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Report : Claim of M. Thompson

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1884.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 932.]

The Committee on Claims, to which was referred the bill (S. 932) for the relief of Mary Jane Thompson, executrix of Jeter L. Thompson, deceased, respectfully reports:

That the claimant, Mary Jane Thompson, is a native Cherokee citizen, and the widow of Dr. Jeter L. Thompson, deceased, who was a citizen of the Cherokee Nation. Dr. Thompson died in 1869, leaving a will appointing the claimant his "sole heir" and executrix, which, although a very informal document, is perhaps sufficient to entitle her to any relief against the United States which her husband was entitled to, if any, on account of this claim.

In 1862 he resided, and for ten years prior thereto had resided, near Grand River, Tahlequah district, Cherokee Nation, upon a farm owned by him, and had acquired a considerable amount of personal property, consisting of horses, mules, cattle, sheep, grain, &c. A treaty of alliance was entered into on the 7th day of October, 1861, between the Confederate States and the Cherokee Nation.

During the summer of 1862 an expedition, known as the Indian Expedition, was sent out by the United States from Fort Scott to the Cherokee Nation, under the command of Col. William Weir, now deceased. The Confederate troops had, prior to the advance of the Federal troops, in the summer of 1862, according to the affidavit of the claimant, "been in the Territory in superior numbers."

During the months of July and August, 1862, while the Federal troops were encamped near the residence of Dr. Thompson, certain personal property belonging to him was taken and used by the Federal troops. There was filed in the War Department, as near as your committee can determine the date, in May, 1881, an account, of which the following is a copy:

The United States, to Mrs. Mary Jane Thompson, Dr.

27 head of American horses, at \$125	\$3,375 00
3 head of Indian horses, at \$75	225 00
21 head of mules, at \$150	3,150 00
4 yoke of work oxen, at \$100	400 00
17 head of Durham cows, at \$50	850 00
243 head of steers, cows, and young cattle, at \$15	3,645 00
164 head of beef steers, at \$30	4,920 00

67 head of sheep, at \$3.....	*\$210 00
75 head of large pork hogs, at \$15.....	1,125 00
700 pounds bacon, at 20c.....	140 00
1,500 pounds flour, at \$6.....	90 00
8 bushels corn meal, at \$1.....	8 00
8 gallons molasses, at \$1.....	8 00
1 barrel sugar, 260 pounds, at 20c.....	52 00
1,625 bushels oats, at 75c.....	1,218 75
3,125 bushels corn, at \$1.....	3,125 00
100 bushels rye, at \$1.....	100 00
100 bushels barley, at \$1.....	100 00
20 tons Hungarian hay, at \$20.....	400 00
2 two-horse wagons, at \$75.....	150 00
2 sets harness, at \$25.....	50 00
Total.....	23,341 75

The account was verified by the affidavit of the claimant taken in the district of Tahlequah, in the Indian Territory, July 12, 1879. The testimony filed with this claim, and subsequently filed to support it, consisting mainly of *ex parte* affidavits, is very voluminous, and its examination involved much labor with very unsatisfactory results. The Department appears to have exhausted every known source of information to ascertain the merits of the claim. The claim was referred to Col. C. H. Tompkins, chief quartermaster of the Department of the Missouri, for investigation. An agent was sent out to examine the claim, who made a very voluminous report, dated May 31, 1882, giving the substance of the testimony already on file as well as that taken by himself. The closing portion of his report is as follows:

In all my inquiries in regard to Dr. Thompson, I had in view the current report that he was for a short time under arrest, but so far as I could learn, the whole nation at that time was in a very doubtful condition; the chief and nearly all his connections had to be escorted out of the Territory, and it was only by a careful examination that the real status of prominent citizens could be ascertained.

CONCLUSION.

With these views and upon the basis herein stated, I recommend that claimant be allowed and paid for quartermaster's stores taken from her late husband, Dr. Jeter L. Thompson (now deceased), for and used by the Army of the United States, in or about the months of July and August, 1862, as follows:

29 horses and mules, at \$75 each.....	\$2,125
1,250 bushels corn, at 50 cents each.....	625
750 bushels oats, at 30 cents.....	225
10 tons of hay, \$10.....	100
2 wagons, \$65 each.....	130
2 sets harness, \$20 each.....	40
Total.....	3,245

If I am to make any recommendation as to the amount to be allowed to claimant for commissary stores taken at same time from her late husband, Jeter L. Thompson (now deceased), I should recommend that she be allowed as follows: For—

400 head cattle, at \$18.....	\$7,200 00
30 head sheep, at \$3.....	90 00
40 head hogs, at \$10.....	400 00
500 pounds bacon, at 12 cents.....	60 00
625 pounds flour, at \$2.50 per cwt.....	15 62
Total.....	7,765 62

* On or about July and August, in the year 1862, property taken by order of John Ritchey, colonel of the Second Regiment of Indian Home Guards of the United States Volunteers.

The report of the special agent was referred by the chief quartermaster of the Department of the Missouri to the Quartermaster-General with the following indorsement:

Respectfully submitted to the Quartermaster-General, U. S. A. :

There is no doubt but that a large amount of property was taken from Dr. J. L. Thompson, in the Indian Territory, by and for the use of the Indian Home Guards, in 1862. But it is very difficult to approximate, and much more to fix with positiveness, the quantities so taken.

The testimony shows that there was on his estate, where the troops went into camp near him, large quantities of the supplies charged for, and that nearly everything which he had, which an army could use, was taken from him.

The estate is without doubt entitled to some compensation, but in fixing the amount we have but little to guide us.

The present claimant (the doctor's widow) swears to about all there is charged for in the application; but in stating quantities she relies mostly upon memoranda, which her husband made up, to the best of her recollection. This memoranda was made by the doctor some years after the transaction involved. Jordan Thompson, a former slave of the doctor's, testifies to the taking of a good deal of the property, but he is not definite as to quantities, and uses such expressions as "about so much," "not less than," &c.

Others can testify to the wagons and harness, and to certain number of animals; but as to forage, the only evidence at all definite, or approaching it, is that of the widow, and of a former slave, and this must be taken with grains of allowance; and our conclusions after all will be more of a compromise than of certainty.

The investigating agent appears to have given the matter much consideration, and I shall accept his conclusions as the best that can be reached. This I do in preference to reporting against the whole claim as not proven, which I think should not be done.

The cattle, flour, meal, &c., are not considered, as they do not pertain to the Quartermaster's Department.

There is no satisfactory evidence as to the taking and use of the barley and rye.

In view of the foregoing, I recommend allowance as follows:

29 horses and mules, at \$75	\$2, 175
10 tons hay, at \$10	100
2 wagons, at \$50	100
2 sets harness, at \$10	20
1,250 bushels corn, at 50 cents	625
750 bushels oats, at 30 cents	225
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Total	3, 245

November 10, 1882.

Quartermaster, United States Army.

Approved for \$3,245.

ALEXANDER J. PERRY,
Assistant Quartermaster-General.

Upon this report Acting Quartermaster-General Alexander J. Perry on November 16, 1882, made the following report to the Third Auditor of the Treasury:

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., November 16, 1882.

SIR: The inclosed claim in favor of Mrs. Mary Jane Thompson, of Cherokee Nation, Indian Territory, for—

27 head American horses, at \$125	\$3, 375 00
3 head Indian horses, at \$75	225 00
21 head mules, at \$150	3, 150 00
1 yoke work oxen, at \$100	400 00
17 head Durham cows, at \$50	850 00
243 steers, cows, and young cattle, at \$15	3, 645 00
164 beef steers, at \$30	4, 920 00
67 sheep, at \$3	210 00
75 large pork hogs, at \$15	1, 125 00
200 pounds bacon, at 20 cents	140 00
1,500 pounds flour, 6 cents	90 00
3 bushels corn meal, at \$1	8 00

8 gallons molasses, at \$1	\$8 00
1 barrel sugar, 260 pounds, at 20 cents	52 00
1,625 bushels oats, at 75 cents	1,218 75
3,125 bushels corn, at \$1	3,125 00
100 bushels rye, at \$1	100 00
100 bushels barley, at \$1	100 00
20 tons Hungarian hay, at \$20	400 00
2 two-horse wagons, at \$75	150 00
2 sets harness, at \$25	50 00
Amounting as stated to	23,341 75

has been examined, and being convinced that it is in part just and of the loyalty of the claimant and of Dr. J. L. Thompson, now deceased, and that a part of the stores have been actually received or taken for the use of and used by the Army, I respectfully report it to you, with a recommendation for settlement under section 300, "A" Revised Statutes, U. S., and section 2 of act approved June 16, 1874, chapter 285, as follows, viz:

29 horses and mules, at \$75 each	\$2,175 00
10 tons of hay, at \$10 per ton	100 00
2 wagons, at \$50 each	100 00
2 sets of harness, at \$10 each	20 00
1,250 bushels corn, at 50 cents per bushel	625 00
750 bushels oats, at 30 cents per bushel	225 00
Total	3,245 00

Only items of quartermaster's stores have been considered.

Very respectfully, your obedient servant,

ALEX. J. PERRY,
Acting Quartermaster-General

THE THIRD AUDITOR OF THE TREASURY.

The amount reported, namely, \$3,245, was duly audited by the Treasury Department and paid. On the 19th of November, 1883, the Commissary-General, to whom the claim for property coming under the head of commissary stores had been referred, returned the claim to the Third Auditor of the Treasury without recommendations, with the following letter:

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., November 9, 1883.

SIR: The inclosed mixed claim of Mrs. Mary J. Thompson, widow of Dr. Jeter L. Thompson, deceased, late of Tahlequah district, Indian Ter., received from you by references of November 20, 1882, and May 17, 1883, having been examined under section 3, act of July 4, 1884, so far as it pertains to subsistence stores, stated at \$11,439, is respectfully returned herewith, without recommendation for settlement.

No receipt or voucher accompanies the claim, nor have the stores been accounted for by any report or return made to this office by any officer, so far as can be ascertained, nor is any proper officer named as the one taking or receiving them.

While there is no doubt from the evidence presented that large quantities of property were taken from the claimant, it cannot be determined that such property was taken by proper officers "actually for the use of and used by" the Army, as distinguished from acts of deprecation—soldiers and others helping themselves—for which the law named does not provide payment.

Very respectfully, your obedient servant,

R. MACFEELY.

Among the papers accompanying this claim is the following letter and statement from Arthur Jacobi, late colonel of the Ninth Wisconsin Volunteers:

CHICAGO, August 29, 1883.

GENERAL: I herewith return letter with my reply as requested.

Very respectfully, your obedient servant,

ARTHUR JACOBI.

General R. MACFEELY,
Commissary-General Subsistence, Washington, D. C.

In the case of Mary Jane Thompson, widow of Dr. J. Thompson, the question whether the deceased claimant was regarded as loyal to the United States Government, &c., will be sufficiently answered by the following copy of principal Chief Ross's letter:

EXECUTIVE DEPARTMENT,
Park Hill, Cherokee Nation, July 8, 1862.

SIR: Your communication of yesterday's date from headquarters Indian Expedition Camp on Wolf Creek, under a flag of truce, per Dr. Gilpatrick, has been duly received, and in reply I have to state that a treaty of alliance, under the sanction and authority of the whole Cherokee people, was entered into on the 7th day of October, 1861, between the Confederate States and the Cherokee Nation, and published before the world; and you cannot but be too well informed on the subject to make it necessary for me to recapitulate the reasons and circumstances under which it was done. Thus the destiny of this people became identified with that of the Southern Confederacy. There is no nation of Indians, I venture to say, that has ever been more scrupulous in the faithful observance of their treaty obligations than the Cherokees.

Allow me further to appeal to the history of my long public and private life to sustain the assertion that my policy has ever been to preserve peace and good feeling among my people, and the observance of law and order; that the horrors of civil war, with which this beautiful country is threatened, is greatly to be deprecated, and I trust that it may be averted by the observance of the strict principles of civilized and honorable warfare by the Army now invading our country under your command. I cannot under existing circumstances entertain the proposition for an official interview between us at your camp.

I have, therefore, respectfully to decline to comply with your request.

I have the honor to be, sir, your obedient servant,

JOHN ROSS,
Principal Chief Cherokee Nation.

Col. WILLIAM WEIR,
Commissary-General of Subsistence, Washington, D. C.

Chief Ross, whom we soon thereafter captured at Park Hill and sent to Washington a prisoner of war, at the end of the war succeeded in convincing the Government of his loyalty, was reinstated. Had he lived longer he would probably claimed a large amount for damages for his princely mansion and furniture, which were not handled very carefully by the men, and for the taking of innumerable horses, mules, cattle, &c., in the same patriotic manner as Dr. Thompson.

Loyalty was an article unknown in the Cherokee Nation and surroundings. There were two factions within said nation, one composed of the better and wealthier class, headed by Ross, the other of the poor and miserable full bloods, headed by somebody else, striving for the supremacy and all that it implies.

I have no doubt that many more loyal Cherokees, of the Thompson stripe, at the time of an invasion of their country, preferred to find shelter and food under the United States flag to exposure and want under the rebel flag, and finally to claim large sums of money for reward of their cowardice and double dealing.

To illustrate the character of the loyal portion of Cherokees and other tribes which did not join the rebel army, and enlisted for a while in the Union Army, for reasons best known to themselves, I quote Colonel Fumas's (commanding Indian brigade) language in a report to the commanding officer of the Indian expedition: "Permit me to say and to express this opinion in regard to the Indian regiments: you must either disband them or keep them immediately under your thumb, or they will all desert within 24 hours; as soldiers they are worthless," &c. Also language of commanding officer of the Indian expedition to General Blunt, commanding department of Kansas: "The Indian regiments will be a great impediment to this little army; if encamped separate from white troops, they will desert and steal the property of the United States." There is no doubt that these loyal Cherokees stole anything within their reach—horses, mules, oxen, cows, sugar, molasses, &c., especially from persons like Dr. Thompson, who naturally belonged to the Ross party. These regiments, after a brief existence, mustered themselves out by desertion, and supplied with arms, accouterments, and ammunition began a career of murdering and plundering at their hearts' content, and at their own responsibility, which occurred in the latter part of July, 1862.

In answer to your request to state whether any subsistence supplies were taken on the expedition, and if so, what disposition was made of them, &c., I will quote from General Orders No. 7, headquarters Indian Expedition, Camp Quaw Paw, August 2, 1862:

The colonel commanding has been informed that officers and soldiers of the command have brought with them from the enemy's country horses, mules, &c., also that a large number of cattle are in or near this camp without any legal owner. All such stock is contraband, and legally belongs to the United States.

It is therefore ordered—

1. The regimental, battery, and detachment commanders will, immediately after receiving this order, investigate what horses, mules, and ponies are contraband, take possession of them through their quartermaster, who will take an inventory and report to Capt. William Finkler, division quartermaster.

2. It is understood that contraband includes all stock which was bought, traded for, or taken in the Indian Territory.

3. The division quartermaster will immediately return stock to any person claiming and proving legal title.

4. Capt. William Finkler, division quartermaster, is hereby ordered to take charge of all the cattle now in the camp and vicinity. He will turn over so much of the cattle to Mr. Babcock, beef contractor, as is needed for this command.

5. A board of survey, consisting of ———, is hereby appointed to appraise such cattle turned over to the beef contractor, and to perform such other duties as may be required.

By order of Col. F. Salomon, commanding Indian expedition.

A. BLOCKY,

First Lieutenant and Acting Assistant Adjutant-General.

The stock referred to was taken on ——— Prairie about 30 miles northeast from Thompson's Rancho, on Cabin Creek. Neither Dr. Thompson, nor anybody else, to my knowledge, made any claim for return of stock, or for payment for the same.

I have the honor to be, general, your obedient servant,

ARTHUR JACOBI.

And a letter from Colonel Ritchie of which the following is a copy:

TOPEKA, May 24, A. D. 1862.

DEAR SIR: Your principal inquiry was or is in reference to one Dr. Thompson. As to the doctor I am not clear whether he claimed that title or not; the Thompson that I knew was captured by my command between the Union and rebel lines. I released him from arrest and allowed him to go to his family; he came to my camp and wanted me to do something that I felt doubtful about; he insisted that he wanted me personally, and finding I was so engaged or on my guard, he seemed unconcerned that he whiled away the time for his return; I sent a strong guard with him, and they, his rebel force, were so weak, seeing our forces fled. Still later, while passing his residence soon after, my rear guard was fired upon and he was brought into camp, and he was a prisoner with others, and one of the acknowledged rebels told me that he wanted to tell me the game Thompson was playing. If he is Dr. Thompson you allude to, I left him with other prisoners under guard to engage in a battle. I have no distinct recollection of a talk with Mrs. Thompson. I had no time to talk much with ladies. I had John T. Cox for quartermaster, Tobias Billings acting, Chester Thomas, and acted myself sometimes, in their absence. There were but few loyal people in that part of the district and we were foraging most of the time. All I have written is from memory, not recollecting dates, and I have not referred to papers. Now, if the Thompson I have been writing about is not the doctor, I do not know him; the Thompson I was writing about was a rather tall, black haired man, middled age, say 35 or 40 years old, at the time of our acquaintance. The man I am writing about, had the war continued, and I remained in the service, would have been tried as a spy and shot by order of a military court martial.

I am, sir,

JOHN RITCHIE,

Late Colonel, 2d Indiana N. G.

WILLIAM N. REEVE, Esq.

From the papers accompanying this claim, it appears more than probable that Dr. Jeter L. Thompson was the Thompson referred to by Colonel Ritchie.

In view of the time which elapsed between the alleged taking of the property in question by the Federal troops and the presentation of this claim, and of the fact that both the claimant and her husband were at the time citizens of the Cherokee Nation, and that that nation had entered into a treaty of alliance with the Confederate States, and that their territory was occupied by the Confederate troops until the advent of the Federal troops in 1862, and of the unsatisfactory character of the testimony, your committee adopts the language of the Commissary—

General, speaking as to the claim now under consideration, namely, "While there is no doubt from the evidence presented that large quantities of property were taken from the claimant, it cannot be determined that property was taken by the proper officers 'actually for the use of and used by' the Army, as distinguished from acts of depredation—soldiers and others helping themselves," and adds that it does not appear to the satisfaction of your committee that said Dr. Thompson, or that his widow, has any claim to the especial favor of the United States, either on account of the loyalty of the Cherokee Nation or of their personal loyalty to the United States prior to or at the time of the alleged taking of their property.

Your committee therefore recommends that the bill be indefinitely postponed.