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Elbridge Gerry. (To accompany bill H. R. 2637.).

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ELBRIDGE GERRY.

[To accompany bill H. R. 2637.]

MAY 2, 1872.—Ordered to be printed.

Mr. BURDETT, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the memorial of Elbridge Gerry, a citizen of the Territory of Colorado, asking compensation for certain losses sustained by him in the years 1864 and 1865, submit the following report:

The memorialist, Elbridge Gerry, was in the year 1864 a resident of the Territory of Colorado, and was engaged at the mouth of Crow Creek, on the South Fork of the Platte River, in the cultivation of a ranch and in the raising of horses and mules. It appears that the memorialist had spent the larger portion of his life upon the outer frontier, and for many years had been on friendly terms with the Indians of the plains, and in early life had allied himself with them by intermarriage with an Indian woman. As a result of this long acquaintance and firm friendship, he had been exempt from depredations ordinarily committed on the frontier by Indian tribes and bands, and up to the date of the occurrences hereinafter narrated had pursued his business in perfect security and with such success that he had accumulated upon his ranch, in the year 1864, over one hundred and seventy-five head of horses, brood-mares, mules and young stock.

It appears that at about this time a large war-party of Indians, composed of Apaches, Comanches, Kiowas, Cheyennes, and Arapahoes, had formed a plan for the general massacre and robbery of the whites of the settlements along the Platte, at Lupton, Latham, and other exposed points, and on the 19th of August, 1864, were assembled for that purpose at the Point of Rocks, about 125 miles from Denver; that, not wishing to include the memorialist, his family, and property in the general destruction determined upon, they sent two of their old chiefs to give him warning of the movement, that he might be enabled to gather in his scattered herds and secure for himself immunity from harm. These messengers reached him on the night of the 19th of August, delivered their warning, and fully informed him of the details of their proposed operations, the points of attack, and time. This, as they disclosed it, had been fixed for the 21st day of the same month.

Upon the receipt of these tidings the memorialist, without any delay, that he might provide for the security of his property regardless of consequences to himself, and moved solely with the unselfish desire to avert the impending calamity from the heads of his unsuspecting neighbors, immediately on the departure of the friendly messengers mounted a fleet horse, and hurrying along the line of settlement gave them notice

of the hostile movement against them, and reached the capital of the Territory the next day at midnight, when he imparted his information to the proper authorities, and thereupon resulted the prompt re-enforcement of the threatened points.

It appears from abundant and incontrovertible evidence that the information so communicated by the old chiefs was reliable, and that the exertions of the memorialist were the sole means by which was averted the wholesale slaughter of the settlers along the line of the Platte. According to the plan revealed, the Indian war-parties at the time and places designated advanced to the attack, but found that warning of their approach had preceded and prepared their intended victims to receive them. The knowledge among them that Gerry had been put in possession of their plans; his ascertained absence from his ranch, and his neglect to gather in his herds, convinced the baffled warriors that by Gerry's agency they had been defeated in their bloody purposes, and turning away from the now well-guarded settlements they sought the habitation of their former friend, the memorialist, the only unprotected one of the frontier, fell upon it, and swept from him a large portion of the hard earnings of a lifetime.

The estimate in which these services of Gerry were held by the people of Colorado are but tamely set forth in a letter of the Hon. John Evans, governor, and *ex-officio* superintendent of Indian affairs of Colorado, to the Secretary of the Interior: "That Elbridge Gerry rendered the authorities of the Government and the people of Colorado an incalculably valuable service. At great inconvenience and personal privation he gave information that saved a general massacre of the frontier settlements."

The claim of Mr. Gerry, as presented, is as follows:

For 66 head of horses and mules, driven away by the Cheyenne Indians on the 21st day of August, 1864, valued by him at \$13,200. For 21 head of horses and mules, stolen by a band of Brulé Sioux on the 18th day of August, 1865, valued at \$4,200. For 88 head of brood-mares and young stock, driven away by a band of Ogallalla Sioux on the 21st day of October, 1865, valued at \$13,200—making in all the sum of \$30,600, for which he asks an appropriation.

The claim of memorialist for indemnity for these losses was first presented and prosecuted under the law of the 30th of June, 1834, providing for the satisfaction of claims arising from the depredations of Indians out of the annuities of the tribes or bands committing them, and guaranteeing eventual indemnification by the United States. But the repeal of this guarantee-clause of the act of 1834, by act of February 28, 1859, and the further repeal of the section of said act of 1834 granting indemnity out of the annuity funds of the tribe guilty of the trespass, by act of July 15, 1870, left the claimant without remedy by existing law. Furthermore, aside from the several repealing statutes referred to, he is, in the opinion of the Secretary of the Interior, submitted upon the case made in that Department, estopped from claim upon the annuities of the trespassing bands by the fact that at the time of the injury complained of the offenders had inaugurated a war against the United States—indemnity being promised only as against the depredations of Indians at the time *in amity* with the United States.

It becomes, therefore, a question as to whether or not, in consideration of the services of the memorialist, so self-denying in their character, so conspicuous in their public virtue, and so full of mercy to the defenceless citizens of the United States resident in Colorado against whom the hostile movement was proposed will, in whole or in part, not

as discharging a mere legal obligation, but rather as the performance of a public duty, Congress shall make provision by appropriation direct from the Treasury for the losses he has sustained.

The committee are not insensible to the danger of multiplying precedents of compensatory legislation, but they are of opinion that the case at hand is so full of peculiar merit that, on the ground of justice and fair-dealing, the memorialist may properly claim some compensation for his losses, and that Congress may well concede it without danger of setting up a precedent of doubtful expediency. It will be noted that the memorialist's claim is for damages arising from the loss of stock taken from him in the months of August and October, 1865, as well as for that taken on the 21st day of August, 1864, the date at which he had abandoned his ranch to give the notice of danger to the threatened settlements. But while, as it is claimed by the memorialist, the losses occurring in 1865 were brought upon him in the pursuit of revenge by the Indians for his betrayal of their plans, the committee are of opinion that they can properly consider only, in ascertaining the amount of the compensation that should be appropriated, the losses he actually sustained at the time, and as the immediate consequence of the self-sacrificing services he rendered. It has seemed to the committee, therefore, that a proper basis for calculating the amount to be awarded is the actual value, at the time, of the stock driven away on the 21st of August, 1864. This amount the committee finds to be \$13,200.

They therefore report the following bill and recommend its passage.