

POTTAWATOMIE INDIAN TREATY.

MARCH 29, 1878.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PAGE, from the Committee on Indian Affairs, submitted the following

REPORT :

[To accompany bill H. R. 316.]

*The Committee on Indian Affairs, to whom was referred the subject of the validity of the claims of ninety Pottawatomie Indian citizens for compensation for depredations committed by others upon their stock, timber, and other property, as provided by article 10, treaty of 1867, submit the following report :*

The tenth article of the treaty concluded February 27, 1867, between the United States and the Pottawatomie tribe of Indians, provides :

That upon the presentation to the Department of the Interior of the claims of the said tribe for depredations committed by others upon their stock, timber, or other property, accompanied by evidence thereof, examination and report shall be made to Congress of the amount found to be equitably due, in order that such action may be taken as shall be just in the premises. (See vol. 15, Stats. at Large, p. 533.)

Under the provisions of the treaty, the persons named in the annexed schedule, and who were then members of said tribe, have presented to the Department of the Interior their claims for compensation for depredations committed by others upon their property, accompanied by evidence of the losses by them sustained. This evidence was taken in the presence of J. H. Morris, United States Indian agent, who was instructed by the honorable Secretary of the Interior to hear the testimony of the claimants and their witnesses, and report the same to the department, with such recommendations as should be just in the premises.

The agent on the 9th day of November, 1871, transmitted to the Commissioner of Indian Affairs the claims of the persons aforesaid, with the written testimony of the claimant and his witnesses. These claims aggregate the sum of \$49,547.80, of which sum the agent recommends that \$48,332.80 should be paid to the parties respectively entitled thereto.

The agent transmits with the claims the affidavits of three white men who had lived upon the reservation during the entire period covered by these losses, establishing the market-value of the property stolen or destroyed at the time of its loss or destruction.

The agent certifies that these three white men are intelligent and honest. That, in ascertaining the true value of the property lost by the claimants, he has been guided by their testimony, and in taking proof of the claim he frequently consulted them.

The claimant further reports that in each case the claimant and his or her witnesses were examined under oath and in his presence; that such claims as were of a doubtful character or not supported by competent evidence he rejected; that he was particular in ascertaining the character of each claimant, and his or her witnesses, and to use his own language:

I carefully investigated each claimant and the witnesses introduced to prove each claim as they presented themselves. I also inquired into the character of each claimant for truth and veracity, and such claims as were in appearance spurious, or dependent upon the testimony of witnesses not truthful, I have rejected and refused to present them to the department for consideration.

These claims, with the evidence and all the papers in the case, have been transmitted by the Secretary of the Interior to Congress, reporting the amounts found equitably due these claimants, aggregating the sum of \$48,337.80, and recommending appropriate action thereon by Congress. (See reports of agent and Commissioner of Indian Affairs, hereto attached, also letter of Secretary of the Interior.)

It appears that the reservation of the Pottawatomies, where the alleged depredations were committed, was situated on the Kansas River, in Kansas, about one hundred miles in the interior of the State. That the thoroughfare over which emigrants traveled extended along the valley of the Kansas River, and over thirty miles in length through their reservation, which thoroughfare was also known as the Fort Leavenworth and Fort Riley military road.

It appears from the testimony accompanying these claims that the greater portion of the depredations which cover a period from 1847 to 1867 was committed during the great emigration to Colorado and California.

These claims, except items 5, 6, 7, and 8 of claim of E. R. Kennedy, No. 22, amounting to \$110; item 2 of claim of Mary Jane Pierce, No. 53, amounting to \$200; and the claim of Peter Leclair, amounting to \$170, come within the provisions of the said article, and are supported by the affidavits of the claimant and the testimony of two or more witnesses, who claim to know the facts and circumstances of the losses to which they testify. The testimony appears fair and reasonable on its face, seems to have been carefully and fairly taken, and is duly certified in each case by the agent, who seems to have been careful to protect the government against spurious claims or manufactured testimony. The property taken and destroyed is put at a fair and reasonable value. Each claimant is shown to be a Pottawatomie, and entitled to the benefits of the provisions of said article. In addition to the sworn testimony submitted your committee have received communications from parties whose worth and standing have been certified to by eminent gentlemen well known to your committee, which show that these claimants were the victims of many outrages at the hands of emigrants and others who traveled through their reservation, especially during the great emigration to California and Colorado. It appears from this testimony that the Indians were unable to apprehend the trespassers and bring them to trial, or recover either the property taken or compensation for its loss. That these Indians were at all times friendly, and have never received indemnity for these losses. The claims have been presented to the department in such a way as has precluded imposition and fraud, and as contemplated by the treaty. The language of the said article of the treaty is plain, and the duty of Congress in the premises is manifest. The law of Congress passed in 1830 (vol. 4, Stat. at Large, page 411) provides that the President of the United States shall protect

in person and property, upon their reservation west of the Mississippi, all Indians which shall remove thereto in pursuance of any treaty then or thereafter to be made. The act of Congress passed in 1834 (vol. 4, Stat. at Large, page 731) provides, in the commission by white men of depredations upon the property of friendly Indians in the Indian country, "That if such offender cannot be apprehended or brought to trial the amount of such property shall be paid out of the Treasury." In 1837 these Indians commenced removing, and from that time did remove to their reservation in Kansas.

In the light of this legislation, and the further fact that this treaty provides for a full settlement between the government and the Pottawatomies of all matters of difference between them of which this is a part, it becomes apparent that Congress, in order to take such action as is contemplated by said article, and which "shall be just in the premises," is to pay these claimants the amounts so found "equitably due" them. And your committee recommend that Congress should make provision for their payment by appropriate legislation in the amounts and to the persons herein named.

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*Letter of transmission by Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., December 20, 1871.

SIR: I have the honor to transmit herewith a copy of a report dated the 6th instant, from Commissioner of Indian Affairs, together with the claims therein referred to of certain Pottawatomie citizens, for depredations committed upon their property while they were members of the Pottawatomie tribe of Indians.

The tenth article of the treaty with said Indians of February 27, 1867, provides that the claims referred to, accompanied by the evidence taken therein, shall be reported to Congress with the amount found to be equitably due, in order that such action may be taken as shall be just in the premises.

The claims, with the evidence taken, and a schedule thereof, with the amounts allowed in each case as reported to the department by Commissioner of Indian Affairs, are respectfully submitted to Congress for such action as the treaty contemplates.

Very respectfully, your obedient servant,

C. DELANO,  
Secretary.

Hon. JAS. G. BLAINE,  
Speaker House of Representatives, Washington, D. C.

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*Report of Commissioner of Indian Affairs.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,  
Washington, D. C., December 6, 1871.

SIR: The tenth article of the treaty with the Pottawatomie Indians, of February 27, 1867 (Stat., vol. 15, p. 533), provides "that upon the presentation to the Department of the Interior of the claims of said tribe for depredations committed by others upon their stock, timber, or other property, accompanied by evidence thereof, examination and report shall be made to Congress of the amount found to be equitably due, in order that such action may be taken as shall be just in the premises."

Under this provision of the treaty a number of claims were presented by late Agent Palmer, under date of December 24, 1869, extending as far back as the year 1846. These, after examination in this office, were, on the 27th February, 1870, reported to the then Secretary of the Interior, with the statement that, from the loose and defective character of the evidence, it was impossible to reach an intelligent decision as to the amount equitably due any one of these claimants, and it was therefore recommended that the papers be returned to Superintendent Hoag for re-examination by the present agent for the Pottawatomie Indians, Mr. J. H. Morris. This recommendation was concurred in by the honorable Secretary, and the claims were accordingly returned on the 5th March last, with instructions for the agent's guidance in the examination to be made by him; the claimants to submit new claims, or verify those already made within a reasonable time.

In compliance with these instructions, a copy of which is herewith inclosed, Agent Morris transmitted to this office, under date of November 9, 1871, ninety claims, amounting in the aggregate to \$49,547.80, and allowed by him in the sum of \$48,332.80, with the statement that he has carefully investigated each separate claim, and examined the witnesses as to the character of the several claimants for truth and veracity, and that all claims which appeared to him spurious or dependent upon evidence of a doubtful character had been rejected.

I inclose herewith an abstract made in this office of the various claims now presented showing the names of the claimants, with the amount claimed and amount awarded placed opposite their respective names.

A uniform course seems to have been adopted in the examination of the various cases with little or no variation. The claimant makes deposition before a notary public that he is a Pottawatomie citizen and had property stolen from him while a member of the tribe, specifying the articles thus lost, the circumstances connected therewith, and the value of the property at the time it was taken. This statement is corroborated by affidavits of two or three persons claiming to be conversant with the facts and circumstances of the case, and by the agent's certificate that the evidence was taken in his presence; that the valuation of the property lost is fair, and that he believes the claim to be equitable and just.

As the agent appears to have carried out his instructions in the investigation with which he was charged, I have the honor to submit the claims for consideration and appropriate action by the department.

Very respectfully, your obedient servant,

F. A. WALKER,  
*Commissioner.*

Hon. C. DELANO,  
*Secretary of the Interior.*

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*Report of Agent Morris.*

POTTAWATOMIE INDIAN AGENCY,  
*Eleventhmonth, 9th, 1871.*

*To the Hon. Commissioner of Indian Affairs, Washington, D. C.:*

Respectfully I herewith forward ninety-one claims of Pottawatomie Indians for depredations committed upon their stock, timber, and other property, while living upon their reservation in Kansas, for the payment of which provision is made by the tenth article of the treaty of February 27, 1867.

In accordance with the instructions of the honorable E. S. Parker, Commissioner of Indian Affairs, dated at Washington, D. C., March 8, 1870, I have given notice to all Indians having claims to present, to come forward and prove them up, and also employed J. S. Merritt, a notary public of Pottawatomie County, Kansas, duly commissioned and qualified, to take affidavits.

For my guidance in ascertaining the true value of property upon the reservation, I called upon Alexander Peltier, Sidney W. Smith, and John D. Lasley, three *disinterested*, intelligent, and honest men, who have lived upon the reservation during the period covered by the losses for which claim is made, and I consulted with them frequently during the taking of the proof of the claims, and have had them subscribe the accompanying affidavits. I have taken especial care to guard against spurious claims that might have been presented, and I carefully investigated each claimant and the witnesses he introduced to prove up his or her claim as they presented themselves. I also inquired into the character of the claimants for truth and veracity, and such claims as were to all appearance spurious or dependent upon the testimony of witnesses not truthful for their substantiation, I have rejected, and refused to present them to the department for consideration.

From the testimony of all, there were many depredations committed upon these Indians during the great immigration to California and Pike's Peak. Through this reserve was the main thoroughfare upon which many of the principal stock-growers and farmers lived, over which these immigrants traveled, and they seemed to be lawless when they had reached so far west as to be beyond civilization; and there is no doubt in my mind, from the testimony of all the witnesses, that these Indians suffered very much at their hands. It appears that immense trains of immigrants passed along this road daily during the immigration, and were constantly driving off their stock and destroying their timber and other property, and the Indians were powerless to oppose them, there being no law in force to which they could appeal for protection.

Very respectfully,

J. H. MORRIS,  
*United States Indian Agent.*