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JOSEPH S. MILLIGAN AND PHILIP D. MERONEY.

FEBRUARY 7, 1838.

Read, and laid upon the table.

MR. WHITTLESEY, of Ohio, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which were referred the petitions of Joseph S. Milligan and Philip D. Meroney, report :

The petitioners allege that, in the spring of 1832, P. D. Meroney procured the liberty of opening a trading-house, and also of entertainment, from the Unika Turnpike Company, who, as they say, had the exclusive right of trading on said road by previous treaty with the Cherokee Indians. They say they made repairs of the buildings, and provided ample provisions, to accommodate travellers and others. In June, 1832, they say the United States troops took possession of their buildings, and turned the family of Meroney out of doors, from which they were forcibly withheld at the date of the petition, on the 12th day of November, 1835. They claim the sum of five hundred dollars damages per annum.

Erby Boyd, on behalf of the petitioners, testifies that General Armistead established Camp Armistead in the year 1832, where Mr. Meroney had a stand ; some of the officers boarded with Meroney. Captain Belton succeeded General Armistead, and the affiant has been informed, and believes, he turned Mr. Meroney out of possession. Captain Belton occupied the houses, and Meroney has not been in possession since.

B. M. Russell testifies that he went to the camp in November, 1832, before which the officers had taken possession of the large house of Meroney, which they then occupied for quarters, and would not permit any traveller to enter the house until they had breakfasted, dined, and supped, as the case might be. Mr. Meroney was obliged to take travellers into his private family room until the officers went to their residing quarters. They prohibited Meroney from trading in accordance with his license and the charter of the road. Meroney was removed under the charge of selling whiskey, but he does not know it was investigated ; but he knows his whiskey, before that time, was taken and locked up. The officers were hard to please ; and a boy insulted Meroney in his yard. Lieutenant Mackenzie dispossessed him with a band of soldiers on the 3d of December, 1832, of which he was an eye-witness.

This witness sets up a ground of complaint not adverted to by the petitioners, nor by any other witness ; it is evident, however, from this wit-

ness, that the cause for removing Meroney was his violation of the law in selling whiskey. Major Belton speaks of this witness as being a sutler, and connected with Meroney.

Arthur H. Henley speaks of the privilege given to Mr. Meroney by the Unika company to trade at his stand, and of his having erected a house under said permission, from which he understood he was dispossessed by the United States troops in the fall of 1832.

Peter Harrelson says the stand was favorable for doing business, and he understands the said Meroney was dispossessed by the United States troops.

Thomas J. Caldwell testifies to the same facts.

Hiram K. Turk believes, as well as he recollects, that the troops of the United States took possession of the houses some time in the summer of 1832, and he knows that they abandoned them on the 25th of July, 1835.

Dr. Robert R. Young was called to visit Colonel Turk at Camp Armistead in July, 1835, and found the troops in possession of the buildings there; and he thinks, from information, they left on the 25th of that month.

This petition was presented to the House of Representatives and referred to this committee on the 23d of December, 1836. A letter was addressed to Adjutant General Jones on the 27th of the same month, with a request that he inform the committee where Major Belton and Lieutenant Mackenzie were, who were the officers, as one of the witnesses said, who dispossessed Mr. Meroney and forcibly held him from his possession. A copy of the petition was forwarded to them on the 11th of January, 1837, with a request that they communicate such facts to the committee, relating to the transaction, as were within their knowledge.

Lieutenant Mackenzie, under date of March 26, 1837, says he was not in camp the day Mr. Meroney was directed to leave, but he was there the next day, and was detailed as officer of the day, whose duty it was to carry the order of removal into execution; but he obtained a respite of the order until the next day, and the duty of removing Mr. Meroney devolved on the succeeding officer of the day. He thinks the misconduct of Mr. Meroney was the only cause for his removal. He says he was intemperate, and, although he does not know the fact, he has no doubt Mr. Meroney was dispossessed for whiskey transactions.

Two hundred dollars, he says, was the value of the fixtures, and nine hundred would cover their damages; yet he does not consider that Mr. Meroney is entitled to either sum. Lieutenant Mackenzie does not mention any thing of Mr. Milligan.

Major Belton being in Florida, and out of health, his answer was delayed until September 2, 1837. He was in command at that station when Mr. Meroney was dispossessed. His orders from the Department of War, from the Major General, from the Indian agent, and from General Armistead, were to dispossess intruders from the public lands in the Cherokee nation.

Mr. Meroney had no title except that which he derived from Peter Ledford, an interpreter, and whose improvements Mr. Meroney purchased for an old mare. The right to erect stands by the Unika company at that place was disputed by the Cherokee nation. Mr. Meroney and family only claimed as intruders on sufferance, having hopes to obtain a complete title after the session. Mr. Meroney persisted in selling whiskey to the

Indians and to the troops, and was himself very intemperate. On one occasion he threatened to shoot a helpless boy with his rifle. He and his family were mildly and humanely moved from the post, and went and occupied a cabin beyond the Tennessee line. The vacated quarters were used as a hospital for the troops. He controverts the statement of Mr. Russell, who, he says, was a sutler, and he has reason to believe he and Mr. Meroney were illegally dealing in whiskey. Major Belton made a report of his proceedings while in the Cherokee nation, on the 3d of November, 1832, to which the committee refer, and make the same a part of this report.

It appears the Unika company claimed the right to establish houses as incident to the right to construct a road, and, in the exercise of such supposed right, a citizen of the Cherokee nation had been turned off from his farm, and a person put in possession to enjoy the fruits of the labor of the citizen.

The petitioner shows no valid right to occupy the position mentioned, and, in the opinion of the committee, was properly dispossessed, because he was an intruder on Indian lands, and because he was not subordinate to military orders. His persisting to sell whiskey to the Indians and soldiers was in violation of law and good order. The security and peace of the Indians and troops demanded the removal of such an intruder.

The committee submit the following resolution :

Resolved, That the petitioners are not entitled to relief.

CAMP ARMISTEAD, CHEROKEE NATION,

November 3, 1832.

SIR: I have the honor to forward a monthly return of this command for the month of October, 1832, and a copy of the muster-rolls.

I returned on the 28th instant from a journey of observation into the nation, and a little beyond the Blue Ridge, for the purpose of seeing the leading managers of the Unika road company's affairs. In that I succeeded, having seen General Cleveland, of Nacoochie, and Major Wiley, and have had full conversations with both of them; but little satisfactory, however, as to what I deem Cherokee rights and the interest of the General Government, in superintending the affairs of the Cherokees under the intercourse laws of 1802, and that of July last, and the tenor and spirit of my instructions. They claim, under the exposition or construction of the treaty establishing the road, a right to establish trading-houses and of establishing persons therein; and more definitely say, that they acknowledge now but two persons (establishments) on the road by their authority or license, namely, at the Hiwassee ferry, the middle of the road, and at the Georgia *charter line*, meaning that for the end of the road. The two ends of the road contemplated by the terms of the treaty unquestionably are, or were, at Prussell's ferry, Tennessee river, for the Tennessee end, and at the southwest Cherokee boundary, the Blue Ridge; but Georgia having extended her jurisdiction, they move "*the end*" to the Georgia charter line.

I enclose a copy of a letter on this subject from John Ross, principal chief of the Cherokees, to show the sense entertained by him of this construction. The effect of it has been to do, under color of law, an exten-

sive private wrong ; to put in possession a man named Jones, as stand-keeper, and oust the Cherokee citizen, a Mr. William England, from a comfortable farm and improvements ; and the former (Jones) has already secured the crop made by the labor of the other, (about thirty acres of corn,) and has moved it over the Georgia line.

I have considered this, among others something similar, as of a delicate class of international cases, which might be referred specially to higher authority, as well that justice might be done the parties by the guardian Government, as that the usurpations of a road company, in the absence of an efficient local Government, may receive a salutary check.

There are some six other cases in which the points are similar, except that they are distant from the Georgia line, but on the Unika road, and claim, under the company, to have privileges not recognised by the Cherokees, and at variance with the intercourse law.

I feel every desire to discharge the trust confided to me so that nothing like private injury or complaint could justly be made ; and to effect this with certainty, in my humble opinion, something definite as to the views of the commanding general in these conflicting interests and pretensions is desirable and necessary. If the road company have privileges and immunities to the extent claimed, my duty as well as my inclination leads me to respect them ; but they seem strongly controverted and gainsayed by the whole course of legislation on the Cherokee subject, and the course of policy pursued by the General Government.

I submit the above, with the greatest deference and respect, to the general commanding ; and remain, most respectfully,

Your most obedient servant,

F. S. BELTON,

Captain 2d Artillery, commanding.

To Colonel R. JONES,
Adjutant General.