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Report : Mr. Stewart

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IN THE SENATE OF THE UNITED STATES.

MARCH 7, 1888.—Ordered to be printed.

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1084.]

The Committee on Claims, to whom was referred the bill (S. 1084) for the relief of the American Board of Commissioners for Foreign Missions, Rev. Worcester Willey and Esther Smith, having considered the same, submit the following report :

It appears by the letter of the Secretary of the Interior and the other correspondence hereto attached that the property for which the American Board of Commissioners for Foreign Missions, Rev. Worcester Willey and Esther Smith, claim compensation, was taken or destroyed in the Indian Territory by the armies of the so-called Confederate States, and not by the Federal forces. This fact fully appears by the letter of Rev. Worcester Willey himself, dated March 23, 1868, to which special reference is made. The claim is not made by virtue of any treaty obligations of the United States, but it is alleged in the correspondence that the President of the United States, in 1817 or 1818, promised to protect the American Board of Commissioners for Foreign Missions. Such a promise would not bind the United States to compensate the claim for property taken by the Confederate forces, and it is unreasonable to suppose that either the President or the Board of Commissioners for Foreign Missions at the time the alleged promise was made contemplated the payment by the United States for property taken or destroyed in the war with a civilized enemy.

This claim was reported favorably by the Senate Committee on Claims in the first sessions of the Forty-eighth and Forty-ninth Congresses upon the evidence of Worcester Willey and others. This evidence was amply sufficient to sustain the reports, but unfortunately for the claimants, Mr. Willey, several years previous, in his letter dated March 23, 1868, had stated distinctly that the Confederate forces, and not the Federal, took the property in question. There are some vague statements not in direct conflict with the letter of Worcester Willey of March, 1868, indicating a probability that some of the cattle belonging to the Mission might have been taken with cattle of other parties for the use of the Federal Army, which were not receipted for. This is too vague, however, to sustain any claim against the Government. The cattle taken from the Mission by the Federal Army were receipted for and subsequently paid, except in one instance. George H. Hoyt, lieutenant-colonel Fifteenth Kansas Cavalry Volunteers, makes affidavit that he knows that about 1,700 pounds of beef was taken by the Federal troops from the Mission, for which Mr. Willey says he received no voucher and

payment was refused. This item appears sufficiently proven. Beef at that time and place appears to have been worth 10 cents per pound on the foot, which would be a liberal allowance, making \$170.

It appears further from the affidavit of Lieutenant Hoyt that the Mission had been "badly gutted" by the rebels under General Price before the Federal troops arrived. This affidavit corroborates the letter of Mr. Willey of March, 1868, in which he says: "The Mission at Dwight was robbed by the rebels fifteen times, and left us as destitute as robbing could make us." Hoyt's affidavit also discredits Willey's subsequent statement and affidavit of 1884, in which he gives a schedule of the property alleged to have been taken by the Federal forces.

In December, 1863, all the property belonging to the American Board of Commissioners of Foreign Missions was conveyed to Worcester Willey, and therefore the allowance of \$170 for the beef taken as aforesaid should be paid to him.

The committee recommend the passage of the bill with the following amendments:

Strike out all after the enacting clause and insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized to pay to Worcester Willey, out of any money in the Treasury not otherwise appropriated, the sum of one hundred and seventy dollars, and that said sum be in full of the claim of Worcester Willey against the United States.

Amend the title so as to read, "A bill for the relief of Rev. Worcester Willey."

DEPARTMENT OF THE INTERIOR,
Washington, February 16, 1888.

SIR: I have the honor to acknowledge the receipt by this Department of your letter of the 9th of February, 1888, on same date, inclosing S. 1084, entitled "A bill for the relief of the American Board of Commissioners for Foreign Missions, Rev. Worcester Willey and Esther Smith," together with Senate Report No. 132 of the Forty-ninth Congress, first session, upon which you ask for a report and a statement of reasons, if any are contained in the records of this Department, why the claims were not paid out of former appropriations.

In response thereto, I transmit herewith a communication of the 14th instant, from the Commissioner of Indian Affairs, to whom the papers were referred for report, which is stated to contain all the information afforded by the records of the Indian Office regarding the claims, about which some correspondence is shown to have been had, wherein it is stated that the claims were for "property taken by the rebels during the late war," and for that reason they did not come within the provisions of the thirtieth article of the Cherokee treaty of 1866 (14 Stats., 806), and were therefore not paid from former appropriations; all of which is more fully shown by copies of certain letters on the subject, also herewith transmitted.

Very respectfully,

WM. F. VILAS,
Secretary.

CHAIRMAN COMMITTEE ON CLAIMS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 14, 1888.

SIR: I am in receipt, by your reference of the 9th instant for report, of Senate bill 1084 "for the relief of the American Board of Commissioners for Foreign Missions, Rev. Worcester Willey and Esther Smith," together with a report on the bill, made during the first session of the Forty-ninth Congress, submitted by the Hon. William M. Stewart, of the Committee on Claims.

The committee desire a report on the same and a statement of reasons, if any are contained in the records of this Department, why the claims of the American Board of Commissioners for Foreign Missions, Rev. Worcester Willey and Esther Smith, were not paid out of former appropriations.

In reply, I have the honor to state that the above claim was the subject of a report to the Department on the 7th day of March, 1873, in which it was stated "that from a careful examination of the records it did not appear that said claim had ever been presented to this office. The records, however, do show a correspondence in connection with this matter; also, that the Rev. John C. Smith, of this city, forwarded to the Department April 14, 1868, a letter from Mr. Willey, dated March 23, 1868, accompanied by other papers, among which a schedule of property taken by the rebels during the late war from Dwight Mission, Cherokee Nation, amounting to \$17,541.69, which papers it appears were referred to this office. Said schedule was subsequently (January 21, 1871) withdrawn by Mr. Willey, and, therefore, can not properly be said to be before this office."

The report then stated that if the claim referred to in the letter of Mr. Willey was intended to recover pay for the property enumerated in said schedule, it clearly did not come within the provisions of the thirtieth article of the Cherokee treaty of 1866, as said article (14 Stats., 806) stipulates for the payment by the United States for losses not exceeding \$20,000 of property by missionaries or missionary societies resulting from their being ordered or driven from the country by United States agents, and from their property being taken and occupied or destroyed by United States troops. Should there be a proper claim under said article presented it could not be paid, because the appropriation therefor had been exhausted. It will be seen, however, by reference of Mr. Willey's letter of March 23, 1868, above referred to, that when the schedule of property alluded to was presented, payment in the case was not claimed under the provisions of said article, but rather upon a personal pledge alleged to have been made by the President of the United States in 1817 or 1818, to missionaries of the American Board of Missions to sustain and defend them in person and property in the prosecution of their duties.

From the above it appears that the papers were never acted upon by this office or the Department, and that the claims of the American Baptist Missionary Union and others, named in the Senate report, were allowed by the Secretary of the Interior and exhausted the whole appropriation of \$20,000 made by act approved March 2, 1867, "for the payment of losses of property of missionaries or missionary societies, on account of the troops and agents of the United States."

The letter of Mr. Stewart and accompanying papers are respectfully returned herewith.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March 7, 1873.

SIR: I have the honor to acknowledge the receipt, by reference from the Department, of a letter dated the 28th ultimo, from Rev. W. Willey, in relation to a claim against the Government under article 30 of the treaty of 1866 with the Cherokee Nation of Indians, in favor of the American Board of Foreign Missions for property destroyed at their mission in said nation during the late rebellion.

Said letter having been referred from the Department for a report in the premises, I have to state in reply that from a careful examination of our records it does not appear that said claim has ever been presented to this office. The records, however, do show correspondence in connection with this matter; also that the Rev. John C. Smith, of this city, forwarded to this Department April 14, 1868, a letter from Mr. Willey dated March 23, preceding, accompanied by other papers, among which a schedule of property taken by the rebels during the late war from Dwight Mission, Cherokee Nation, amounting to \$17,541.69, which papers, it appears, were referred to this office. Said schedule was subsequently (January 21, 1871) withdrawn by Mr. Willey, and can, therefore, not properly be said to be before this office.

If the claim referred to in the present letter of Mr. Willey is intended to recover pay for the property enumerated in said schedule, it clearly does not come within the provisions of the 30th article of the Cherokee treaty of 1866, as said article (St. vol. 14, p. 806) stipulates for the payment by the United States for losses, not exceeding \$20,000, of property by missionaries or missionary societies "resulting from their being ordered or driven from the country by the United States agents, and from their

property being taken and occupied or destroyed by United States troops." Should there be a proper claim under said article presented it could not be paid because the appropriation therefor has been exhausted. It will be seen, however, by reference to Mr. Willey's letter of March 23, 1868, above referred to (copy herewith), that when the schedule of property alluded to was presented payment in the case was not claimed under the provisions of said article, but rather upon a personal pledge alleged to have been made by the President of the United States in 1817 or 1818, to missionaries of the American Board of Missions, to sustain and defend them in person and property in the prosecution of their duties.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
March 8, 1873.

SIR: Your letter of the 28th ultimo, in relation to the claim of the American Board of Foreign Missions against the Government, for property destroyed at their mission by rebel troops during the late war, was received in due time, and referred to the Acting Commissioner of Indian Affairs for his views. I now transmit, herewith, a copy of his report dated the 7th instant, giving a statement of the facts in the case.

Without entering into any extended remarks, I will say that I agree with the Acting Commissioner in his conclusions that the claim presented does not fall within the provisions of the 30th article of the Cherokee treaty of 1866; and, even if it did, there are no funds at the disposal of the Department available for its payment. You state that the property was destroyed by rebel troops during the late war. The Department has no means of repairing the damage which it is alleged your society has sustained.

Very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

Rev. W. WILLEY,
Washington, D. C.

FORT GIBSON, *March 23, 1868.*

REVEREND AND DEAR SIR: I am now in circumstances where I can be benefited by availing myself of your kind offer of assistance in any business we might have with Congress. The American board gave up their mission to this people in 1860, but agreed to sustain me here in the missionary work another year; but before the year was out all communication with the North was cut off, and the use of the Northern money prohibited. I stuck by the people and took the best care of the Cherokees I was able; they needed sympathy and help in their trouble. They are still scattered and discouraged. I can do little for them now, as I have to leave my profession to support my family. These churches ought to be taken care of by somebody. I have no doubt the board made a mistake when they gave up this mission. The board had a good deal of property here up to 1864, and some even now. The mission at Dwight was robbed by rebels fifteen times, and left us as destitute as robbing could make us. We have suffered untold privations, besides the loss of everything we had; besides our lives have often been in imminent danger. I was twice taken prisoner, when I just escaped with my life both times.

When the missionaries of the American board went to the Cherokee Nation in 1817 and 1818, they called on the President of the United States, and he gave them his personal and official pledge that he would sustain and defend them in person and property in the prosecution of their work as missionaries.

I wish now to throw myself upon that pledge. I might have taken away some property during the war before it was all gone, but we were promised that the Federal forces should be here for our protection, which they delayed to do till everything was gone. I spent one winter in a cave in the mountains waiting for them, and expecting them every week. One of our former female teachers in the mission is an acquaintance of Mrs. Secretary Browning, and has given the secretary much information with regard to my affairs and present situation. If the accompanying schedule of property lost could be put directly into his hands there would probably be the best chance for the claim being allowed. I can get any amount of testimony about myself and the property that may be asked for by anybody.

Yours, sincerely,

W. WILLEY.