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Creditors of Pottawatomie Indians.

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CREDITORS OF POTTAWATOMIE INDIANS.

JANUARY 27, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PEEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4487.]

The Committee on Indian Affairs, to whom was referred House bill 4487, report as follows :

The facts in this case are as follows :

(1) Anthony Navarre, Stephen Negamquet, and John Anderson are the duly appointed and recognized delegates of the Citizens' Band of Pottawatomie Indians, being duly recognized as such by the Interior Department.

(2) Navarre, one of said delegates, came to Ellis, a lawyer of Washington, in April, 1885, and requested him to take charge of the claims of said Indians against the United States, and Ellis agreed to do so, provided a contract could be drawn up. Navarre was the only one of said delegates then in Washington and the powers of said delegates required the concurrence of all three of them in the contract.

(3) It was finally agreed that Ellis should go on with the business, it being understood that he should have 10 per centum of whatever claims might be collected through his exertions, and that a contract would be made pursuant to the requirements of sections 2103 as soon as the other delegates came to Washington.

(4) Ellis then assumed charge of the business of said Indians, argues their claims before the committees, and succeeded in having a clause placed in the deficiency bill in the first session of the Forty-ninth Congress, whereby over \$49,000 was appropriated for said Indians, \$31,715.85 of which inures to the benefit of said Citizens' Band of Pottawatomies, and the distribution of which to said Indians has been ordered by the Interior Department. This appropriation was made August 3, 1886.

(5) The other two delegates did not arrive in Washington until September and November, 1886, after Ellis' services had been rendered. As soon as they came they went before Judge Cartter, chief justice of the supreme court of the District, and made a contract with Ellis to pay him 10 per cent. of the amount collected through his services. This contract was drawn in strict compliance with law, but the Attorney-General held it to be invalid because drawn up *after* the services had been rendered.

Ellis then appealed to Congress.

There is no question but that Ellis performed the services. The record shows that it was upon his argument that the Committee on Ap-

propriations put the item for said Indians in the deficiency bill. The Indian delegates themselves swear that Ellis rendered the service, and should be paid.

The Secretary of the Interior is of opinion that Mr. Ellis rendered valuable services to said Indians, and should be paid therefor. Under these circumstances we believe that the attorney, having faithfully and successfully performed his duty, should not be deprived of his fees because of mere informality in the making of the written contract. All parties are agreed that he should be paid. We so think, and recommend that the bill do pass.

We append the letter of the honorable Secretary of the Interior, and the affidavits of E. John Ellis and A. F. Navarre, John Anderson and Stephen Negahuquet.

DEPARTMENT OF THE INTERIOR,
Washington, January 27, 1887.

SIR: I have the honor to return herewith H. R. 10207, entitled "A bill to enable the Secretary of the Interior to pay certain creditors of the Pottawatomie Indians out of the funds of said Indians," which was referred by your committee December 15, 1886, for the views and suggestions of this Department.

The bill authorizes and directs the Secretary of the Interior "to pay, out of moneys appropriated for the Pottawatomie Indians by the act of August 3, 1886, entitled 'An act making appropriations to supply deficiencies,' etc., a sum not exceeding \$3,175, being 10 per centum of the amount or proportion of said appropriation due the Citizens' Band of Pottawatomie Indians, to E. John Ellis, for professional services rendered said Citizens' Band in the collection of said claims."

While the facts regarding this claim and the ascertainment of the amount due were prepared in this Department and presented to Congress as early as 1870, no appropriation for its settlement was made before that provided for in the act of August 3, 1886 (24 Stat., 272), and it is for the service rendered in securing this action by Congress upon the matter that compensation is claimed.

The delegates representing the larger portion of the Pottawatomies interested in the fund have recognized the fact that valuable services were rendered by Mr. Ellis in the matter by entering into a contract with him under authority granted to them, and in their representative capacity, for payment therefor at 10 per centum of the amount of their claim.

As this contract was not found to have been made in full compliance with the statutes governing the making of contracts with Indians, no allowance could be made by the Department thereunder.

The Commissioner of Indian Affairs states in report on the case—copy herewith—that, "to far as this office is informed, Mr. Ellis performed no service whatever in connection with the action of this office and the Department in determining the claim and presenting same to Congress for action."

I have, however, been informed that Mr. Ellis did render valuable services to the Indians in the matter while it was pending before Congress and in the committees thereof, and I believe that in equity he is entitled to pay for such services.

The copy of the bill (H. R. 10207) is herewith returned.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

CITY OF WASHINGTON,
District of Columbia:

I, E. John Ellis, do solemnly swear, that I am a lawyer, now practicing my profession in this city; that in April, 1885, I was approached by A. F. Navarre, and then consulted with him in regard to the business of the Pottawatomie Indians; that in September A. F. Navarre showed me a power of attorney, appointing him, John Anderson, and Stephen Negahuquet, delegates of the Citizens' Band of Pottawatomie Indians, and asked me to take charge of the business of said band here in Washington and to prosecute their claims against the United States; that I agreed to do so

provided a legal contract could be made stipulating adequate fees for my services; that it was finally agreed that I would act as attorney and prosecute said claims for 10 per cent. of whatever amount might be recovered, and that a legal contract would be drawn up and signed so soon as Anderson and Negahquet, the two absent delegates, should reach this city; that I thereupon assumed charge of their claims; that I made exhaustive examination of the treaties with the said Indians with the United States and of the laws relating to said tribe; that I argued their claims before the committees of Indian Affairs and Appropriations, and that through my services and exertions more than the sum of \$49,000 was appropriated for said Indians, of which sum, ~~1400~~¹⁴⁰⁰ accrued to the Citizens' Band of Pottawatomies, which proportion amounts to about \$31,750; that after said appropriation was made said Anderson and Negahquet arrived; that I made a contract with them for 10 per cent. of said sum, but that the Attorney-General of the United States held that said contract was illegal because made after my services had been rendered; that I have rendered the services faithfully to said Indians; that I am justly and equitably entitled to be paid 10 per cent. of said sum, or the sum of \$3,175, out of the sum appropriated for said Indians, now in the Treasury Department; that said Indians, through their delegates, have sworn to the justice of my claim and ask that it be paid to me; and that said affidavit is filed herewith.

E. JOHN ELLIS.

Sworn to and subscribed before me this January 16, 1887, at Washington, D. C.
[SEAL.]

ROBERT R. SHELLABARGER,
Notary Public, D. C.

We, the undersigned, being duly sworn, depose and swear:

First. That we are the only and duly recognized delegates of the Citizens' Band of Pottawatomie Indians, by powers of attorney filed and approved in the said Department.

Second. That E. John Ellis has been the attorney for said Indians since April, 1885; that he has appeared before the Department of the Interior and the committees of Congress in behalf of the claims and interests of said Indians, and has made oral arguments and written and filed briefs in their behalf; that it was through his services, arguments, and briefs that Congress appropriated \$49,328.08 for said Indians, ~~1400~~ of which inures to the benefit of said Citizens' Band.

Third. That we, being fully authorized so to do, did make a contract with said Ellis, whereby he was to receive 10 per centum on such claims as might be collected through his services for our said Citizens' Band, but that owing to the delay of two of us in arriving here, said contract was not fully executed until after a large portion of said services had been rendered by said Ellis, and that the Attorney-General decided that said contract, in order to be legal, should have been executed before any of said services were rendered, and that therefore said Ellis could not be paid under said contract.

Fourth. That the said 10 per cent., or the sum of \$3,171.26, is just and legally due said Ellis; that the Citizens' Band of Pottawatomie Indians, through their business committee, approve the said claim and desire it to be paid, and that we, their delegates, desire that it be paid out of the share of said Citizens' Band in the said \$49,328.08 appropriated through the services of said Ellis, and that Congress should authorize the Secretary of the Interior to pay the said sum to said Ellis, who has honestly and justly earned the same.

A. F. NAVARRE,
JOHN ANDERSON,
STEPHEN NEGAHNQUET,

Delegates of Citizens' Band of Pottawatomie Indians.

Sworn to and subscribed before me this the 5th day of January, A. D. 1887.
[SEAL.]

ROBERT R. SHELLABARGER,
Notary Public, District of Columbia.

In subscribing the above oath I desire to state that I have signed and sworn to it partly from my own knowledge of the facts and partly from hearsay, inasmuch as I have only been in Washington since November 20, 1886.

STEPHEN NEGAHNQUET,
Delegate.