

CLAIMS FOR DEPREDACTIONS BY SIOUX INDIANS.

[To accompany bill H. R. No. 377.]

APRIL 4, 1864.—Ordered to be printed.

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

REPORT.

The Committee on Indian Affairs, to whom was referred the letter from the Secretary of the Interior, transmitting "report of commissioners on claims presented for injuries and depredations by the Sioux Indians, in Minnesota, in 1862," have had the same under consideration, and unanimously submit the following report :

That under and by virtue of treaties made with the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Dakota or Sioux Indians, on the 29th day of September, 1837, and the 23d day of July and the 5th day of August, 1851, respectively, the United States held in trust for said Indians an aggregate sum of \$3,301,000, on which said Indians received interest at the rate of five per cent. per annum.

By the sixth article of a treaty entered into with said bands of Indians on the 19th day of June, 1858, it is provided as follows :

"That the said bands of Dakota or Sioux Indians acknowledge their dependence on the government of the United States, and do hereby pledge and bind themselves to preserve friendly relations with the citizens thereof, and to commit no depredations on their persons or property, nor on those of the members of any other tribe; *but in case of such injury or depredations full compensation, as far as practicable, be made therefor out of their moneys in the hands of the United States.*"

By the 17th section of an act of Congress approved June 30, 1834, known as the "trade and intercourse act," (4 Statutes at Large, 729,) it is further provided, "that if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy any horse, horses, or other property belonging to any citizen of the United States," certain proceedings may be instituted to obtain satisfaction for such injuries and damages, "*and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party so injured an eventual indemnification.* And if the nation or tribe to which such Indian may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the treasury of the United States "

In the months of August and September, 1862, the aforesaid Indians waged a most savage, cruel, and relentless warfare upon the citizens of the United States, depopulated and devastated sixteen counties of Minnesota, and massa-

cred about eight hundred of her people, and thereby, in the opinion of your committee, justly forfeited all claim to the said moneys held by the United States for their benefit, and which was solemnly pledged, both by said Indians and the government, for the indemnity of such persons as should suffer loss or damage by the injuries or depredations committed by said Indians.

By an act of Congress passed almost unanimously at the last session, entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, it was declared that, "whereas during the past year the aforesaid bands of Indians made an unprovoked, aggressive, and most savage war upon the United States, and massacred a large number of men, women, and children within the State of Minnesota, and destroyed and damaged a large amount of property, and thereby have forfeited all just claims to the said moneys and annuities to the United States; that it is just and equitable that the persons whose property has been destroyed or damaged by the said Indians, or destroyed or damaged by the troops of the United States in said war, should be indemnified in whole or in part out of the indebtedness and annuities so forfeited as aforesaid."

By said act it was also provided that a commission be sent to Minnesota to audit said claims for damages, and pay on their awards \$200,000, as *temporary relief*, among the heads of families and surviving members of families. This commission, which was composed of Hon. Albert S. White, of Indiana, Hon. Cyrus Aldrich, of Minnesota, and E. R. Chase, esq., of Wisconsin, all gentlemen of high social position, good character, and superior intelligence, went to the places where those injuries and damages were committed and performed their labors with great industry and fidelity, examining witnesses both for and against the several claimants, until the evidence taken by them forms a volume of 20,000 manuscript pages of legal cap. The said commission, after duly auditing said claims, reported them as required by said act of Congress. From this report it appears that 2,940 claims were filed before the board for the sum of \$2,458,795 16, on which they awarded the sum of \$1,370,374, and that they distributed the said sum of \$200,000, placed in their hands for temporary relief, among 1,380 families, leaving the amount due upon their awards \$1,170,374, which your committee are of the opinion should be appropriated. That the awards of said commission have not exceeded, but have rather fallen below, the amount anticipated by those best acquainted with the wide-spread ruin and devastation, may appear from the following facts, to wit:

The Secretary of the Interior, who was in Minnesota soon after the outbreak, placed the damages at \$1,500,000; Major Galbraith, Sioux agent, placed them at \$2,000,000; General Sibley at \$2,000,000, and this House, by a vote of 78 to 17, on the 5th day of January, A. D. 1863, passed a bill appropriating \$1,500,000 for the relief of said sufferers.

Upon examination of the several treaties and acts of Congress above referred to it appears:

First. That there is now in the Treasury of the United States a fund which belonged to said Indians, and which has been by act of Congress declared forfeited for the express purpose of paying these claims—an amount more than twice as great as that awarded by said commissioners, and for which an appropriation is sought.

Second. That the Indians themselves have solemnly agreed by treaty stipulations that this compensation should be made out of this fund thus forfeited.

Third. That the government has expressly undertaken to guarantee the good conduct of these bands, and to fully indemnify all persons who may suffer injuries from their depredations, and has retained in its hands a fund for that very purpose.

Your committee respectfully call the attention of the House to the report of the said commissioners, which is hereto attached.

REPORT OF THE SIOUX COMMISSION, 1863.

OFFICE OF THE SIOUX COMMISSIONERS,

Minneapolis, Minnesota, November 30, 1863.

SIR: The undersigned commissioners, appointed in pursuance of the act of Congress entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, having performed the duties assigned them by said act, and by the act of March 3, 1863, supplementary thereto, submit the following report:

Owing to the lateness of our appointment, and the requirement of the act for the publication of rules at least two weeks prior to our first meeting, the commissioners were unable to assemble at St. Peter on the precise day named in the act for their first session, being the first day of April last, but having made the required publication of rules (a copy of which is appended to this report) we assembled at St. Peter on an early day in the said month of April.

To give time for the proper circulation of our rules and instructions, and to enable claimants to make a uniform presentation of their complaints, after a few days' conference we adjourned our session until the 27th day of April, at which time we re-assembled at St. Peter, and fully organized the board by the appointment of the undersigned Albert S. White as our presiding officer. Owen M. Laraway, of Minneapolis, was appointed secretary to the commission. From the last-named date the sessions of the board have been uninterrupted and continuous up to the present time, adjourning only from day to day. Our sessions have been held as required by law at points most convenient to the claimants, to wit, St. Peter, New Ulm, Mankato, Henderson, St. Paul, St. Cloud, Forest City and Minneapolis. The duties devolving upon the commission have demanded an unusual amount of labor, and have taxed our assiduity to the utmost. To finish our investigations within the period limited by law, and to accommodate ourselves to the circumstances of its beneficiaries, many of whom, bereft of all their earthly means, were compelled to come from their distant frontier homes, or from temporary places of refuge, at an expense, for themselves and their witnesses, they could but ill support, we have not only held daily, but nightly sessions. Almoners of a generous government, and regardless of our personal convenience, we have offered every facility in our power for the ready procurement of the aid which Congress intended for these unfortunates.

Claims against government are so easily fabricated on *ex parte* affidavits, that the commissioners believe that, by ruling a virtual exclusion of this kind of testimony, they were but complying with the spirit of the 3d section of the act which gave them power "to compel the attendance of witnesses, and to administer the proper oaths to them to testify the truth." All judicial experience proves that there is no more ambiguous index of the truth than the general attestation of an *ex parte* affiant to the fairness of a mixed account, of only a small part of which, from necessity, he can have personal or correct knowledge.

Our findings, therefore, have been based upon a system of proof almost as exact and technical as would be required by a judge between parties litigant. And the subjects of this proof were not only the losses actually sustained, but the merits of the claim were further tested by requiring the party to show what diligence he had employed to avoid such loss, and whether, according to the interpretation of the act given in your letter of the 2d of April, the damages were "the natural and proximate consequence of the wrongful act which is the subject-matter of inquiry." Rewards have only been made for the actual loss of property, and no future or resultant damages have been taken into the account.

By the laws of Minnesota and of many of the States, the wife is made a com-

petent witness for the husband. We have, therefore, admitted such testimony when offered, and even demanded its production when the case required it, she being the party most conversant with household effects. This testimony, as well as that of the husband, or party complainant, has been carefully weighed, and in cases where the claim has been allowed has generally been supported by proof *aliunde*.

The act under which we were appointed requires that "the testimony of the witnesses and the examination of the complainant shall be reduced to writing, signed and certified by them respectively, and shall, with the petition and all the papers relating to each case, with the finding of the commission, be transmitted to the Secretary of the Interior for his approval, rejection, or modification, to be by him laid before the next Congress." As our awards are, therefore, (as to all but the "present relief" paid out of the existing appropriation,) to be submitted to a supervisory tribunal, we believed that we were not permitted to abbreviate the testimony, or to report abstracts or conclusions, but to make a record and presentation of the whole evidence. It was very soon discovered that it would be impossible, within the limits of time assigned us, to conduct our examinations upon this principle, before the full board at a single desk, or even by the separate labors of the commissioners singly engaged in taking and recording the testimony. We therefore called into requisition the additional aid of several gentlemen employed to assist us in this labor, and to accompany us wherever our sessions were held. These examinations, on the part of our assistants, were conducted in pursuance of our instructions, and commonly in our presence; and we were ourselves brought in contact with the parties and witnesses who appeared before them. Still, it was necessary they should be men of judgment and experience, conversant with legal principles, and capable of giving proper expression to written testimony. Of these, Messrs. E. P. Freeman and Thomas Russell have been employed during the greater part of our sessions, and Messrs. Burritt, Stone, Porter, Gardner, and Murray, for shorter periods.

The entire testimony forms a volume of nearly twenty thousand manuscript pages of legal cap.

The employment of an executive officer to serve process in behalf of the United States was authorized by the act. Having to communicate with such crowds of people, and to migrate so frequently with large masses of books and papers exposed to loss or accident, we have found the constant retention of such an officer, since our organization, necessary. Counter evidence has in several instances been taken, and witnesses on the part of the United States have been summoned from a distance. In addition to these defined duties, this gentleman, by his outside position, has been able to give us valuable information, and suggest useful testimony to counteract or check any attempt at fraud. Our appointee (under the title of marshal) was Mr. Alfred G. Groff, of Minneapolis.

On approaching the field of our labors, and surveying the wide-spread evils occasioned by the terrible Indian outbreak of 1862, it became an important inquiry with us, who were the proper beneficiaries of the act, and for what class of damages and to what extent the legislature intended to make reparation. Throughout one-half of the populated territory of Minnesota society had been upturned, the harvests were ungathered, domiciles abandoned and plundered; and far beyond these limits, and within the older settlements, the shadow of the savage was cast, creating alarm and portending danger; and families left their homes and their affairs, suffering great pecuniary damage. The Sioux, numbering six thousand souls, fifteen hundred of whom were trained warriors, with the best of fire-arms, and knives whetted for slaughter, flanked the western settlements, while twenty-five hundred Winnebagoes were planted almost in the heart of the southern population, and five thousand brave Chippewas, rankling with discontent and ill blood, threatened the northeastern portion of the State. The universality and suddenness of the Sioux outbreak might well startle, as

it did, the inhabitants residing near these other tribes from their security. But however just the alarm, or injurious its results, it was evidently not within the contemplation of the act to correct this social evil in its whole extent. In giving interpretation to the law, we obeyed what we supposed to be the true meaning of the legislature, by confining our awards to those cases where the losses flowed from the direct agency or manucaption of the Indian, or "troops of the United States," or where, the danger being overwhelming and imminent, the settler was obliged suddenly to abandon his home and property to the destruction of the elements, or to the ravages of an unknown freebooter, either civilized or savage, and where, without a wanton exposure of life, no diligence could have prevented the loss. As the boundary between these and the rejected class of cases must necessarily be indefinite, or determined by judgments that might conflict, we have subjected the cases of lesser hardship to a more limited measure of compensation in proportion to actual losses, and to a high standard of proof in regard to diligence, in preference to classifying the damages into "direct" and "contingent," as was our first intention. In many neighborhoods crops and property were partially saved by armed clubs, formed by the settlers, leaving their families behind, forting at night and working by day, in a body, with sentinels outposted alternately upon their several farms. Where this process was practicable, but was improperly neglected, we have refused to entertain the claim.

We were aware that when the law for this relief was passed many of the sister States of Minnesota were devastated by a civil war, waged on the part of the insurgents with scarcely less ferocity, and with almost the same disregard of the humane rules of modern warfare, as marked the atrocious outbreak of the fiendish Sioux, although its flames did not burst forth with the same terrible suddenness; and that Congress in withholding from those States, for the present, the reparation that civilized governments usually make to their citizens at the termination of a war, and in extending this relief to the section ravaged by the Indian hostilities, had good reason for this exceptional legislation—exceptional not only in its locality, but in the character of the injury for which compensation was provided, the rule being that government furnishes the citizen no guaranty against the ravages of a public enemy, or the chances of war, unless the loss was occasioned or invited by the act of the paternal government. The reason for this exception was readily found in the existing treaties regulating our intercourse with the Indian tribes. The policy of the government has uniformly been to furnish such protection to our pioneers against their savage neighbors as should promote the rapid settlement of our frontier States and Territories. Aware that the savage had no conscience to restrain him from acts of depredation, that the only public law he recognized was the law of rapacity and plunder, and that he could not be made amenable to the terrors of the penal law, or the judgments of the civil, our treaties with them have provided that for all such depredations, whether public or private, reparation should be made out of their annuities. This was the strongest and the only bond by which their peaceful bearing could be secured, and in ordinary times would be more potential than a thousand bayonets. Without this security the settler would scarcely trust himself within the range of savage treachery or midnight rapine; but under the influence of treaty obligations which thus bound the wily Indian to his fealty by motives of policy, civilization and all its arts have extended without a parallel over our vast tramontane region; and it is due to the hardy pioneer that he should have the full benefit of this provision, and be compensated for his losses since it occasions no expense to our treasury.

But in the present instance full indemnity has not been made to the sufferers. By the then existing treaty with the Sioux, (that of 1858,) they "pledge and bind themselves to preserve friendly relations with the citizens of the United States, and to commit no injuries or depredations on their *persons* or property,

nor on those of the members of any other tribe; but in case of any such injury or depredation, full compensation shall, as far as practicable, be made therefor out of their moneys in the hands of the United States." It is estimated that the lives of seven hundred of our citizens were sacrificed to their vengeance during the late raid, and that half as many more were wounded, inflicting on many a painful disability for life, while numbers of helpless females were dragged into captivity and subjected to the most brutal treatment, the effect of which on many sensitive natures has been to crush their spirits and in some instances to wreck their constitutions. For all these personal injuries the act of 1863 has provided no reparation, and accordingly they formed no part of our estimates in the making up of our awards. If measured by the ordinary standard of common law damages in our courts, the sum would nearly double the whole amount of our findings for property damages.

The capital trust fund of the annuity Sioux of Minnesota, in the hands of the United States, is considerably over three millions of dollars, which, by the treaty, however, is made redeemable by the payment of an annuity for fifty years, running from the first day of July, 1851. This annuity, in round numbers, is one hundred and fifty thousand dollars.

Although the character of the duty assigned us called for detailed inquiry, its performance has necessarily unfolded to us the length and breadth of the public and social evil inflicted by the raid upon our northwestern system in the curtailment of production, the scattering of population, the diminution of industry, and the birth of a sentiment of distrust and insecurity that will, unless removed, prevent the early or rapid resumption of settlements in the neighborhood of the Indian tribes. This is the more to be regretted *now*, when it is so essential, for national safety, to strengthen our outposts. The savage has done, in a single hour, more to defeat the growth of western population than the aristocratic influence has been able to accomplish in thirty years, with all the power and patronage of government in its hands. The wisdom of our true representatives will be taxed to devise a speedy and effective remedy against these untoward influences. If our experience enabled us to offer any advice in that direction, it does not fall within the scope of our commission to do so.

But it is not deemed inappropriate to refer to general facts and to great results affecting whole communities. The raid of 1862 has produced in the State of Minnesota the complete depopulation of nineteen counties, and of parts of four others, and not a family has hitherto returned to any portion of this territory. And, in addition to the above, an entire though temporary abandonment of four other counties, and parts of ten besides. The outbreak occurred in the height of a harvest of unusual abundance and luxuriance. Fields were abandoned to desolation; and household goods, farming utensils, and live stock were left a prey to conflagration, spoliation, or rapine. Many houses, barns, fences, hay and grain stacks, and implements of husbandry, were burned by the Indians, and many have since been consumed by prairie fires. And where they could not drive away cattle and hogs, they often, in their wantonness, shot them. Wells were filled up; shrubbery and every rural adornment was destroyed, and savage vengeance, as far as it was able, wreaked itself upon all the garnered fruits of civilization. What was left suffered a general displacement—cattle went astray, and the freebooter and the army completed what the impotence of the savage had spared.

The town of New Ulm, on the south bank of the Minnesota river, and fifteen miles below the lower agency, was the nearest village to the Sioux reservation. It was a German settlement; contained a population of some fifteen hundred souls, and was rapidly increasing in wealth and prosperity. It contained two large steam flouring and saw mills, to which were attached lathes, shingle machines, &c., two breweries, a large distillery, a wind-mill, a printing office, five or six stores, and a full variety of mechanical and manufacturing establish

ments. Teutonic pride had clustered around this town, and many of its inhabitants were educated people. The settlements around New Ulm were attacked with an unwonted ferocity, almost at the same hour the massacre began at the lower agency. The town itself, crowded to excess with helpless refugees from the country, was in a state of siege for seven days, and was twice vigorously attacked. The Indians burned up nearly one-half of the town, and Colonel Flandreau, who commanded its improvised and feeble garrison, was obliged to consume "about forty valuable buildings" besides, as he states officially. On the evacuation of the town, on the morning of the 25th of August, very few of the personal effects of the inhabitants that had escaped destruction from the crowd during the week preceding could be removed, as all the available transportation was required for the wounded and the weak, and the commanding officer, expecting an ambuscade, was unwilling to encumber his trains, composed as they were of multitudes of women and children.

It is not known or proved that the Indians entered New Ulm after Colonel Flandreau's evacuation, but many of the settlers were not in a condition to return for the protection of their property, which, without a military escort, they could not for several weeks safely have done, while many who would have returned were retained in the military service. We have been thus particular in regard to this locality because it was the theatre of the greatest loss.

Some of the depopulated counties were but sparsely settled, but population was flowing in rapidly. The new county of Renville, for instance, opposite the agencies, had, in 1861, given one hundred and twelve votes. The adjoining county of Randiyohi had, perhaps, some two hundred and fifty inhabitants, and Monongalia, north of the last-named county, had given sixty-three votes. The valley of the Sauk, and the country of the Ottetail lakes lying on the route of travel and transportation from St. Cloud to the Red River of the North, was the theatre of an active immigration; and along the Iowa border the wave of population was rapidly spreading west of the Blue Earth river. The little isolated colony of Lake Shetek was among the early victims of the massacre.

From Sioux Falls City and the settlements of Clay county, in Dakota, all along and through the counties above named, and coterminous territory, the outbreak spread, stopping only with the limits of population, thirty miles north of Abercrombie, on Red river, along a frontier some two hundred and fifty miles in length, and covering an area that would average more than one hundred miles in breadth, simultaneously, at many points distant from each other, and with only a sufficient interval at the others for the talismanic watchword to spread. The Indians appeared in force at those points where there was a concentration of wealth, or which the settlers might make rallying points for resistance, such as New Ulm, Fort Ridgely, the Two Agencies, Hutchinson, Forest City, Painesville, and Fort Abercrombie, while smaller squads scoured the country and waylaid the path of the retreating settler.

A glance at the map will show that the Indians appeared thus in force at points widely remote from each other, some of the above-named towns being within thirty miles of the Mississippi river. The closing battle of Wood Lake occurred on the 23d of September, and the next day Little Crow and his party fled to the plains. Nearly up to this period massacres continued to be perpetrated in the settlements east of the principal military theatre, and the attack on some of the above named towns was as late as the middle of September.

The country we have described is an open prairie region, skirted on a small portion of its eastern margin by the "Big Woods," but elsewhere having just brush and timber enough along the streams and on the margins of the lakes to form an ambuscade for the Indian, without that depth of forest which would have gained concealment, and a chance to escape for the settler. The first act of the enemy was to possess himself of the horses of the whites, and thus, well mounted and well armed, it was almost impossible to elude his vigilance or

his pursuit. The narratives that will be found in our recorded testimony (although incidentally introduced, as it was not our mission to collect materials for history) will illustrate some of the most thrilling adventures and hair-breadth escapes that have ever marked the annals of border life. Starvation, fatigue, and the pelting elements, borne for successive days by the affrighted refugees, some of them wounded, some tender females bearing the burden of their helpless offspring, the wet prairie grass their pillow at night, and their only covering the frail and scanty summer work-dress in which they fled, horror in the rear, and lurking danger in every forward step they took. One mother in the county of Renville lay hid in the brush with her two infant children (one of whom perished at her side in the fifth week) for nine successive weeks, her only food a few raw potatoes and grape-leaves, and her only covering some tattered rags. Another woman, in her frenzy, concealed herself for almost an equal length of time, and with a like destitution of shelter or sustenance, only a few miles from New Ulm. A boy, twelve years old, traversed the desolate prairie without a guide for six or seven days, making a journey of sixty miles, and carrying his little brother on his back. Two women held at bay a dozen Indians who had beleaguered the cabin in which they were, after the only two male defenders of the house had been prostrated and disabled by dangerous wounds. A lady, (Mrs. Scott,) sixty-five years of age, whose son was shot dead at her door-sill, and whose juvenile grandson was carried into captivity, herself the last of the family, and escaping death by feigning it, literally *crawled* with three buckshot wounds in her breast, fifteen miles, to Breckenridge, on Red river, there to find nothing but three dead bodies. Hiding herself in the saw-mill, she was fortunately discovered next day by a party from Fort Abererombie, and survives to present her claim before this commission.

These are but examples, among a hundred others, of the extreme sufferings and perils of the borderers, worthy to be recorded, as they illustrate heroism and a patient endurance in the highest forms in which they can be exhibited.

Civilized warfare is horrid enough while it rages, but its wounds are soon cicatrized on the return of peace. The brave who fall are heroes; and the mother surrenders her son who has fallen on the field of honor, because he has lived long enough for life and for glory, and because his country demanded the sacrifice. It is not so with the spectators and survivors of savage warfare. The memory of the massacre is a horrid dream, and an inconsolable anguish follows the loss of friends who have perished by slow torture or the bloody hand of murder, and whose mangled remains have been given to carrion birds.

It is useless to speculate on the causes of this unparalleled savage insurrection. Nature is said to have certain antagonisms, which, operating against each other, are continually producing new forms and new phases in the world of matter. It is so with society, where heterogeneous elements can never be blended without a struggle of atoms that is sure to produce convulsion or change. The experience of the last few years has proved that the presence of inferior in the midst of higher races is hostile to the progress and to the peace of society, and akin to the remnants of the feudal system, out of whose ruins and decay the civilization of modern Europe has sprung. Slavery cannot consort with republican freedom, nor can races of different origin and color long cohabit with each other. There will of necessity be ranks and conditions in society; but condition is nothing where it is voluntary, and where the laws interpose no barrier to the advancement of the humblest in honors, dignity, wealth, or power. If those convulsions have not already been produced by our four millions of slaves, it is due only to the law of terror, and to the deep humiliation in which they have been kept. The same results *have* been realized by the demoralizing influence the system has had upon their masters; and the snake which could not kill by its slime, has strangled by its coil.

The unfettered savage is equally our enemy; but, unlike the slave, he is made

so by self-imposed constraint keeping him back from the warmth and the sunlight of civilization. The law-giver of antiquity who could "polish the manners of the savage and subdue his fierceness," was a myth of the poet. And when our laws, like those of Minnesota, have tendered to the red man the privileges of society and the functions and emoluments of government, he has scornfully rejected them. Ages of traditionary lore have taught him that we are usurpers on the domains of his fathers. We come to him with the ensigns of superiority and of patronage. He receives the food we offer, but hates the hand that gives it. Pride that is not born in palaces rules his nature; and, unused to the restraints of government, he recognizes no superior but the Great Spirit who made him. How vain and futile the attempt to civilize the Indian has proved, while he has been permitted to adhere to his ancient customs, to live in segregation from our masses, a pensioner on our bounty, and without those *stimuli* that quicken society and infuse life into its members, the unrewarded efforts of our government agents, and of devoted missionaries and teachers for more than half a century, have abundantly proved.

And in the jealous mind of the savage there will always spring, from our intercourse, local and ephemeral causes of irritation. In the case of the Sioux they first complained that they had been overreached in the treaty by which they surrendered the half of their reserve lying on the north side of the Minnesota river; and next, that they had been defrauded by an improper application of the proceeds of that sale. The government of the Sioux is represented by their agent to be a pure democracy. The chiefs are elective, and have no real power further than to execute the behests of the self-constituted councils of their young men and warriors. By the third article of the treaty of 1858, it is provided that, out of the proceeds of said northern (or northeastern) half of their reservation, the chiefs and headmen of the Medawakanton and Wahpakoota bands may in their discretion, in open council, authorize the application of such sum as may be necessary and proper, not exceeding \$70,000, to satisfy their just debts and obligations, and to provide goods to be taken by said chiefs and headmen to the said bands upon their return; and a like stipulation and for a like amount was inserted in the treaty with the Sisseton and Wahpaton bands. Although these treaties were ratified on the 31st of March, 1859, the Senate did not exercise the discretion vested in it by the 2d section, of fixing the price to be paid for the one-half of their reservation so surrendered, until the 27th of June, 1860. At a certain time in the subsequent fall or winter, it was claimed that the chiefs and headmen of the lower bands had, in open council, directed the application of \$70,000 to the purposes indicated in the 3d section of the treaty, and the debts therein provided for were understood to have been paid by direction of the Interior Department. But the Indians, whether rightfully or wrongfully, claimed that a larger sum was appropriated to those debts than the treaty provided, or their council authorized; that the delivery of the \$10,000 of goods did not accompany that payment, and that when the goods were sent on in the year 1861 they were charged to their annuities, and not to the land fund, which they claimed had all been wrongfully exhausted in the payment of said debts. Similar complaints were made by the upper bands, but not with the same acerbity, their ceded territory being larger and yielding a much larger fund, which was not exhausted by their debts.

Following upon these causes, whether feigned or real, of complaint, the crop of 1861 was a failure, and the ensuing winter one of intense severity. The tribes could not go out to their accustomed hunts. Famine stared them in the face, and some of their children perished from this cause. They hung in great crowds around the trading posts and the agencies, subsisting largely upon charity, and the generosity of the traders. The agent prudently distributed to them from the government stores such supplies as were necessary to appease their hunger and quiet their complaints. As the season for the annual payment of

1862 approached, there were constant intimations, against every official assurance, that the payment was to be suspended or curtailed; the government was represented to be bankrupt, and almost prostrate at the feet of the southern rebellion; and thus, influenced by rage and beguiled by delusion, they were precipitated into the murderous outbreak of the 18th of August.

It is no part of our duty to inquire who were the parties that fed this deadly hate, by insidious arts and falsehood, and by libelling the government which was the only safeguard alike of themselves and of the Indian. We wonder at such madness and such rage, but much more when we find it in the "celestial bosoms" of our more civilized and still peaceful communities. But it was necessary to fix the blame where it belongs, in order to exonerate the rural population of Minnesota, who, by the uninquiring, have been suspected of inviting this aggression by constant encroachments on the privileges and territory of the Indians. Nothing can be more untrue. We have made careful inquiry as to the relations subsisting between the Indians and the surrounding population of whites, and found it to be of the most friendly and confiding character, on the part of the latter, consistently with the wild and treacherous nature of the Indian. The German population of Brown county, who lived nearest the reserve, and of course were most exposed to the importunities, thefts, and annoyances of the Indian, were compelled to practice a certain reserve to prevent insolence and presumption, but we have not heard of a single instance of cruelty or fraud on the part of the settlers. The suffering or the sick Indian found near the premises of the settler met with a ready hospitality. It is true, when any article of value was sold to an Indian on credit, a pledge of some equivalent article was required; but this the Indian expected, and we have heard of no breach of faith or overreaching contract in this regard. The whites forbore to hunt or trap upon the Indian grounds, and committed no waste upon his forests, but, on the contrary, patiently submitted to Indian encampments, and hunting and trapping parties in their own neighborhood, and far from the reservation of the tribes. And this forbearance will be appreciated when it is recollected that the furs and the game constitute the most valuable resources of the early settler, and that the practiced Indian can always bear this prize from the competition of the white man. Violations of the trade and intercourse laws by the introduction of spirituous liquors, or other contraband articles, among the Indians, were of rare occurrence. Upon this subject we append to this report the testimony of Major Halbraith, agent of the United States for the Sioux.

Some few pre-emptors prior to the treaty of 1858 had settled on the south side of the Minnesota river, on lands which an accurate survey afterwards proved to fall within the Indian reservation at its extreme southern end, the common acceptance at the time of settlement being that those lands were outside of the reserve; but provision was made for those cases in the treaty, and they led to no serious misunderstanding with the Indians, as is proved by the testimony of the said agent.

On full inquiry, therefore, we are of opinion that the people of Minnesota and of Dakota have done nothing to forfeit their claim to that equitable remuneration for their losses which was guaranteed to them by the treaty, and to which the faith of the government is virtually pledged by the act abrogating the treaty and creating this commission.

The whole number of claims that has been presented before our commission is twenty-nine hundred and forty, (2,940,) and the whole amount of damages claimed is two million four hundred and fifty-eight thousand seven hundred and ninety-five dollars and sixteen cents, (\$2,458,795 16.) This is the amount claimed as it appears on our register, but is subject to a slight augmentation by additions made to many schedules, on motion, at the time of the hearing. Of the above claims two thousand four hundred and sixty (2,460) were filed on or

before the first day of June last, and were entitled to be considered for a share of the present appropriation of two hundred thousand dollars.

We have examined and audited two thousand eight hundred and eighteen claims, and made awards thereon, which from time to time, with the complaints and proofs in each, have been transmitted to you by mail. Of the cases so audited, one hundred and eighty-three have been rejected, and in two thousand six hundred and thirty-five damages have been allowed. No testimony has been offered in seventy-six cases, and forty-six complaints, after being filed and registered, have been withdrawn by the parties or their attorneys. The petitions remaining on our files, in which there has been no proof or award, are herewith transmitted to you for such disposition as your department or Congress may think proper to make of them.

It is proper to say, that of the cases rejected some were thus adjudicated for want of sufficient evidence, and some because, in our opinion, they did not fall within the class for which the act contemplated relief. As to a few of the former class, it has been represented that in the pressure of our business the facts were misapprehended by us, and the decision was consequently erroneous; in others, that there was a hasty submission on insufficient testimony, owing to unavoidable embarrassments, which defect the parties can now supply. Some of this evidence, received since our awards were made, we herewith transmit to you.

In regard also to some of the complaints returned to you unaccompanied by evidence and without any award, some of the parties represent that it has been out of their power to produce the necessary proof within the time required, but that they hope soon to be able to do so.

The whole matter in regard to the classes of cases last named is referred to your supervisory jurisdiction for such disposition as may be authorized by law, and as the merits of the respective cases may require. It is our duty to explain that some of the parties are and have been in distant military service; others have fled for sanctuary to States remote from the place of our investigations, and their witnesses are also scattered to distant points, while a few, more helpless, were not seasonably aware of the necessity of producing proof cumulative to the *ex parte* affidavits which accompanied the complaints. Due weight will doubtless be given by you to the peculiar and untoward condition in which many of the intended beneficiaries of the act have been found.

The aggregate amount of damages assessed by us is one million three hundred and seventy thousand three hundred and seventy-four dollars, (\$1,370,374.) A few claims have been presented by corporations, both public and private. Uncertain of the true construction of the law in this respect, we have heard the evidence and assessed the damages, referring the legality of the claim to your department or to Congress. Some of our awards are special, where the claim is presented by an administrator, and no proof appears that any heirs remain who are citizens of the United States.

The State of Minnesota during the last winter appointed a board of commissioners to audit and pay all demands against the State on account of all services rendered, or property sold, taken, or appropriated for military purposes, or for supplies, transportation, subsistence, materials, munitions of war, or any other matters furnished to or taken by the State, or those claiming to act for the State, or for the protection of the frontier or other settlements against said Indian depredations, or the prosecution of the Indian war; or for arms, subsistence, horses, transportation, or other property, or service theretofore furnished for any of the purposes aforesaid. The board was by law restricted from auditing any account other than those accruing purely under the said several classes of *war expenditures* above enumerated. This fund was furnished in one of the appropriation bills passed by the last Congress for the military service of the government.

In the execution of their trust the State auditors allowed no claim arising after the 15th day of September, 1862, when the military recruits of Minnesota were turned over to the command of General Pope; and no claim was allowed sounding in damages merely, or unsustained by such proof as is necessary to settle army accounts. To guard against duplicate allowances, or the fraudulent presentation of claims that had been once audited, we obtained a full list of these awards, (partly incomplete as to amounts, but complete as to names.) which we herewith return to you, with the papers of our commission.

The act constituting our commission directs us to entertain and hear the complaints of all and every person aggrieved by the depredations of said (Sioux) Indians, *and by the troops of the United States* in said war. The suddenness of the outbreak occasioned the raising of improvised forces even before any order could be obtained from State or federal authority; and had not those troops speedily come to the rescue, the march of the murderous Indian would not have been stayed short of the banks of the Mississippi. The news of the outbreak reached St. Peter on Monday night. By sundown the next day a detachment of Captain Flandreau's company reached and saved New Ulm from capture, and Captain Galbraith, with his Renville rangers, at the same hour, entered Fort Ridgley, forty-five miles from St. Peter, probably securing its safety. Arms and munitions had all to be provided; but these troops, as well as those that speedily followed from other points, foraged and levied subsistence at will upon the country through which they passed. This army swelled ultimately, under General Sibley, to more than six thousand, and from the necessity of the case, with all the persons and prisoners they brought back from Camp Release, subsisted in this irregular way, consuming the substance of the deserted neighborhood, using their fences for fuel, and appropriating every species of property that might be made useful. It was several weeks after the raid before these forces were regularly organized and mustered into the service of the United States. Portions of the militia returned to their homes. We suppose that Congress did not use the term "troops of the United States" in any limited or technical sense; and, arguing *a fortiori*, we presume their true intention rather was to repair the ravages occasioned by an irregular and unorganized army. This conclusion is strengthened by the proceedings, attested by the Congressional Globe of January 27, 1863, recording the action of the Senate on the bill, (House bill No. 582,) by which it appears this clause was amended by changing the words "troops of the United States," so as to read, "or by troops defending in behalf the United States." The bill appears to have passed both houses in this form, but by some error of the transcribing or enrolling clerk, or of the printer, the amendment was not incorporated in the published copy of the law.

In a few instances where witnesses resided at a distance, or other sufficient cause was shown, their testimony was taken before a judicial officer, upon a commission for that purpose issued by us, in pursuance of your instructions.

We have apportioned under the 2d section of the act of February 16, 1863, to the heads of families, or their survivors, as therein directed, one hundred and eighty-four thousand three hundred and ninety-two dollars, (\$184,392;) and the balance of the appropriation of two hundred thousand dollars, placed at our disposal, we have applied in satisfaction (in whole or in part) of the entire damages awarded to them and other classes of persons, as directed in your letter of the 2d of April last, for all of which duplicate vouchers have been taken, one copy of which has been returned to your department, and one to that of the Secretary of the Treasury; all of which vouchers, including those for the expenses of the commission, are hereby certified by us to be correct. They are numbered consecutively from number one (1) to number thirteen hundred and eighty (1,380) inclusive.

A register in two bound volumes, certified by us, and herewith returned to you, has been kept by us, showing, in appropriate columns, an abstract of all the complaints presented and filed, with their numbers, names of the complainants, nature of the claim, amount claimed, amount awarded and paid, either as "present relief" or generally, and balance of award remaining unpaid, and showing also the claims rejected. All other claims appearing on said register are returned without any award, as above herein stated, and for the reasons there stated, or have been withdrawn by the parties.

Accompanying this we send you an account current of disbursements, with a statement of deficit of appropriation on expense account.

Thomas J. Galbraith, esquire, the enlightened and conscientious agent of the United States for the Sioux of Minnesota, has, upon your suggestion, attended our sessions much of the time when his public duties did not call him elsewhere. His counsel and experience have materially aided us in the progress of our investigations.

We are indebted to our excellent secretary, Mr. Laraway, for the perfect order in which our books, papers, and accounts have been kept, under most unfavorable circumstances, and to the other officers and assistants of the commission.

Respectfully submitted.

A. S. WHITE,
President.
ELI R. CHASE,
CYRUS ALDRICH,
Commissioners.

Hon. JOHN P. USHER,
Secretary of the Interior.