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Report : Claim of E. Northcutt and Brothers

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IN THE SENATE OF THE UNITED STATES.

JUNE 10, 1886.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 1340.]

The Committee on Claims, to whom was referred the bill (S. 1340) for the relief of E. J. Northcutt and Brothers, for losses sustained by Indian depredations in Southern Oregon, in 1855, having duly considered the same, report:

By the bill it is proposed to authorize the Secretary of the Treasury to pay to the firm of E. J. Northcutt and Brothers, composed of E. J. Northcutt, S. D. Northcutt, and William W. Northcutt, of Brooks, Oregon, out of any moneys in the Treasury not otherwise appropriated, the sum of \$6,210, in full compensation for property destroyed and carried off by the Indians of Southern Oregon in the outbreak of the Rogue River Indians in the year 1855.

The reports, papers, and evidence in this claim, filed in the Interior Department, together with the recommendation and allowance of the Secretary of the Treasury concerning the same, were transmitted to the Speaker of the House of Representatives by the Secretary of the Interior, August 25, 1883, in compliance with section 445 of the Revised Statutes. The facts appear from the letter of the Secretary transmitting such papers and the report of the honorable Commissioner of Indian Affairs accompanying the same, which are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 10, 1883.

SIR: I have the honor to submit the claim of E. J. Northcutt and Brother, filed in this office August 2, 1880, amounting to \$6,210, on account of depredations alleged to have been committed by Rogue River Indians in 1855.

The claimants in their sworn declarations of March 25, 1857, and the affidavit of Shedrach D. Northcutt, dated July 13, 1880, state that on the 24th day of October, 1855, Indians attacked their house situated in Deer Creek Valley, in the county of Josephine, State of Oregon, about 7 o'clock in the morning, and continued to fire upon the house until about 12 o'clock m., then commenced destroying property, killing and driving off stock, as set forth in said declaration, and valued at the sum of \$6,210. That no part of said property has been recovered by them. In support of their claim, claimants file the affidavits of Salathiel Northcutt, James Thompson, and Joseph H. Dickerson, who corroborates the statements made by claimants in their declaration, also a letter from R. P. Earhart, secretary of the State of Oregon, dated July 20, 1880, (marked Exhibit "B") certifying as to character of S. D. Northcutt, one of the claimants.

P. B. Sinnott, late United States Indian agent at the Grande Ronde Agency, under date August 29, 1881, states:

"Having called together the Indians of the Rogue River tribe at my agency, and interrogated them minutely upon the subject of the claims of E. J. Northcutt and

Brothers, above referred to. I have the honor to report that said Indians each and all disclaim any knowledge of such depredations. I would say in conclusion of this subject, that I have but four or five Indians upon my agency who have any recollection of the occurrences which took place during the Indian war of 1855."

Agent L. M. Nickerson, of the Klamath Agency, reporting upon the claim, says: "I am satisfied that the claim of these men (Northcutt & Bro.) is just and reasonable; that the evidence is credible, and the prices of the articles destroyed were not above the market price of the same articles at that time."

United States Indian Agent E. A. Swan, of the Siletz Agency, Oregon, under instructions from this office, dated November 24, 1882, proceeded to Salem, Oreg., to investigate and report upon this claim, and under date of March 8 last states that he examined four witnesses, whose names are as follows: Shedrach D. Northcutt, one of the claimants, Salathiel T. Northcutt, George A. Edes, and Andrew Kelly. "The proof was given by each witness, at which time the writer asked such questions eliciting information deemed proper, to the end that the facts in the case might appear."

The following property it is claimed and sworn to was taken from the Northcutt Brothers and destroyed or carried away by the Rogue River Indians, none of which was by them recovered or any part thereof:

40 pounds butter, worth, per pound, 75 cents.....	\$30 00
50 pounds bacon, worth, per pound, 40 cents	20 00
40,000 pounds potatoes, worth, 8 cents	3,200 00
3,000 pieces of board, per M pieces, \$50	150 00
50 hogs, each worth \$15	750 00
2 American horses, each \$280	560 00
2 yoke oxen, each worth \$250	500 00
1 building, store and hotel	1,000 00
	6,210 00

Shedrach D. Northcutt, one of the claimants, testifies to the above, and his statement is corroborated by his brother Salathiel T. Northcutt, who was at the time in the employ of the firm. Upon inquiry he finds parties who have known them many years, who speak of them as honest, industrious, and well-meaning men, and the agent adds: "They [the parties above named] appear careful, candid, and in manner to inspire confidence in their statements."

George A. Edes and Andrew Kelly, the other witnesses, are prominent men in the State, the latter, the present mayor of Salem, Oreg., "and for honesty, integrity, and well-doing, has no superior in the city of his home."

The agent further states that after giving the claim a thorough sifting comes to the conclusion that these parties were actual losers, and ought to be remunerated, and recommends that they be paid the sum of \$5,750, making a deduction of \$400 in the item for potatoes and \$60 in the price of the two horses.

After a careful examination of all the evidence in this case, I am satisfied that the depredation was committed as alleged, and recommend that the sum of \$5,450 be paid to claimants (deducting \$760 from the amount claimed) from public funds, there being no funds due said Indians under treaty stipulations.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 25, 1883.

The SPEAKER HOUSE OF REPRESENTATIVES :

SIR: In compliance with the first clause of section 445, Revised Statutes, I have the honor to transmit herewith the reports, papers, and evidence in the claim of E. J. Northcutt and brother, Josephine County, Oregon, for compensation on account of depredations alleged to have been committed by Rogue River Indians, amounting to \$6,210, in 1855.

A report of the Commissioner of Indian Affairs, dated July 10, 1883, shows the nature, character, and amount of said claim, the evidence presented in support thereof, and the action taken by that officer under the rules and regulations prescribed by this Department, under section 466, Revised Statutes, for the investigation of such claims. He recommends an allowance of \$5,450 as the probable value of the property charged for.

The fact that the depredation was committed by Indians is quite well established by proof taken soon after the claim originated, as well as by the latter testimony.

In my opinion the allowance recommended by the Commissioner is reasonable and just.

Very respectfully,

M. A. JOSLYN,
Acting Secretary.

It will be observed that the Secretary recommends an allowance of \$5,450 as the probable value of the property of the claimants destroyed.

Among the proofs filed in the Interior Department is an affidavit of S. D. Northcutt, to which are attached what purport to be copies of affidavits of Edward J. Northcutt, Shedrack D. Northcutt, William W. Northcutt, Salathiel Northcutt, James Thompson, and Joseph H. Dickerson, sworn to on the 25th day of March, before John D. Post, justice of the peace, the originals of which, it is stated by said S. D. Northcutt in his affidavit, were, as he verily believes, filed with the Commissioner of Indian Affairs at Washington, D. C. These copies of affidavits appear to have been received and substituted in the place of the originals.

In a letter from the Secretary of the Interior, transmitting, in compliance with the provisions of the Indian appropriation act of March 3, 1885, lists of Indian depredation claims filed in the Indian Bureau and remaining unpaid, being Executive Document 125, first session Forty-eighth Congress, at page 160, this claim is stated to have been filed in December, 1857.

The case is, therefore, one properly presented under the seventeenth section of the act of 1834. That section provided for the presentation and proof of claims for Indian depredations, and contained the following provision:

And if the nation or tribe to which such Indian (the Indian committing the depredation) may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States.

This provision remained in force, and claims for losses from Indian depredations were paid by the United States in accordance therewith until the passage of the act of February 28, 1859, section 8 of which repealed the provision for the payment of these claims from the Treasury, and was in the following words:

And be it further enacted, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes and preserve peace on the frontiers," approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases by Indians trespassing on white men, as described in the said act, be, and the same is hereby, repealed: *Provided, however,* That nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act.

By joint resolution passed June 25, 1860 (12 Statutes, 120), it was provided:

That the repeal by the eighth section of the act of Congress approved the 28th day of February, 1859, of so much of the act of Congress entitled "An act to regulate trade and intercourse with Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases by Indians trespassing on white men, as described in said act, shall not be construed to destroy or impair any right to indemnity which existed at the date of said repeal.

It will appear from the above that the provision of the act of 1834, in substance, that if no annuity was payable to the nation or tribe com-

mitting the depredation, the amount of such claims should be paid from the Treasury of the United States, as to this claim, is still in force, and there seems to be no reason why it should not be paid.

Your committee therefore recommend that the bill be amended by striking out the words "six thousand two hundred and ten" in lines 7 and 8 of the printed bill, and inserting the words "five thousand four hundred and fifty," and by striking out the letter "N" in the name of William N. Northcutt in line 5 of the printed bill and inserting the letter "W," and that when so amended the bill do pass.

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