allied himself with the Sandy Lake band, and that they ought not to be held responsible for what he did after he had united with that band.

The property embraced in the schedule referred to is of such a character that it would seem to be doubtful that the administrator or any of the witnesses could swear positively as to their knowledge of the precise number of the articles contained therein, and the value thereof, without having an inventory of them previously taken. It is believed that an overestimate has been made in regard to many articles, and that under all the circumstances of the case \$1,800 would be an ample remuneration for the property lost; and I respectfully recommend that the claim be allowed for that sum.

Very respectfully, your obedient servant,

EDWARD P. SMITH,
Commissioner.

The SECRETARY OF THE INTERIOR.

These Indians have, ever since the date of this depredation, been in receipt of large sums from the United States every year, amounting, up to the close of the Forty-seventh Congress, to the sum of \$420,595.40, as more fully appears by the subjoined table, giving the date and amount of each appropriation, with volume and page of the Statutes at Large.

Date.	Amount.	Statutes at Large.	
		Volume.	Page.
May 29, 1872.....	\$37, 346 66	17	169-170
February 14, 1873.....	37, 346 66	17	443
June 22, 1874.....	63, 762 89	18	152-174
March 3, 1875.....	25, 166 66	18	426-427
August 15, 1876.....	25, 566 66	19	180
March 3, 1877.....	35, 566 66	19	274-292
May 27, 1878.....	30, 566 66	20	68-83
February 17, 1879.....	30, 466 66	20	299-313
May 11, 1880.....	30, 466 66	21	118-129
March 3, 1881.....	35, 490 80	21	430-488-499
May 17, 1882.....	35, 166 66	22	72-82
August 6, 1882.....	515 11	22	278
March 1, 1883.....	33, 166 66	22	436-446
Total.....	420, 595 40		

The report of the Secretary of the Treasury for 1883, p. 707, shows that the sum of \$252,333.26 still remains to be paid these Indians under treaty stipulations.

The bill is drawn to provide the payment of this small sum out of these funds, in accordance with the provisions of the acts of June 3, 1834, sec. 17 (4 Statutes at Large, 731), and February 28, 1859, sec. 8 (11 Statutes at Large, 401).

In view of all the facts, your committee recommend the passage of the bill with the amendment reducing the amount to \$1,500.

Your committee referred said bill to the Commissioner of Indian Affairs, and received in response the following communication:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 9, 1884.

SIR: I am in receipt of your letter of the 6th instant, inclosing Senate bill No. 1530, together with report No. 4802, of House Committee on Indian Affairs, and a letter of Charles and William B. King, claimant's attorneys, "for the relief of the estate of John Cook," for the payment of the sum of \$1,800 on account of depredations by Pillager band of Chippewa Indians in the year 1872, and requesting to be informed: 1st, "Ought the bill in your (my) opinion to become a law?" 2d, "Ought the amount to be paid out of the general fund, or ought it to be paid out of the annuities belonging to the Pillager band of Chippewas?"

In reply to your first question I have the honor to say that this office, under date May 14, 1874, reported the claim to the Department, recommending an allowance in the sum of \$1,800, and I know of no reason why the action of the office as stated in that report, regarding the amount to be paid, should be modified or changed in any way.

In answer to your second inquiry I recommend that the amount as allowed be paid from funds due "Chippewa, Pillager, and Lake Winnebagoshish bands" under treaty stipulations.

The inclosures accompanying your letter are herewith returned.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

HON. ANGUS CAMERON,
Senate Committee on Indian Affairs, Washington, D. C.

Your committee recommend that the bill be amended so as to provide that said amount of \$1,500 shall be paid from the funds due the Chippewa, Pillager, and Lake Winnebagoshish bands, and when so amended that it do pass.