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John W. West.

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JOHN W. WEST.

APRIL 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

MR. LITTLE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 4515.]

The Committee on Indian Affairs, to whom was referred House bill 4515, have duly considered the same, and submit the following report:

Your committee recommend that the bill pass with the following amendment:

Strike out all in line 7, after the word "dollars," down to and including the word "paid," in line 9.

The committee find from the papers submitted by the Secretary of the Interior that the claim of the heirs of John W. West, deceased, for their interest in the West saline property, taken by the Cherokee national council, Indian Territory, is provided for by the seventh article of the treaty with the Cherokee Nation of August 17, 1846, which is in these words:

The value of all salines which were the private property of individuals of the Western Cherokees, and of which they were dispossessed, provided there be any such, shall be ascertained by the United States agent and a commission to be appointed by the Cherokee authorities; and should they be unable to agree, they shall select an umpire, whose decision shall be final, and the several amounts found due shall be paid by the Cherokee Nation, or the salines returned to their respective owners. (9 Stat. L., p. 874.)

The committee find that the claim of the heirs of John W. West, deceased, was recommended by the Secretary of the Interior, after his approval of the report of the commission appointed to ascertain the value of the saline property thus taken, to be presented to Congress for its appropriate action.

The committee find from the testimony that John W. West acquired his interest in the saline property by purchase from his brother, Bluford West; that there was a contract of partnership between Bluford West, John W. West, and David Rann for the purpose of owning and operating the West saline, each partner to have one-third interest therein. One of the partners, David Rann, subsequently refused to abide by the contract and withdrew from the concern. John W. West retained his interest and continued with Bluford West in developing the saline, and defrayed one-third of the expenses required to work it. The West saline property was taken possession of by the Cherokee national authorities October 30, 1843, since which date the claimants and their testator have been unjustly deprived of the use of it.

The committee find from the report of the Secretary of the Interior that early in 1845 a board of United States military officers, consisting of Captain Woods and Lieutenant Kirkham, was appointed to examine and report as to the value of the West saline, including the adjoining

homestead farm. After careful personal inspection they fixed the value of homestead farm at \$4,125, and the saline property at \$15,000; total, \$19,125, this valuation being completed on the 17th day of January, 1845.

It appears that the Cherokee national authorities failed to comply with the seventh article of the treaty of 1846.

The Secretary of the Interior, in his letter of November 27, 1882, to the Commissioner of Indian Affairs, ordered that official to instruct the United States Indian agent at the Union Agency to advise the Cherokee Nation that he was ready to proceed, under the provisions of the treaty, to value the West saline property and adjoining homestead farm, and to request the nation to appoint a commission to act with him. In accordance therewith, Mr. D. W. C. Duncan was chosen by the Cherokee Nation to act with Hon. John Q. Tufts, United States Indian agent at the Union Agency, Muscogee, Ind. T. This commission took much testimony and gathered considerable documentary proof. They fixed the value of the saline property, at the time it was taken by the Cherokee national authorities (1843), at \$15,000, and the adjoining homestead farm at \$4,125. They expressed their judgment that the heirs of John W. West, deceased, were justly entitled to one-third interest in the saline property.

It appears that in November, 1883, Allen Gilbert, the representative and agent of the heirs of John W. West, presented their claim to the Cherokee national council, then in session, for allowance and payment; but the council adopted a report, made by a committee of that body, adverse to its payment, and still declines to pay it or any part thereof. This claim was acted upon by the Commissioner of Indian Affairs and on the 30th of July, 1883, submitted to the Secretary of the Interior, who, in his decision of August 29, 1883 (reaffirmed September 16, 1884), approved that part of the report of the commission which declared that John W. West, deceased, in his lifetime and at his death was entitled to one-third interest (\$5,000) in the Bluford West saline, and that by his death his heirs or legal representatives have rightfully succeeded to the same, with such moderate interest as equity and good conscience will dictate.

The Secretary of the Interior, in his letter of September 16, 1884, to the Commissioner of Indian Affairs, says:

The treaty provided that if the United States agent and Cherokee commission fail to agree they shall select an umpire, whose decision shall be final, and the several amounts found due shall be paid by the Cherokee Nation, or the salines returned to their respective owners.

The Cherokee Nation has not only failed but refuses to comply with the terms of the treaty. There are no funds to the credit of the Cherokee Nation out of which this Department can order the payment of the amount claimed by the heirs of John W. West, deceased, and it is therefore not considered within the power of this Department to enforce payment of the claim without special legislation by Congress. Therefore the matter should be presented to Congress for appropriate action. In order to do this you will prepare and submit the necessary papers, in proper form, to be laid before Congress at the approaching session.

The committee find that bills for the relief of the heirs of John W. West, deceased, were introduced in the Fiftieth Congress (S. 2338, H. R. 7365), and in the preceding Congress (S. 2448, H. R. 7499), and referred to the respective Committees on Indian Affairs, but that no action was taken upon them. The committee are of the opinion that the amount claimed is justly due, and should be charged against and deducted from any money due from the United States to the said Cherokee Nation of Indians, exclusive of the claim for interest.