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Alexander Ray

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H.R. Rep. No. 14, 31st Cong., 2nd Sess. (1851)

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ALEXANDER RAY.

JANUARY 29, 1851.

Laid upon the table, and ordered to be printed.

Mr. J. W. JACKSON, from the Committee on Indian Affairs, made the following

REPORT:

*The Committee on Indian Affairs, to whom was referred the memorial of Alexander Ray, guardian of the children of Templin W. Ross, report:*

That, according to the showing of the memorial, assurance was made, under the treaty of 1835-'36 with the Cherokee Indians, that any one who had taken a reservation, under either of the treaties of 1817 and 1819 with that tribe, and had been deprived of it, should be reimbursed therefor. The memorial states that the children of Ross, by the memorialist, their guardian, (Ross having married a Cherokee woman, whose issue they were,) applied to the late board of commissioners for redress under the 13th article of the treaty of 1835-'36; and, in connexion therewith, the 2d article of the treaty of 1819, under which a reservation had been taken by Templin W. Ross; and that the commissioner decided that the case having been acted upon by a preceding board of commissioners, they were excluded from any further action. The memorialist complains of this decision because, he says, the case before the preceding board had been instituted by a creditor of Ross, who had obtained letters of administration on Ross's estate, and that a decision against him ought not to have affected the children of Ross, who had not been parties, and the memorialist prays that an act may be passed to reimburse the children the value of the reservation, to be ascertained after such mode, and on such testimony, as the Secretary of the Interior may think proper and right.

The committee find that a reservation of a tract of six hundred and forty acres of land was made in the name of Templin W. Ross, in the State of Tennessee, on the 1st day of August, 1819, which he located on Mill Creek, and is now in McMinn county, and that he made the reservation "as the head of an Indian family." Ross died. Gideon Morgan administered upon his estate. Morgan claimed the value of the reservation before the first board of commissioners in 1838 and '39. His claim was rejected by this board. The rejection proceeded upon the ground that Ross had abandoned his reservation, and that the land had reverted to the United States. Very full testimony was before the board. It appears to have been deliberately examined and weighed.

Subsequently, in 1846, the memorialist, on behalf of the children of

Ross, filed his claim before the last board sitting in Washington under the treaty. All the evidence used in the case of Morgan's application was again before this board, and counsel was heard for the memorialist. If the decision then made on November 4, adverse to the memorialist, had been upon the naked fact that a decision adverse to the reservation had been made by the first board in Morgan's case, the committee might recognise the propriety of legislation now, but it was not so. The whole matter appears to have been re-examined; the testimony again considered; arguments heard for memorialist; and additional testimony received. True, the commissioners speak as if they were not warranted in readjudicating on the claims passed upon by preceding commissions; but their opinion seems to have been that the first board was right upon the merits; for, afterwards, on the 26th May, 1847, upon an appeal by memorialist, they gave a supplemental decree, in which they say: "We have examined the whole case again, and we find that the first decree is prepared with great care, and the whole facts of the case are fully presented and set forth. By that decree we see that the commissioners determined (*and we are of the opinion that they determined correctly*) that the said Ross did abandon his reservation, and the whole weight of the evidence sustains their opinion. Accordingly we adjudge and determine that, in consequence of said abandonment, the right to said reservation did revert to the United States, and that the reservation created by the 8th article of the treaty of 1817, consisting of life estate, dower, and remainder, were all forfeited by said abandonment, and we accordingly reject this claim." The committee are of opinion that the last board of commissioners did virtually re-examine the decision of the first, and did try the claim of Alexander Ray, as guardian; did, in fact, pass upon the merits as disclosed by the testimony, and did adjudge in his case that the reservation had been abandoned.

This having been the judgment of two distinct boards of commissioners, the Committee on Indian Affairs defer to that judgment, and report that the prayer of the memorial be rejected.