

## CLAIMS ARISING OUT OF INDIAN TREATIES.

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JUNE 30, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

### REPORT :

[To accompany bill H. R. 9729.]

*The Committee on Indian Affairs, to whom was referred the bill (H. R. 7849) "to establish a board of commissioners to examine, adjust, and report on all claims arising out of Indian treaties and depredations committed by the Indians, and for other purposes," have duly considered the same and report as follows :*

For many years large numbers of claims of citizens of the United States for depredations committed by the Indians have come before each session of Congress. Some have been presented by private bills and petitions, while many others have been transmitted to Congress by the Secretary of the Interior, in accordance with existing law. Numerous other claims of Indians for depredations by white men have also been reported upon by the Secretary of the Interior. No positive action has been taken by any Congress, with a view to final disposition of either of these classes of claims. At each session numerous propositions have been made in the form of general bills, to refer these claims to some commission or to the Court of Claims; but, so far as your committee can find, no action has ever been taken by any committee upon any of these propositions. Each Congress has contented itself with paying a few of the claims by special enactment. Your committee have had before them both general and special bills, proposing to deal with claims of this class as well as a comprehensive report of the Secretary of the Interior showing the number of claims filed in this Department (H. R. Ex. Doc. 125, Forty-ninth Congress, first session). After a careful consideration, your committee have reached the conclusion that the only course consistent with a due regard on the one hand for the obligations of the Government, and on the other for the proper security of the Treasury from unfounded demands, is to provide for the examination of these claims by some tribunal endowed with ample facilities for sifting their merits thoroughly, in whose findings Congress may safely repose confidence. Mindful of the importance of the subject-matter, your committee have deemed it proper to present these reasons for submitting the substitute which accompanies this report.

The relations of the Government to the Indians are complex. When the problem to be solved involves not only these relations but also the obligations of the Government towards its citizens and the Indians in their relations to each other, its true solution can only be reached after

the most painstaking and careful consideration. A full review of the legislation of Congress upon the subject of the depredations of Indians and whites upon each other is the first necessity in this consideration.

From the earliest days of the Government, its policy in regard to the Indians has been to keep them separated from the whites and to regulate all intercourse between the two races in the strictest manner. The act of July 22, 1790 (1 Stat. L., 137), is the first law of the United States to regulate trade and intercourse with the Indian tribes. This forbade any trading with the Indians except by those receiving Federal licenses therefor. By act of March 1, 1793 (1 Stat. L., 329), these provisions were re-enacted and other provisions adopted forbidding settlement on or surveying Indian lands, and making void all purchases of land from Indians except by treaty or convention under the authority of the United States.

On May 19, 1796, a third and more comprehensive act was passed to cover the whole subject of trade and intercourse with the Indian tribes. This act (1 Stat. L., 469) carefully defined the Indian country by metes and bounds, re-enacted the various restrictive provisions of the former laws, and, in addition, forbade any person going into the Indian country to hunt or graze cattle, under the penalty of fine or imprisonment, or even entering the Indian country south of the Ohio River without a license. Notwithstanding the heavy penalties contained in this act for offenses against the Indians, and the provisions for punishment, if found outside the Indian country, of any Indian offending against the whites, Congress foresaw that depredations would occur on both sides. Provision was therefore made for such cases. Congress was not unmindful in those days that it had assumed a large but definite obligation by keeping the Indian free in his property from any liability for his offenses against white men, and by guaranteeing him absolute immunity of person if he should return to his reservation before arrest. Neither was Congress inclined to refuse the assumption of this obligation by the United States, even at a time when the impoverished condition of the national finances commanded the most careful scrutiny of every new assumption of financial liability. On the other hand, it was felt that the Indian should know that he should suffer no wrong by the evil actions of bad white men, but that the Great Father would fully care for him. It was felt, too, that in no way could peace be so well kept between the two races as by the assurance that the Government would make full recompense for all wrongs which one race might inflict upon the other. Congress, therefore, governed by the legal obligation in the one case, and by a high sense of honor in dealing with inferior peoples in the other, together with a just appreciation of the wisest policy toward both the citizens and the Indians, enacted that the United States should guarantee an eventual indemnity both to white men and to Indians for the losses sustained by the depredations of the one upon the other. With a view to enforcing the tribal responsibility for depredations, all payments made by the United States for depredations by the Indians were to be reimbursed out of tribal funds, if such funds existed, while, on the other hand, a heavy punishment was affixed to the offenses committed by white men against the Indians.

The just and equitable policy embodied in this law was continued by repeated enactment for many years, provisions substantially identical being contained in two temporary statutes, those of March 3, 1799 (secs. 4 and 14, 1 Stat. L., 747, 747), and March 30, 1802 (secs. 4 and 14, 2 Stat. L., 141, 143), and finally embodied in the permanent "intercourse act" of June 30, 1834 (secs. 16 and 17, 4 Stat. L., 731). All these sections will be

found in full in Appendices A and B, which are attached hereto and made a part of this report.

These ancient rules, controlling the Government in dealing with the relations between the Indians and white settlers, continued in force for nearly sixty years without substantial change. By act of February 28, 1859, sec. 8 (11 Stat. L., 401), Congress repealed the provision guaranteeing eventual indemnity to whites for losses by Indian depredations in cases where no treaty funds existed, although carefully preserving by the same act the obligation to make indemnification out of annuities, and subsequently providing by joint resolution of June 25, 1860 (12 Stat. L., 120), that any right to indemnity existing at the date of the former act should not be impaired. The guarantee of indemnity to Indians in cases of depredations by whites was not affected by this act, nor has there been any legislation since upon this subject. It remains a statutory obligation, section 16 of the act of June 30, 1834, being re-enacted as sections 2154 and 2155, Revised Statutes.

During all this period of time payment of claims for Indian depredations was made to a considerable extent by the Indian Bureau. After the act of 1859, the same course was followed in regard to claims against Indian tribes to whom annuities were due. If the claim was duly proved to the satisfaction of the Indian Bureau, it was paid out of the annuities unless, as occurred in many cases, the annuities were not sufficient to supply the absolute needs of the Indians. In that case the claims remained unpaid *ex necessitate*, though contrary to the law. But after the close of the late war a feeling of distrust arose as to the sufficiency of the means under the control of the Indian Bureau for determining the validity of claims of this class. It began to be feared that an executive bureau was wanting in facilities for the investigation of claims of large amounts, involving unliquidated damages, sufficient to warrant entire confidence that just claims would be paid and unjust claims rejected. For this reason Congress determined to leave for itself the final disposition of all such cases and enacted, July 16, 1870 (16 Stat. L., 360), that no appropriations to pay annuities should thereafter be used to pay depredation claims, and that no depredation claims should be paid without special appropriation therefor by Congress. This provision of law now appears as section 2098, Revised Statutes. Two years after this enactment an act of Congress (May 29, 1872) (sec. 7, 17 Stat. L., 190), was passed, doubtless designed to afford a comprehensive remedy to claimants who had suffered losses by Indian depredations. This required the Secretary of the Interior to investigate claims of this class presented to him, and to report the claims to Congress, together with his allowance or disallowance and all the evidence. This law appears as sections 445 and 466, Revised Statutes. It was probably expected that the reports of the Interior Department under this act would be generally accepted, and that the special appropriations for allowed claims would be made almost as a matter of course. But the result has been far different. The reassertion of the ancient liability of the Government is strongly implied in the act of 1872, but very few payments have been made. In nearly every Congress bills authorizing the payment of a few claims have become laws either because of their exceptional merit or from some other causes. While these few cases are sufficient to show that the liability of the Government has been constantly affirmed, they amount to very little as an actual discharge of its obligations. So great was the wrong caused by the delay in payment that at the second session of the Forty-eighth Congress a large number of claims of this kind which had been approved by the Interior Department were placed upon the Indian ap-

propriation bill, and passed by the House of Representatives. But the Senate, in compliance with its rule forbidding the payment of private claims in general appropriation acts, struck all these claims out, inserting instead an appropriation of \$10,000 for a further investigation of these claims by the Interior Department. (Act of March 3, 1885, 23 Stat. L., 376; see copy of law in Appendix A.) The chief result of this investigation seems to have been the discovery by the Indian Office that a large majority of the claims heretofore duly considered were barred by the provisions of a repealed law. The last legislative act upon this subject is an appropriation of \$20,000 by the Indian appropriation act of May 15, 1886, for continuing this investigation, the appropriation having been inserted by the Senate after the bill had passed the House.

This review of the legislation on the subject shows that the payment of claims of these classes is in strict accordance with the old and settled policy of the Government begun seven years after the Constitution went into effect and reiterated many times in after years. This policy, too, is no more than a recognition of the obligations to which the Government is bound upon the highest principles of justice.

In the able and comprehensive speech delivered by Senator J. N. Dolph in the Senate on April 16, 1886 (Congressional Record Forty-ninth Congress, first session, p. 3657), the principles upon which the obligation rests to pay the Indian depredation claims are fully and conclusively stated. This speech is the most complete presentation of this subject ever made to either house of Congress and contains valuable materials to which this report is greatly indebted. (See appendices.)

Senator Dolph says (pp. 3660 and 3661):

Submission to the Government is the primary obligation of the citizen, and protection of the citizen is the correlative obligation of the Government. Theoretically, it is the duty of the Government to afford protection to all its citizens in the enjoyment of life, liberty, and property, not only within its borders, but everywhere they may lawfully go. While its obligation to afford protection is sometimes by law devolved by the State upon municipal corporations intrusted with certain powers of government, the duty is the duty of the State, the power so exercised being derived from the State. The Government of the United States forms no exception to this general rule. Within the powers conferred upon it by the Federal Constitution and for the purposes of its creation it demands the allegiance of the citizen, and to the extent of those powers it owes every citizen protection. As Congress has power "to declare war," "to raise and support armies," "to provide and maintain a navy," and the States are prohibited from keeping ships or troops in time of peace, from entering into any agreement or compact with another State or with a foreign power or to engage in war, it becomes the evident duty of the General Government to protect the citizens of the United States in the enjoyment of life, liberty, and property against foreign powers and their citizens and subjects, and the obligation of the Government to do this has never been denied, and in the discharge of this obligation it has declared war, called into use the Army and Navy, taxed the people, and borrowed money upon the public credit.

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For every wrong there should be a remedy. If one citizen of a State injures another in person or property the State ought to provide for the redress of that wrong by legal methods; and whenever the State, or municipal corporations within a State, fails to afford such reasonable protection as is within its powers to the citizen, the State or municipal corporation upon the plainest principles of justice should be required to indemnify the citizen for any loss sustained by reason of such failure.

The States are powerless under the Federal Constitution to protect their citizens from the Indian tribes. It is true that in case of actual Indian hostilities they may repel invasion and drive the murderous savages back to their cities of refuge—the reservations—but within them they are safe under the protecting ægis of the Federal authority. The States cannot demand or enforce satisfaction from the Indians for the losses sustained by their citizens. The Federal Government interposes itself between the States and their citizens to shield the Indians from the ordinary and natural consequences of their acts. The citizen cannot justly demand that recourse

against the State which is allowed by the laws of many countries and many of the States for losses occasioned by lawlessness and violence, and can only look to the Federal Government for redress.

Hon. Martin Maginnis, for a number of years a Delegate from Montana, has also very forcibly presented the obligation of the Government in this matter (Cong. Rec., vol. 11, Part 1, p. 640):

The Government sets up in the Territories these independent principalities known as reservations. They are occupied by people recognized in a sense as independent nationalities, under the control and protection of the General Government. The laws of the commonwealths in which they are situated do not cover them. The process of the civil courts cannot invade them. They are cities of refuge, and the Government declares to all surrounding people that they shall not disturb its wards, and assumes the position of guardian and arbiter between them and all others. You say that people who trade or settle in such countries should take the risk of their ventures. So they should under the laws. But if a white man burns your house or steals your horse you can follow him anywhere with the law. You can arrest him, punish, and perhaps recover your property. But when these Indians make a raid off their reservations, invade a settlement, and take your horses and cattle and drive them, under your very eyes, to the reservation, what can you do with the law?

Suppose they murder and destroy and then retreat to their own dominions, and your marshals and sheriffs follow them in hot pursuit to the very boundaries of their reservation, what remedy have you? Your law no longer follows the Indians. The process of your court falls dead as soon as your pursuit reaches the line of his reservation, which the Government orders you not to cross, and, safe in his city of refuge, the depredator laughs at you and is safe from your law officers, and can exhibit your stolen property before your outraged face, and you have no right to reclaim it and no remedy for your wrong, except through the General Government.

The Government, in pursuance of its settled policy, says that you shall not cross that line, nor shall your courts, or their officers, or your local laws. It says these people are the wards of the Government, and if you have any cause of complaint you must come to the Government of the United States, and it will arbitrate your differences and settle the measure of your damages.

Having no other recourse, and being forbidden to resort to any, the settler, therefore, comes to the Government of the United States to right his wrong, and to obtain justice for the acts which have been committed by those whom the Government excludes from the operation of the local law, and for whom, as its own wards, it assumes the responsibility.

In providing for the payment of these claims, Congress will do nothing more than follow the analogies both of ancient and modern laws of other jurisdictions, holding the municipality liable in case of damage by mobs. The Saxon laws provided that the ville should pay 40 marks for the killing of any person if the slayer escaped. The statutes of Manchester (13 Ed. I, ch. 1), provided that the hundred should be liable for robberies, if the country would not answer for the bodies of the offenders, and by act of 7 and 8 Geo. IV, ch. 31, an action was given against the county for damages committed by mobs. The States of the Union have not been backward in following these precedents. New York, Pennsylvania, New Jersey, Maryland, South Carolina, Kentucky, Maine, New Hampshire, Massachusetts, Rhode Island, and Wisconsin, all have similar laws. If these laws be good public policy and sound justice when the criminal and civil courts are open against offenders, how much more should the United States pay for the depredations unlawfully committed by Indians, who are sacredly protected by the Government of the United States from the process of the courts of justice?

It has been seen that the statutory obligation requiring payment to the Indians in case of offenses committed against them by white men has never been in the least altered. On the contrary, it has been the subject of repeated treaty confirmations. (See Appendix F.) Your committee deem this obligation and that of paying our citizens for depredations committed by the Indians to be reciprocal. The citizen should not be treated with less consideration than the Indian. The duty to

each should be performed, and means provided for payment to each of his rightful dues. Senator Cole, of California, well said in 1870 (Cong. Globe, part 5, p. 4010, Forty-first Congress, second session) :

A great deal less care, it seems to me, is given to our own race than to the Indian race. We are providing for their comfort and convenience, and not providing for those against whom they have committed offenses—upon whom they have inflicted damage in some way or other.

The bill reported by your committee makes a just provision for the wrongs committed on both sides.

The reading of the many Indian treaties made from the foundation of the Government to 1871, when further treaty making with Indians was forbidden by law, shows that many of the Indian tribes have formally agreed that their annuities or other funds shall be liable for payment for depredations committed by members of the tribes. In Appendix D to this report is given a list of treaties making provisions as to this subject. It has already been seen that the United States by law took upon itself the obligation of paying these claims from treaty funds, and has never divested itself of that obligation, although there has been for a number of years a failure to make appropriation for the performance of this obligation. The law and the treaties in effect make the Government the trustee holding these funds for the benefit of the sufferers by any depredations which these Indians may commit.

The Government has also assumed the obligation of caring for the Indians and supplying all their material necessities. Where the Indians have had treaty funds due them the Government has been relieved of the need of appropriating money from the Treasury to supply their necessities; but in using funds which ought to have been kept for the benefit of the sufferers by depredations in supplying the need of the Indians the trustee has made itself liable for the payment of the claims of the sufferers. There are many Indians to whom annuities were due in 1870 who have now received everything due them, although claims for depredations committed by them have been presented and allowed.

It was the duty of the Government, both by statute and treaty, to pay these claims with the treaty funds, but having neglected this duty and diverted the funds, no matter how useful a purpose, it must now answer to the claimants from the Treasury. In House Ex. Doc. 5, Forty-first Congress, second session, p. 182, it appears that \$4,167,486.30 was estimated as necessary to be appropriated for the fiscal year ending June 30, 1870, to fulfill treaty stipulations with Indian tribes. Nearly all this sum might have been held by the Government by law and treaty for the payment of claims for depredations, but was not. But payments to the Indians have been made to so large an extent that in the book of estimates (H. R. Ex. Doc. 5, 49th Cong., 1st sess., p. 250) for the fiscal year ending June 30, 1887, only \$2,725,444.84 is estimated to be necessary for this purpose, and this includes \$1,400,000, due under the act of February 28, 1877 (19 Stat. L., 256), to the Sioux Indians. (Same document, p. 137.) This leaves an annual charge of only \$1,325,444.84 now due upon treaty obligations existing in 1870, against \$4,167,486.30 then due, and this lesser sum is subject to annual diminution. Wherever these now exhausted annuities were paid to tribes who had committed depredations the Government violated its trust to the sufferers, and now should answer to them.

Your committee deem it proper to place before the House as full an estimate as possible of the amount of claims which may be allowed under this act for depredations committed by Indians. The law, as has already been seen, has continuously permitted the presentation of these

claims to the Indian Bureau. In a letter to Senator Dolph (see Congressional Record, 49th Cong., 1st sess., p. 3665, and Appendix I to this report, where the letter is reprinted), the Commissioner of Indian Affairs states that the claims on file in his office, dating from 1850 to the present time, aggregate \$13,000,000; that many of these claims, to an indeterminate amount, were paid by the Indian agents prior to the year 1870, and that Congress has appropriated by special acts \$1,654,530. Subtracting this amount appropriated from the total claimed, leaves \$11,345,470 as a maximum of all the claims presented without allowing for the uncertain amount paid by Indian agents. By reference to the table presented as Appendix H to this report giving the amounts claimed, allowed, and disallowed, in various claims tribunals, it will be seen that the highest proportion of the amounts allowed to the amounts claimed in any of these seven tribunals is less than 25 per cent.; that this maximum percentage was in a tribunal (the Court of Claims) which has had a strict statute of limitations and in which the cognizable claims are those arising upon contract, and generally for liquidated sums; that the next highest proportion, in claims considered by the Quartermaster-General under the act of July 4, 1864, is but 14 per cent. and that the proportions run down as low as one-tenth of 1 per cent. (claims against France under the convention of January 15, 1880).

As many of the witnesses are dead by whom the claims embraced in this bill might have been proved at an earlier date, as many of the claimants are dead and their heirs scattered to all parts of the country, and as the claims are for items of property which are easily subject to a higher valuation by the owner than they might have in the view of the commission, the committee are of the opinion that the proportion of allowances to claims cannot in any event exceed 25 per cent., the maximum percentage shown as having been allowed by any of the tribunals whose allowances are contained in the table presented in Appendix H. This is a liberal estimate and would fix the total of allowances upon claims already filed in the Interior Department at about \$2,800,000.

It is not possible to estimate with certainty the number of new claims which would be filed before the commission in addition to those now in the Interior Department. The committee think it safe to say that, at the outside, no more than one-half as many claims will be presented as have already been filed, especially when it is known that all the claims will be subjected to the rigid scrutiny of a commission which will be able to take testimony on the spot where the claim originated. Doubtless, too, the proportion of allowances will be less in cases to be filed than in claims presented shortly after the losses occurred. But if this liberal addition be made and the same proportion of allowances used as a basis of estimate, it will be seen that the total expenditure under this act for Indian depredation claims is not likely to exceed \$4,200,000. While it is difficult to make an approximation of this character, it will be noticed that the bases of calculation involved in this estimate are all liberal. The payments will be extended over a term of years, and will therefore not fall with any great weight on the Government in any particular year.

The bill reported by the committee provides for the appointment of a special board of three commissioners, who shall hold their regular sessions in Washington, and special sessions in the Indian Territory, or in any other places where they may best obtain information and evidence to aid them in arriving at correct decisions. To further their obtaining evidence, each member of the board is authorized to act separately

for that purpose only. All decisions upon claims are to be made by the board in its regular sessions. All claims for depredations by Indians upon whites or by whites upon Indians, with all the papers and information relating thereto on file in the Departments, are to be delivered to the Board on its organization. The Board is also authorized to consider all off-sets or counter-claims and allow them as against the claimants.

Your committee have thought it best that the functions of the Commissioners should be as far as possible strictly judicial. They have therefore reported in the bill a provision making it the duty of the Attorney-General to see that the interests of the Government are properly presented. In some commissions and tribunals heretofore created, possessing judicial functions, the Commissioners have been obliged to act both as judges and as counsel for the United States. These two positions your committee deem to be especially incompatible. Either the Commissioner is so closely occupied by his judicial duties that the interests of the Government are not properly cared for or in his zeal for the protection of the United States he forgets his judicial capacity. A grievous injustice results in either case. The only remedy for this is a strict separation of the two functions.

Your committee are strongly opposed to any secret modes of examination of claims of so much importance as those embraced in this bill, and believe that the commission should take all its proceedings in the full view of both parties, as represented by their counsel, and subject to that same scrutiny which experience has proved to be so valuable in the ordinary proceedings of courts. Every man is entitled to a day in court, and to have his cause fairly heard. Your committee have thought it proper to provide for such hearing before this Commission, believing that in this way only can there be satisfaction with its decisions.

The amounts thus allowed by the Commissioners are to be incorporated in the Indian appropriation bill. But your committee have thought it proper to express in this bill a reservation, excepting from appropriation any allowances which, in the judgment of Congress, are unjust to the claimants or the Government.

Your committee have also provided in the sixth section of the bill that if any of the amounts allowed shall be for depredations committed by tribes of Indians, or by individual members of tribes having funds due or to become due them from the Government, the amounts appropriated shall be deducted from such dues or annuities. In another part of this report it has been shown that many tribes have provided by treaty for such deductions. It has been suggested that the tribe ought not to suffer for the wrong-doings of its individual members; but your committee think that the correct way to enforce good conduct among the Indians is by such a provision, thus placing the responsibility for individual conduct upon the tribe, who possess the control over the individuals, and requiring the tribe to answer out of their annuities for individual misconduct. This was the view taken by Senator Thayer, of Nebraska, in debate (Cong. Globe, 41st Cong., 2d sess., part 5, p. 4012).

I say to them also that the way to produce an effect upon the Indians is by letting them know that if they commit these depredations their annuities shall be taken to pay for them. This is the only way in which you will reach them. That is the only way in which you will have an effect on the Indians and compel them to cease their depredations on the settlers.

The treaties themselves make no difference in their provisions for payment out of annuity funds between cases of individual depredations and those of tribal depredations, and the act of 1834 is explicit in its



reference to the acts of individual Indians. The general theory of the Government in dealing with the Indians up to the present time has been to deal with them in their tribal relations, and to remit individual relations between Indians to the tribal customs and regulations.

The number of Indians in the United States in 1884, exclusive of Alaska, was 264,369. (See Report of Commissioner of Indian Affairs for 1884, page xviii.) The total area of Indian reservations, October 10, 1883, was 135,998,101 acres. (See The Public Domain, page 1253.) This is an average of about 511 acres to each Indian. It is evident to the most casual observer that this small number of Indians cannot continue indefinitely to occupy all this large amount of land. Numerous bills are before Congress at every session proposing to divide reservations and purchase them from the Indians. It is not doubted that it will become necessary for Congress at some future day to provide for the purchase of various portions of the Indian lands; thereby large sums of money will become due to different tribes. Your committee believe that the tribal funds so obtained should, equally with the annuities now due, be chargeable with the amounts paid in satisfaction of the claims for depredations committed by the tribes. They therefore report a provision requiring that the payments on account of the depredation claims shall be charged to and deducted from funds "to become due," as well as those already due. It is believed that the Indians themselves will thus ultimately pay the greater proportion of the claims for their depredations.

Your committee have also reported a provision that all claims not presented within three years from the approval of this act, and all claims, presented and disallowed, and all disallowed portions of claims, shall be forever barred. The object of the committee in this provision is to make the proceedings of the commission a final settlement of these claims, so that they shall never thereafter be urged upon Congress. But it is realized that no bar of this kind can be final unless every claim has received such thorough and careful consideration as will commend itself to the sense of justice of the American people. To effect this end fully your committee have provided that an appeal to the Court of Claims be allowed in every claim from the decision of the commission whether it is for the Government or the claimant. This court, after an existence of over thirty years, has established itself in the public confidence. So carefully are its decisions considered that at the term of the Supreme Court of the United States for 1885-'86, no decision of the Court of Claims was reversed, although eighteen appeals from this court were decided. It is believed that when the action of a temporary commission is taken under the watchful eye of a court and its decisions are subject to the scrutiny of a reviewing power, it will exercise its authority with greater care than if subject to no control. The experience of Congress in some past instances shows that even after a decision by a *quasi* judicial tribunal claimants are apt to appear before Congress with rejected claims and pray a reversal of the action of this tribunal. It is a well known fact that the Committee on War Claims is overburdened year after year with appeals, mounting in number into the thousands, from claimants who allege that they have been injured by the adverse action of the Southern Claims Commission and the Quartermaster-General. That committee has already found it necessary to refer many of these claims, already decided by one or the other of these tribunals to the Court of Claims, for reconsideration in accordance with the provisions of the act of March 3, 1883, commonly called the "Bowman act." It is believed that such an undesirable result as this can best be

avoided by permitting every claimant who deems the action of the commission unjust to appeal to the Court of Claims at once. The Court of Claims is actually an appeal court from the decisions of the various Departments. Claimants whose demands are rejected by the tribunals of first instance, usually the Executive Departments, have in general a right of appeal to the Court of Claims. There seems to be no reason why the claimants provided for in this bill should be precluded from further remedy by the adverse decision of the court of first instance. They are therefore afforded a right to review by a superior tribunal. The Government is put in an equally advantageous position. The findings of the commission in favor of claimants may be again examined and the United States will appropriate to pay only claims which have passed the scrutiny of the Court of Claims, or in which the law officers of the Government may acquiesce in the decisions of the commission. The Court of Claims is not authorized to render judgment in such cases, but makes a report to Congress in the same manner as is made by the commission.

Your committee believe that the passage of the bill reported by them will afford valuable and much needed relief in many ways. The Secretary of the Interior and the Commissioner of Indian Affairs, and to some extent the Secretary of War, already crowded with necessary and proper duties, have been burdened with work for which an Executive Department is not fitted—the investigation of old and disputed demands against the Government. The same claims, after investigation in the executive branch of the Government, have been repeatedly, and with justice, pressed upon Congress. Members of Congress, upon whose time the public business makes the most urgent demands, have been compelled to give attention to these cases, and the committees, year after year have had their dockets burdened with them. Each Congress has seen a few cases disposed of but many more added to take their places. This bill relieves both the executive and legislative branches of the Government by creating a new tribunal with powers which enable it to properly exercise judicial functions. But not alone to the Government does this bill offer relief. Your committee believes that it affords a just and proper means of settlement for well founded and long urged demands both of the citizens of the United States and the wards of the Government. The meeting of the two races upon the frontier has necessarily been fruitful in conflict. There have been wrongs on both sides. To the Indian, the ward of the Government, justice and generosity must go hand in hand in awarding recompense for wrongs. The settler rightfully demands an equal justice. The early pioneers in the far West, the makers of a new civilization, the founders of a great empire, the leaders in the great army of workers who have made the vast western wilderness blossom with rich harvests, are among the noblest heroes and greatest benefactors of this Republic, and deserve from a grateful country an ample recognition of their trials and privations. It is difficult for one who has not taken part in that stupendous work to realize the labors of these early pioneers. Crossing the plains by slow and toilsome journeys, day after day gradually pressing nearer to their long-sought destinations, reaching them after trials sufficient to dismay less stout hearts, they begin to carve out homes for themselves, their wives and their children, in the wilderness. The clearing is made, the house built, the field fenced and plowed, the seed planted, and the harvest reaped. Then when the settler has passed his weariest day of toil and the future begins to look full of promise, a sudden warning is swiftly borne from the next settlement that the hostile Indians are

coming. The warning comes too late. Before the settler can escape the savages, mounted on the murdered white man's horses, fed with Government rations, armed with guns with which a kind guardian has provided them—these wards of the nation sack his house and carry away or burn all the fruits of his toil. The settler is fortunate if he escapes with his life or if he does not see his wife and daughters killed before his eyes or suffer a fate far worse than death. When the Indians are gone all that is left is a heap of ruins. His home is a home no longer; it is little more than the wilderness. If he dares again occupy his old homestead he must begin life anew. Such is the veritable history of many a settler. Year after year has every Representative from the West been appealed to by these veterans to secure a recognition by the Government of their just demands, until now these old heroes of a struggle as noble in its victories but as sad in its defeats as any war, ask with despair: "Shall we never be paid for our losses?"

Your committee are not unmindful of the weighty responsibility of the Government to the Indians, or that they, too, have suffered wrongs. But the settler himself must receive a long-delayed measure of justice. It is believed that the bill reported by your committee as a substitute for House bill 7849 affords a practicable mode of redress. It is therefore reported favorably to the House, with the recommendation that it do pass.

#### APPENDIX A.

##### GENERAL LEGISLATION ON CLAIMS FOR DEPREDACTIONS COMMITTED BY INDIANS.

###### I.—Act of May 19, 1796, sec. 14 (1 Stat. L., 472).

*And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall come over or across the said boundary line 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 or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage, upon any such citizen or inhabitant, it shall be the duty of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose; who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe, to which such Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding eighteen months, then it shall be the duty of such superintendent, or other person authorized, as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken as shall be proper to obtain satisfaction for the injury. And, in the mean time, in respect to the property so taken, stolen or destroyed, the United States guarantee to the party injured an eventual indemnification; *Provided always*, That if such injured party, his representative, attorney, or agent, shall in any way violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That nothing herein contained shall prevent the legal apprehension or arresting, within the limits of any State or district, of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen or destroyed, by any such Indian out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

###### II.—Act of March 3, 1799, sec. 14 (1 Stat. L., 747).

*And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall come over or cross the said boundary line, into any State or Territory inhabited by citizens of the United States, and there take,

steal, or destroy any horse, or horses, or other property, belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage upon any such citizen or inhabitant, it shall be the duty of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose; who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe to which such Indian or Indians shall belong for satisfaction, and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding eighteen months, then it shall be the duty of such superintendent or other person authorized as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken as shall be proper to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party injured, an eventual indemnification: *Provided always*, That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act by seeking, or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That nothing herein contained shall prevent the legal apprehension or arresting, within the limits of any State or district, of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen or destroyed by any such Indian out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

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III.—*Act of March 30, 1802, sec. 14 (2 Stat. L., 143).*

*And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall come over or cross the said boundary line, 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 or inhabitant of the United States, or of either of the Territorial districts of the United States, or shall commit any murder, violence, or outrage, upon any such citizen or inhabitant, it shall be the duty of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose, who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe to which such Indian or Indians shall belong, for satisfaction, and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, then it shall be the duty of such superintendent or other person, authorized as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken as shall be proper to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party injured an eventual indemnification: *Provided always*, That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking, or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That nothing herein contained shall prevent the legal apprehension or arresting, within the limits of any State or district, of any Indian having so offended: *And further provided*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen, or destroyed by such Indian, out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

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IV.—*Act of June 30, 1834, sec. 17 (4 Stat. L., 731).*

*And be it further enacted*, 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 or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; 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: *Provided*, That, if such injured party, his representative, attorney, or agent, shall in any way violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That unless such claim shall be presented within three years after the commission of the injury, the same shall be barred. 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: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended.

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V.—*Act of February 23, 1859, sec. 8 (11 Stat. L., 401).*

*And be it further enacted*, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and preserve peace on the frontiers," approved June thirteenth, eighteen hundred and thirty-four, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases, by Indians trespassing on white men as described in the said act, be, and the same is hereby, repealed: *Provided, however*, That nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act.

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VI.—*Joint resolution of June 25, 1860 (12 Stat. L., 120).*

That the repeal of [by] the eighth section of the act of Congress, approved the twenty-eighth day of February, eighteen hundred and fifty-nine, of so much of the act of Congress entitled "An act to regulate trade and intercourse with Indian tribes, and to preserve peace on the frontiers," approved June thirteenth, eighteen hundred and thirty-four, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases by Indians trespassing on white men, as described in said act, shall not be construed to destroy or impair any right to indemnity which existed at the date of said repeal.

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VII.—*Act of July 15, 1870, sec. 4 (16 Stat. L., 360). Sec. 2098, Revised Statutes.*

*And be it further enacted*, That no part of the moneys appropriated by this act, or which may hereafter be appropriated in any general act or deficiency bill making appropriations for the current and contingent expenses of the Indian department, to pay annuities due to or to be used and expended for the care and benefit of any tribe or tribes of Indians named herein, shall be applied to the payment of any claim for depredations that may have been or may be committed by such tribe or tribes, or any member or members thereof; and no claims for Indian depredations shall hereafter be paid until Congress shall make special appropriation therefor; and all acts and parts of acts inconsistent herewith are hereby repealed.

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VIII.—*Act of May 29, 1872, sec. 7 (17 Stat. L., 190). Secs. 445 and 466, Revised Statutes.*

That it shall be the duty of the Secretary of the Interior to prepare and cause to be published such rules and regulations as he may deem necessary or proper, prescribing the manner of presenting claims arising under existing laws or treaty stipu-

lations, for compensation for depredations committed by the Indians, and the degree and character of the evidence necessary to support such claims; he shall carefully investigate all such claims as may be presented, subject to the rules and regulations prepared by him, and report to Congress, at each session thereof, the nature, character, and amount of such claims, whether allowed by him or not, and the evidence upon which his action was based: *Provided*, That no payment on account of said claims shall be made without a specific appropriation therefor by Congress.

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IX.—*Section 2156, Revised Statutes.*

If any Indian 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 Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy any horse or other property belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which such Indian shall belong for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, such superintendent, agent, or sub-agent shall make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury.

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X.—*Act of March 3, 1885 (23 Stat. L., 376).*

INDIAN DEPREDAATION CLAIMS.

For the investigation of certain Indian depredation claims, ten thousand dollars; and in expending said sum the Secretary of the Interior shall cause a complete list of all claims heretofore filed in the Interior Department and which have been approved in whole or in part and now remain unpaid, and also all such claims as are pending but not yet examined, on behalf of citizens of the United States, on account of depredations committed, chargeable against any tribe of Indians by reason of any treaty between such tribe and the United States, including the name and address of the claimants, the date of the alleged depredations, by what tribe committed, the date of examination and approval, with a reference to the date and clause of the treaty creating the obligation for payment, to be made and presented to Congress at its next regular session; and the Secretary is authorized and empowered, before making such report, to cause such additional investigation to be made and such further testimony to be taken as he may deem necessary to enable him to determine the kind and value of all property damaged or destroyed by reason of the depredations aforesaid, and by what tribe such depredations were committed; and his report shall include his determination upon each claim, together with the names and residences of witnesses and the testimony of each, and also what funds are now existing or to be derived by reason of treaty or other obligation out of which the same should be paid.

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XI.—*Act of May 15, 1886 (not yet published).*

Indian depredation claims: For continuing the investigation and examination of certain Indian depredation claims, originally authorized, and in the manner therein provided for, by the Indian appropriation act approved March third, eighteen hundred and eighty-five, twenty thousand dollars; and the examination and report shall include claims, if any, barred by statute, such fact to be stated in the report; and all claims whose examination shall be completed by January first, eighteen hundred and eighty-seven, shall then be reported to Congress, with the opinions and conclusions of the Commissioner of Indian Affairs and the Secretary of the Interior upon all material facts, and all the evidence and papers pertaining thereto.

## APPENDIX B.

## GENERAL LEGISLATION ON CLAIMS FOR DEPREDACTIONS COMMITTED BY WHITES ON THE PROPERTY OF INDIANS.

I.—*Act of May 19, 1796, sec. 4 (1 Stat. L., 470).*

*And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement, or territory belonging, or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime against the person or property of any friendly Indian or Indians which would be punishable, if committed within the jurisdiction of any State, against a citizen of the United States, or, unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall also, when property is taken or destroyed, forfeit and pay to such Indian or Indians to whom the property taken and destroyed belongs a sum equal to twice the just value of the property so taken or destroyed; and if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value shall be paid out of the Treasury of the United States: *Provided, nevertheless*, That no such Indian shall be entitled to any payment out of the Treasury of the United States, for any such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge or attempted to obtain satisfaction by any force or violence.

II.—*Act of March 3, 1799, sec. 4 (1 Stat. L., 744).*

*And be it further enacted*, That if any such citizen or person shall go into any town, settlement, or territory belonging or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime against the person or property of any friendly Indian or Indians, which would be punishable if committed within the jurisdiction of any State against a citizen of the United States; or, unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars and be imprisoned not exceeding twelve months; and shall also, when property is taken or destroyed, forfeit and pay to such Indian or Indians, to whom the property taken and destroyed belongs, a sum equal to twice the just value of the property to taken or destroyed. And if such offender shall be unable to pay a sum equal at least to the said just value, whatever such payment shall fall short of the said just value shall be paid out of the Treasury of the United States: *Provided, nevertheless*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge or attempted to obtain satisfaction by any force or violence.

III.—*Act of March 30, 1802, sec. 4 (2 Stat. L., 141).*

*And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement, or territory belonging or secured by treaty with the United States to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punishable, if committed within the jurisdiction of any State against a citizen of the United States; or, unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall also, when property is taken or destroyed, forfeit and pay to such Indian or Indians to whom the property taken and destroyed belongs a sum equal to twice the just value of the property so taken or destroyed; and if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value shall be paid out of the Treasury of the United States: *Provided, nevertheless*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge or attempted to obtain satisfaction by any force or violence.

IV.—*Act of June 30, 1831, sec. 16 (4 Stat. L., 731).*

*And be it further enacted*, That where, in the commission, by a white person, of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States: *Provided*, That no such Indian shall be entitled to any payment, out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, shall have sought private revenge or attempted to obtain satisfaction by any force or violence: *And provided, also*, That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury, as aforesaid.

V.—*Sections 2154 and 2155, Revised Statutes.*

Whenever, in the commission, by a white person, of any crime, offense, or misdemeanor within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offense, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed.

If such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States. If such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury. But no Indian shall be entitled to any payment out of the Treasury of the United States for any such property, if he, or any of the nation to which he belongs, have sought private revenge, or have attempted to obtain satisfaction by any force or violence.

## APPENDIX C.

## SPECIAL LEGISLATION.—APPROPRIATIONS FOR INDIAN DEPREDAATION CLAIMS.

The following is a list of special appropriations for payment of Indian depredation claims. In each case it is stated whether payment is to be made from the Treasury or from the Indian annuities. The total of amounts appropriated from the Treasury is \$1,604,028.25; the total appropriated from Indian annuities is \$201,316.37. But these totals do not embrace the sums appropriated from the Treasury by several acts (March 2, 1827; May 31, 1830, June 30, 1834), in which the amounts are not specified.

By act of March 3, 1819 (section 5, 3 Statutes, 517), \$4,000 is appropriated from the Treasury to satisfy claims of citizens of the United States for property stolen or destroyed by the Osages.

By act of March 2, 1827 (6 Statutes, 361); William Morrison, late contractor for supplies to the Army, is allowed credit (out of the Treasury) for sixty-nine beef cattle taken from near the military post of Prairie Du Chein, in July, 1816, by certain predatory tribes of Indians.

By act of March 25, 1830 (6 Statutes, 408), the Secretary of War is directed to pay \$6,703 from the Treasury to four persons for property taken by the Osage Indians from 1816 to 1823.

By act of May 31, 1830 (4 Statutes, 428), certain depredation claims are referred to the Third Auditor to be decided according to the provisions of section 14 of the act of March 30, 1802, the money to be paid out of the Treasury.

By act of March 2, 1831 (4 Statutes, 470), \$1,300 is appropriated from the Treasury for payment of sundry claims for Indian depredations.

By act of June 28, 1834 (4 Statutes, 705), \$7,800 is appropriated from the Treasury to defray the expense of investigating claims against the Seminoles for property stolen or destroyed by them and for liquidating such as may be satisfactorily established.

By act of June 30, 1834 (4 Statutes, 721), payment not exceeding \$250,000 is granted



out of the Treasury to citizens of Georgia for claims founded upon the capture and detention or destruction of property by Creek Indians prior to the act of March 30, 1802.

By act of June 30, 1834 (6 Statutes, 581), certain claims for Indian depredations are referred to the Secretary of War, who is directed to pay out of the Treasury all which shall be established.

By act of July 1, 1836 (6 Statutes, 659), \$403 is appropriated from the Treasury to James Alexander, and \$575 to Ira Nash for losses sustained and depredations committed by Sac and Fox Indians in 1814.

By act of July 2, 1836 (6 Statutes, 671), the Secretary of War is directed to pay to Joseph Bogy \$6,000 from the Indian annuities for his merchandise and property taken or destroyed by the Choctaw Indians in 1807.

By act of March 3, 1837 (5 Statutes, 158-162), the President is directed to report to Congress as to depredations committed by the Seminoles and Creeks, before and after the recent Indian war.

By act of March 3, 1841 (6 Statutes, 822), the Secretary of the Treasury is directed to pay out of the Treasury, to Avery, Saltmarsh & Co., mail contractors, \$9,779 for property employed by them in transporting the mail, captured and destroyed by the Creek Indians in May, 1836.

By act of June 15, 1844 (6 Statutes, 913), the Secretary of War is directed to pay to George Wallis \$3,000, out of the Indian annuities, for the destruction of cattle belonging to the said Wallis by the Sac and Fox and Iowa Indians.

By act of August 9, 1846 (9 Statutes, 24 Private), \$1,500 is appropriated from the Indian annuities to pay to the legal representatives of Cyrus Turner for depredations committed by Sioux Indians.

By act of March 2, 1847 (9 Statutes, 41 Private), \$1,081 is appropriated from the Treasury to pay Elijah White and others for property taken by the Pawnee Indians.

By act of March 3, 1847 (9 Statutes, 41 Private), \$676.91 is appropriated from the Treasury to pay Joseph E. Primeau and Thomas J. Chapman for depredations committed by Yankton Indians.

By act of August 14, 1848 (9 Statutes, 90 Private), \$800 is appropriated from the Treasury to pay Charles N. Gibson for a wagon captured and destroyed by the Seminole Indians in Middle Florida in February, 1839.

By act of March 3, 1849 (9 Statutes, 141 Private), \$4,155 is appropriated from the Treasury to pay Thomas Talbot and others for property taken by the Pawnee Indians.

By act of August 30, 1852 (10 Statutes, 41, 55), \$1,200 is appropriated from the Treasury to pay James M. Marsh for losses for property taken by the Sioux Indians while extending the line of surveys under contract.

By act of January 18, 1855 (10 Statutes, 843), \$500 is appropriated from the Treasury to pay Moses D. Hogan for cattle taken by the Indians.

By act of August 18, 1856 (11 Statutes, 65, 81), the Secretary of the Interior is ordered to investigate claims for depredations by Indians in New Mexico.

By act of March 16, 1858 (11 Statutes, 527), the sum of \$200, with interest from the 1st day of June, 1852, was appropriated from the Treasury to pay John Hamilton, of Champaign County, Ohio, for his time and services during his imprisonment with the Indians in the war of 1812 with Great Britain.

By act of June 19, 1860 (12 Statutes, 44, 58), \$16,679.74 is appropriated from the Treasury to pay for the loss and destruction of property of citizens of Minnesota and Iowa at Spirit Lake in 1857, by Sioux Indians.

By act of March 2, 1861 (12 Statutes, 203), \$9,640.74 is appropriated from the Treasury to indemnify citizens of Iowa and Minnesota for destruction of property at or near Spirit Lake by Inkpadutah's band of Sioux Indians.

By act of February 16, 1863 (12 Statutes, 652, 658), provision is made for payment out of their forfeited annuities for damages done by Sioux Indians in Minnesota on the occasion of the Sioux massacre in 1862.

By act of May 28, 1864 (13 Statutes, 92), \$928,411 is appropriated from the Treasury to pay the awards of the commission under the act of February 16, 1863, for damages done by the Sioux Indians in 1862, and a further sum of \$241,963 is appropriated for additional claims.

By act of June 29, 1866 (14 Statutes, 609), \$28,175 is appropriated from the Treasury for Elizabeth Woodward and George Chorpenning for destruction of property by Indians in 1862, and by the second section of the same act \$26,370 is appropriated from the Indian annuities to pay George Chorpenning for property destroyed by Indians prior to April 1, 1856.

By act of March 2, 1868 (15 Statutes, 356), \$400 is appropriated from the Treasury to the widow of Maj. Gen. I. B. Richardson for one mule and four horses stolen from him by Apache Indians while on military duty in New Mexico.

By act of April 10, 1869 (16 Statutes, 13, 39), \$10,906.34 is appropriated from the Treasury to pay for depredations committed by Indians in Northwestern Iowa in 1857.

By act of February 27, 1871 (16 Statutes, 704) \$2,564.10 is appropriated out of any money appropriated for the benefit of the Cheyenne and Arapaho Indians, to Lucy A. Smith, for losses by depredations of said Indians in Nebraska.

By act of May 7, 1872 (17 Statutes, 395), commissioners are appointed to examine into depredations committed by Indians and Mexicans in Texas.

By act of May 21, 1872 (17 Statutes, 661), \$14,650 is appropriated from the Treasury to indemnify Charles F. Tracy for depredations committed by Apaches in May, 1870.

By act of June 5, 1872 (17 Statutes, 675), \$10,000 is appropriated from the Treasury to pay Mrs. Fanny Kelly for property taken and destroyed by Sioux Indians in 1864.

By act of June 10, 1872 (17 Statutes, 690), \$30,000 is appropriated from the Treasury to pay the heirs of Alexander Watson for property lost, captured, or destroyed in Florida during the Indian hostilities commencing in 1835.

By act of June 10, 1872 (17 Statutes, 701), \$13,200 is appropriated from the Treasury to Elbridge Gerry for valuable services rendered the Government in 1864, and for all claims for Indian depredations up to the date of the passage of this act.

By act of March 3, 1873 (17 Statutes, 766), \$2,250 is appropriated from the Treasury to Mrs. Ann Marble, administratrix, for losses by depredations by Cheyenne Indians.

By act of April 28, 1874 (18 Statutes, 543), \$1,095.37 is appropriated from the Treasury to pay Mrs. Siloma Deck for losses by depredations by Sioux Indians in 1862.

By act of March 3, 1875 (18 Statutes, 424), \$2,500 each is appropriated to Adelaide German and Julia German, two white children captured in Kansas, the same to be withheld from annuities due the Cheyennes.

By act of March 3, 1877 (19 Statutes, 549), \$2,283.92 is appropriated from the Treasury to pay Hans C. Peterson for damages by Sioux Indians in Minnesota in 1862.

By act of March 3, 1879 (20 Statutes, 396), \$2,915 with interest at 7 per cent. is appropriated from any treaty funds of the Kiowa Indians, to the heirs of Abel S. Lee for property taken and destroyed by the Kiowa Indians in 1872.

By act of March 3, 1879 (20 Statutes, 390), \$5,000 is appropriated out of any money hereafter appropriated for the use and benefit of the Cheyenne Indians, to Mrs. Celia C. Short.

By act of June 8, 1880 (21 Statutes, 549), \$15,867.50 is appropriated to pay Henry Warren for damages sustained by depredations of Indians in 1871, while Warren was a Government contractor, the same to be withheld from the amounts due the Indians.

By act of June 16, 1880 (21 Statutes, 588), \$2,000 is appropriated from the annuities due the Cheyenne or Arapaho Indians to Amanda M. Cook, whose mother was killed and herself captured by the Indians in 1865.

By act of March 3, 1881 (21 Statutes, 640), \$58,659.46 is appropriated from the Treasury to pay Dodd, Brown & Co., assignees of E. M. Durfee & Co., and others, for depredations committed by various tribes of Indians, the amounts to be deducted from the annuities.

By act of March 3, 1881 (21 Statutes, 640), \$3,600 is appropriated from money belonging to the Osage Indians to pay William Redus for depredations committed by these Indians.

By act of May 17, 1882 (22 Statutes, 86), \$9,870.10 is appropriated from unexpended balances of treaty funds to pay various claimants for damages caused by raids of Northern Cheyennes.

By act of March 3, 1883 (22 Statutes, 804) \$12,200 is appropriated from moneys due the Cheyenne and Arapaho Indians to Powers & Newman, and D. and B. Powers for depredations committed by these Indians.

By act of March 20, 1884 (23 Statutes, 525), \$5,400 was appropriated from the Treasury to pay Louisa Boddy for depredations committed by the Modoc Indians.

By act of March 3, 1885 (23 Statutes, 498), \$46,770.21 is appropriated to pay W. C. Oburn out of annuities for depredations committed by the Cheyenne and Arapaho Indians.

## APPENDIX D.

## INDIAN TREATIES MAKING PROVISION AS TO PAYMENT OUT OF ANNUITIES FOR DEPREDACTIONS COMMITTED ON THE PROPERTY OF WHITE MEN.

[The references by pages are to the "Revision of Indian Treaties," 1873.]

Tribes.	Date.	Article.	Page.
Blackfeet .....	Apr. 25, 1856	11	10
Calapooias .....	Apr. 10, 1855	6	22
Chastas .....	Apr. 10, 1855	8	25
Cherokees .....	Jan. 21, 1795	4	32
Cherokees .....	Oct. 2, 1798	9	35
Cheyennes and Arapahoes .....	Aug. 19, 1868	1	130
North Cheyennes and North Arapahoes .....	Aug. 25, 1868	1	136
Chippewas (see note <i>a</i> below) .....	May 5, 1864	4	255
Comanches and Wichitas .....	May 19, 1836	3, 5	304, 305
Comanches, Kiowas, Apaches .....	Feb. 12, 1854	4108	310, 311
Comanches, Kiowas .....	Aug. 25, 1868	1	319
Crows .....	July 25, 1868	1	328
Dwamish and Squamish .....	Apr. 11, 1859	9	381
Flatheads .....	Apr. 18, 1859	8	388, 389
Kansas (see note <i>b</i> below) .....	Dec. 30, 1825	7	412
Kansas .....	Dec. 30, 1825	10	413
Kiowas, Katakas, &c .....	Feb. 21, 1838	3, 5, 7	456, 457
Makahs .....	Apr. 18, 1859	9	463, 464
Navajoes .....	Aug. 12, 1818	1	528
Nes Percés .....	Apr. 29, 1859	8	537, 538
Nisquallies, Puyallups .....	Mar. 3, 1855	8	563
Omahas .....	June 21, 1854	10	567, 568
Osages (see note <i>c</i> below) .....	Jan. 7, 1819	1, 2	575, 576
Osages (see note <i>d</i> below) .....	Dec. 30, 1825	9	580
Osages (see note <i>e</i> below) .....	Mar. 2, 1839	6	584
Oregon, Middle .....	Apr. 19, 1859	7	627
Otoes and Missourias .....	June 21, 1854	9	640
Pawnees .....	May 26, 1858	5	653
Poncas .....	Apr. 11, 1859	7	664
Quapaws .....	July 15, 1818	6	717, 718
Quinaliets, &c .....	Apr. 11, 1859	8	725, 726
Sacs and Foxes .....	Feb. 12, 1823	5	738, 739
S'Klallams .....	Apr. 29, 1859	9	803
Snakes .....	July 10, 1866	4	805
Sioux, Yanktons .....	Feb. 26, 1859	11	861
Sioux, Mendawakanton, Wahpakosta .....	Mar. 31, 1859	6	88, 89
Sioux, Sisseton, Wahpeton .....	Mar. 31, 1859	6	907
Sioux, Brulé, Ogallalla .....	Feb. 24, 1869	1	914, 915
Shoshones, Eastern, and Bannacks .....	Feb. 24, 1869	1	932
Utahs .....	Dec. 14, 1864	6	972
Umpquas and Calapooias .....	Mar. 30, 1855	8	980, 981
Utes .....	Nov. 6, 1868	6	983, 984
Walla Walla and Cayuses .....	Apr. 11, 1859	8	992
Yakamas .....	Apr. 18, 1859	8	1045

*a* The United States agrees to appropriate \$100,000 to pay for depredations and forcible exactions.

*b* The United States agrees to pay for all depredations since 1815.

*c* Depredations committed since 1814 are to be paid by the United States, in consideration of the cession of Indian lands.

*d* The United States agrees to pay for all depredations since 1808.

*e* The United States agrees to pay all depredation claims.

## APPENDIX E.

List of treaties by which the Indians agree to use their best efforts to return stolen property or to punish offenders.

[The references by pages are to the "Revision of Indian Treaties," 1873.]

Tribe.	Date.	Article.	Page.
Belantse-Etoas, &c	Feb. 6, 1826	6	14, 15
Chippewas	Jan. 29, 1855	6	225, 226
Chippewas	Apr. 7, 1855	9	270
Comanches, Ionies, Anadacas, Caddoes, &c	Mar. 8, 1847	8	307
Crows	Feb. 6, 1826	5	526, 327
Delawares	Feb. 14, 1805	3	336
Iowas	July 17, 1854	11	406
Kaskaskias, Peorias	Aug. 10, 1854	10	429
Klamaths, &c	Feb. 17, 1870	9	436
Kickapoos	July 17, 1854	9	447
Makahs	Feb. 6, 1826	5	460
Miamies	Aug. 4, 1854	9	519
Mandans	Feb. 6, 1826	6	466
Osages	Dec. 26, 1815	9	573, 574
Osages	Jan. 21, 1867	10	588
Otoes and Missourias	Feb. 6, 1826	5	632
Pawnees	Feb. 6, 1826	5	643
Poncas	Feb. 6, 1826	5	667, 668
Ricaras	Feb. 26, 1826	6	728, 729
Rogue Rivers	Apr. 12, 1854	6	731, 732
Sacs and Foxes	July 17, 1854	10	761, 762
Shawnees	Nov. 2, 1854	14	800
Sioux, Yanktons, Tetons, Yanktonais	Feb. 6, 1826	5	868
Sioux, Ogallallas	Feb. 6, 1826	5	872, 873
Sioux, Oncpapas	Feb. 6, 1826	5	874, 875
Umpquas	Feb. 5, 1855	6	976
Winnebagoes	May 23, 1855	10	1010

## APPENDIX F.

List of treaties by which it is provided that the Indians shall be paid by the Government for depredations committed on their property by white men.

[The references by pages are to the "Revision of Indian Treaties," 1873.]

Tribe.	Date.	Article.	Page.
Blackfeet	Apr. 25, 1856	7	9
Belantse-Etoas	Feb. 6, 1826	6	14, 15
Cherokees	Oct. 2, 1798	9	35
Creeks	Aug. 28, 1856	18	112
Cheyennes and Arapahoes	Aug. 19, 1868	1	130
Number Cheyennes and number Arapahoes	Aug. 25, 1868	1	136
Choctaws and Chickasaws	Mar. 4, 1856	14	280
Comanches and Wichitas	May 19, 1836	3	304
Comanches, Kiowas, Apaches	Feb. 12, 1854	4108	310, 311
Comanches, Kiowas	Aug. 25, 1868	1	319
Crows	Feb. 6, 1826	5	336, 327
Crows	July 25, 1868	1	328
Kansas	Dec. 30, 1825	10	413
Kiowas, Katakas, &c	Feb. 21, 1838	3, 5, 7	456, 457
Makahs	Feb. 6, 1826	5	460
Mandans	Feb. 6, 1826	6	466
Navajoes	Aug. 12, 1818	1	528
Osages	Dec. 26, 1815	9	573, 574
Otoes and Missourias	Feb. 6, 1826	5	643
Pawnees	Feb. 6, 1826	5	643
Poncas	Feb. 6, 1826	5	667, 668
Quapaws	July 15, 1818	6	717, 718
Ricaras	Feb. 26, 1825	6	728, 729
Rogue Rivers	Apr. 12, 1854	6	731, 732
Sacs and Foxes	Feb. 12, 1823	5	738, 739
Shawnees	Nov. 2, 1854	11	799
Sioux, Yanktons, Tetons, Yanktonais	Feb. 6, 1826	5	868
Sioux, Ogallallas	Feb. 6, 1826	5	872, 873
Sioux, Oncpapas	Feb. 6, 1826	5	874, 875
Sioux, Ogallallas, Brulés	Feb. 24, 1869	1	914, 914
Shoshones, Eastern, and Bannocks	Feb. 24, 1869	1	932
Ucalis	Dec. 14, 1864	6	972
Umpquas	Feb. 5, 1855	6	976
Utes	Nov. 6, 1868	6	983, 984

## APPENDIX G.

## EXPRESSIONS OF OPINION IN DEBATE, SENATE AND HOUSE OF REPRESENTATIVES.

*Senate.*

[Congressional Globe, Forty-first Congress, second session, part 5.]

Mr. Thayer (page 4012) :

"The honorable Senator from Iowa and the honorable Senator from Oregon say that in some cases the annuities of Indian tribes have been absorbed in meeting these claims. I tell those two Senators that the property, the all of settlers on the frontier has been destroyed by Indians; and I say to them also that the way to produce an effect upon the Indians is by letting them know that if they commit these depredations their annuities shall be taken to pay for them. That is the only way in which you will reach them. That is the only way in which you will have an effect on the Indians and compel them to cease their depredations on the settlers. The last remedy for a man whose property, whose crops, whose horses, and whose cattle have been taken from him by Indians is to tell him to come to Congress and wait until the day of doom before he can get satisfaction or compensation. I trust that this whole section will be stricken out."

Mr. Tipton (page 4012) :

"Every Senator here who knows anything about the new States knows that when a band of savages pass through our borders, or when the Indians who are on the reservations pass through our States, there is nothing that protects the property of the settler so well as a consciousness on the part of the chiefs and the headmen of the Indians that if the stock of the settler is killed, if his crops are destroyed, their annuities may be reached and they will feel it in their pockets. Nothing so completely gives protection to the settler as that. Then, when their young men spread upon the prairies and roam about at will, when they come upon the cabin of a settler and his property is entirely in their power, they will have been warned by those in authority over them not to touch it or the value of the property will be taken out of their annuities. I tell you that gives us more protection when they pass through our inhabited counties and portions of our States than anything else that you can devise. But let it be understood that if they commit depredations, those who complain of them, if they can make a case, may come to Congress and get their pay out of the Treasury of the United States, and who cares what depredations are then committed? I say that unless this section be stricken out, or so amended that the redress shall be direct upon the tribe or upon the annuities of the tribe, we shall have very little protection."

Mr. Williams (page 4219) :

"It is a mistaken policy, in my judgment, that undertakes to throw around these Indian tribes the protection of law in robbery, a thing which they will understand just as well as white men. It will not be long before the Indians will know that they can with impunity make inroads upon the white settlers and steal their horses and cattle, and carry them away and make use of them, and that there is no remedy for the white persons so injured."

*House of Representatives.*

[Congressional Globe, Forty-first, Congress, second session, part 6.]

Mr. Degener (page 5009) :

"I am not a lawyer, but common sense teaches me that if any person chooses to keep a dangerous animal on his premises, say a rattlesnake in his room; if he chooses to feed it, chooses to provide a warm blanket for that rattlesnake, so that it may not suffer from cold, and if he does not choose to extract the poisonous fangs of that animal, then he becomes responsible should that rattlesnake escape from his room and go upon the premises of his neighbor and there bite his neighbor, or his neighbor's wife, or children, or his cattle. I believe common sense teaches us that that is the correct principle."

Mr. Wilkinson (page 5010) :

"The principle is essentially just, and there is no reason for changing the existing law except the clamor which has risen on account of the reputation that the Indian Department has had before the country. If the Indian Department stood as well before the country as the Treasury Department there is not a man in this House who would think of making the change proposed by this amendment."

Mr. Paine (page 5011):

"On the other hand, it is desirable, if possible, to so regulate the payment of our annuities to the Indians that we may avoid the difficulties, the animosities, and the troubles that will be sure to grow out of the collection of false and fictitious and sham claims against the Indians. If there were an absolute certainty that only just claims would be presented against these Indians, if we were sure that only the claims of honest frontiersmen whose property had actually been destroyed or stolen would be presented and paid out of the moneys which would otherwise be devoted to the payment of these annuities, then I would have no hesitation in allowing the law to stand as it now is. But there is the danger that, by permitting the law to stand as it now is, we shall give encouragement to the prosecution of unjust claims. I believe everybody understands that it has been true that large numbers of outrageous claims have been presented against the Indians; demands made by men, who set themselves deliberately to work to trump up claims upon no substantial foundation, for the purpose of robbing these Indians. On the whole, for the purpose of avoiding that difficulty, I am willing to encounter another."

*Senate.*

[Congressional Record, Forty-eighth Congress, second session, vol. 16, part 2.]

Mr. Plumb (page 1717):

"While I say that, I am as earnest as any one can be in favor of the Government adopting a rule which shall result in the payment of what I regard as justly an obligation against the Government as any other one which it is called upon to respond to. There are millions of dollars, I believe, certainly many hundreds of thousands of dollars, which the Government of the United States owes to claimants all over the country. I have no doubt the case of which the Senator from California speaks is one, to a certain extent at all events; possibly there may be some doubt about the amount; but in all these cases there ought to be a tribunal provided for the ascertainment of the amount due. I introduced a bill years ago, and have reintroduced it, to have an auditing of these claims in order that they might come before Congress not as objects of suspicion, but upon their true footing as genuine existing liabilities against the Government, and having had all the scrutiny that they ought to have preceding their allowance. The Committee on Appropriations, for the purpose of bringing about this result, seized upon an amendment offered to the bill in the House and so reframed it as they believe will result in establishing the validity or invalidity of these claims in such a way that they will not be subject to objection any longer."

Mr. Dawes (page 1718):

"Instead of committing the United States to the payment of particular claims by paying 15 per cent. upon them and letting all this vast amount remain back waiting for that provision to go through, the Committee on Appropriations have proposed, on page 47 of the bill, this amendment, which I beg leave to read:

"For the investigation of certain Indian depredations claims, \$10,000; and in expending said sum the Secretary of the Interior shall cause a complete list of all claims heretofore filed in the Interior Department and which have been approved in whole or in part and now remain unpaid, and also all such claims as are pending but not yet examined, on behalf of citizens of the United States on account of depredations committed, chargeable against any tribe of Indians by reason of any treaty between such tribe and the United States, including the name and address of the claimants, the date of the alleged depredations, by what tribe committed, the date of examination and approval, with a reference to the date and clause of the treaty creating the obligation for payment, to be made and presented to Congress at its next regular session; and the Secretary is authorized and empowered, before making such report, to cause such additional investigation to be made and such further testimony to be taken as he may deem necessary to enable him to determine the kind and value of all property damaged or destroyed by reason of the depredations aforesaid, and by what tribes such depredations were committed; and his report shall include his determination upon each claim, together with the names and residences of witnesses and the testimony of each, and also what funds are now existing or to be derived by reason of treaty or other obligation out of which the same should be paid."

"The Secretary of the Interior is required to pass upon these claims. He has passed upon them in the past in the manner which I have suggested. He has not had the money to send anybody into the Territories where it has been alleged that these de-

predations have been made. He has the power under the statute, but he has not had the money; he has had no men that he could pay for that purpose. Therefore, whenever a man sent his claim up here or referred it to the agent of the tribe, when the agent of the tribe got the affidavits furnished by the claimant and sent them up here without any hearing or cross-examination whatever, the Secretary of the Interior has written 'approved;' and the claims come to Congress, thirty-one hundred of them in a single letter, amounting to more than a million and a half dollars, and a dozen of them were put upon a single page in this bill by the other branch with a stipulation that only 15 per cent. should be paid. Fifteen per cent. of them would take twice as much as the very Indians upon whom they are charged have got in the Treasury; and we are called upon in this bill, independent of that, to appropriate some \$25,000 to support and feed these very Indians.

"I submit that the safest way is the one proposed by the Committee on Appropriations, and that any other way is unsafe, unfair to other claimants, invidious, unjust, and groundless discrimination in favor of these claims."

Mr. Coke (page 1719):

"I think, Mr. President, that a proper measure of justice to the claimants who have suffered from Indian depredations would suggest to the committee and to the Senate that the claims which have been investigated under acts of Congress prescribing the mode and manner of their investigation, which are on file in the Interior Department, and have been reported to Congress by the Secretary of the Interior, approved by him as just and honest claims, should be embraced in this bill, and appropriations made to pay them. The committee propose by their amendment that they shall be reinvestigated. Why reinvestigate claims which have already been fully investigated? We must presume that they have been fully investigated, because the Secretary of the Interior, the Commissioner of Indian Affairs, the agents and superintendents over the Indians, all had authority to make the investigations, to summon witnesses and take depositions, and upon their investigation, presumably correctly made, the Secretary of the Interior has reported a large number of these claims, belonging chiefly in Kansas, Colorado, and Texas, as just and approved by him.

"The committee now propose to reinvestigate those claims after a lapse of from fifteen to twenty years, when all the testimony has gone, possibly when the facts upon which the claims are founded are necessarily obscured from loss of testimony and death of witnesses. There is no justice in such a course.

"The people of the frontier States knew that they had no recourse against the Indians, except what Congress gave them, and Congress in the acts to which I have referred prescribed certain methods which they have pursued. They submitted themselves fully to the jurisdiction prescribed; and now, after their claims have been approved by the tribunal appointed by Congress, their witnesses dead or scattered, they are to be called upon to again come forward and resubstantiate the same claims already adjudicated and on file in the Department and reported approved to Congress."

(Page 1720):

"I know something about these claims for Indian depredations. I know that the frontier of Texas was at one time driven back 75 miles by hostile Indians from the Fort Sill Reservation, where they were under the care and control and management and protection of the Government of the United States. The people of Texas dared not go upon that reservation to retaliate. They could have gone there and wiped out the Indians, but the United States Government protected them. Whenever a full moon shone at night they came down upon Texas, drove off cattle and horses, buried houses and killed and scalped men, and carried women and children into captivity.

"I know that this was the case for five years, and Mr. Francis A. Walker, who was Commissioner of Indian Affairs, in his book upon the Indian problem, speaking of the improvement of the Indians, of their methods, and of their beginning to acquire property, said of the Comanches and Kiowas, that they have some 16,000 head of horses and mules, stolen chiefly from Texas. That is a statement in the History of the Indian Problem, by Mr. Francis A. Walker.

"I have no doubt that the same experience was realized by all the other frontier States. I have personal knowledge of the fact that until the State of Texas organized a battalion of State troops and sent them to the frontier and protected the settlers against the Indians, the frontier was almost abandoned. I know hundreds and hundreds of men in Texas who had thousands of head of cattle and hundreds of head of horses, who lost every dollar's worth of property they had by the depredations of those Indians. Yet the Senator from Massachusetts would cast an imputation upon the justice of these claims, examined and approved as they have been.

"Not one claim in twenty has been filed that could have been filed in the Interior Department from Texas. It is too late to file them now; the parties cannot comply with the law; they are excluded. Those which are filed represent a very small pro-

portion of the claims which ought to have been filed by people who lost nearly everything they had by the depredations of Indians. The requirements of the law were so onerous and the people were so hopeless of recovering any of their losses that but few of them ever attempted it. The principal difficulty was to identify the Indians or the tribe to which they belonged, without which the law promised no relief, and which could rarely be done.

"Mr. President, I believe that these claims which have been reported to the Interior Department, and which have been investigated and have been approved by the tribunal appointed by the Government of the United States are just claims and ought to be paid. I believe the committee should take every one of these claims and put them on this appropriation bill. The Government of the United States is as justly and honestly bound to see those claims paid as it is to see any bond it has ever issued paid. The Indians are the wards of the Government. There has been no time when the people could not have protected themselves had they been permitted to do it, and failing to restrain them the Government made itself responsible for the depredations of the Indians. This responsibility has many times been recognized by the Government, as I propose on another occasion to show."

"As the Senate Committee on Appropriations determined that they would not appropriate the money now to pay these claims, that they would not put these claims thus approved and reported upon this bill, then I believe the next best thing for them to do was, as the committee has done, require a full report of all these claims to be made to Congress at the next session, and when this report comes in and we see what they all amount to I shall favor, and I believe that the honor of the Government will require, that Congress shall take steps to liquidate them at once. I do not see why those who have honest claims for Indian depredations should be sneered at. They are the pioneers of the country. They have gone westward until we have no frontier left, blazing the way for settlement and civilization."

Mr. Manderson (page 1720):

"Mr. President, I certainly quite agree with the suggestions made by the Senator from Texas in regard to the duty of the Government to pay those who have suffered loss on the frontier of the country by reason of Indian depredations, and I wish to supplement his suggestion as to the claims mentioned in this bill, in that part of the bill which has already been stricken out by the action of the committee, by reading from a report of the Committee on Claims. It was stated by the Senator from Tennessee [Mr. Jackson] that the claims presented in this bill had been reported adversely by the committee. That statement is truthful; but it does not tell all the truth. The inference might follow that these claims were rejected because of lack of merit, for fraud, or because the parties had not suffered the losses they pretended to have suffered; but that is not the finding of the committee. The Committee on Claims, following the action of the Interior Department, reports as to these claims, and I read from the report:

"The claimants are all citizens of Texas, generally engaged in agriculture or stock-raising, quietly and peaceably pursuing their avocations, having nothing to do with trade or traffic with the Indians, and in no way connected with any disturbance between whites and Indians there or elsewhere. They were all citizens of the State of Texas, and while engaged in peaceful pursuits were set upon by bands of Indians (who were supposed to be under the restraint and control of the Government on their reservations), their stock stampeded and driven off, and other property destroyed or carried away, and in many cases their herders killed or wounded. They have, as the evidence shows, at all times refrained from any violation of law by taking the remedy in their own hands, and giving blow for blow, but have, in compliance with the laws which Congress has from time to time passed for their protection and indemnity, made out their claims, supported them by ample proof, both as to quantity and value, and have presented them to the officers designated by the Government to examine into their justness and the truthfulness of their statements; and those officers, after having sent the claims to the agents of the different tribes to be presented to the Indians for their statements in regard to them, and after hearing the reports of those agents, and making a careful examination of the proofs offered by the claimants, have allowed them the various sums for payment of which the claimants now ask an appropriation by Congress."

"So that these claims have not been allowed by the Department of the Interior upon mere *ex parte* affidavits, but upon full investigation and with a chance to the Indians themselves, through their agents, to be heard.

"They are taken up in this report, and although the committee recognizes their merit and the obligation upon the Government to pay this class of claims, it does report adversely to them, as suggested by the Senator from Tennessee, in this language:

"As stated in your committee's report upon the claim of Overton and Love, there are a large number of these claims, equally meritorious, on file in the office of the Commissioner of Indian Affairs. No good reason can be given for paying the claims



under consideration without paying them all. This committee cannot recommend the passage of such claims until Congress adopts some general policy of dealing with all these claims.

"I admit that the suggestion of the committee is a wise one. All of these claims should be dealt with, but year after year rolls by and they are not paid. In my own State I know of existing claims, as valid and as meritorious as those that are stated in the report, that are nearly a quarter of a century old, for depredations committed by Indians upon frontiersmen who were invited by the Government to go upon Government land, and these men, driven from their lands, their homes destroyed, and in frequent instances members of their families killed or treated worse by Indian depredators, remain with their serious losses yet unpaid.

"I submit, Mr. President, that it is a crying shame that these claims have not been paid."

Mr. Maxey (page 1721):

"Mr. President, the general plan for efficient and prompt settlement of outstanding claims proposed by the Committee on Appropriations I think is wise; but I submit to that committee and to the Senate whether there is any reason why, because they propose to adopt that plan, the claims which have been allowed by the House and which come to us as approved claims shall be stricken out of the bill. In other words, the law has always favored the vigilant. If gentlemen who have claims have gone to the labor and the expense of gathering up their testimony, of laying it before the Secretary of the Interior, of having their claims examined and approved and recommended to Congress, and Congress in its wisdom allows those claims, and the bill comes to us with those claims thus allowed, I ask if there is any reason or propriety in striking out all the claims allowed, as found on pages 8, 9, 10, &c., of the bill which comes to us from the House, simply because a provision is made by the Appropriations Committee for a general settlement of all such claims? If the claims which are allowed are just in themselves, and the Senator in charge of this bill does not gainsay that proposition; if they are right, why should they be struck out in order to take their place under the general plan of settlement when they have already been examined and approved and allowed by the proper committee of the House as just and proper claims? I can, therefore, see no reason why these claims shall be stricken out, nor do I see any conflict between the claims which are allowed by the House standing as a part of this bill, and the proviso which is put in by the Appropriations Committee of the Senate in respect to those claims which are not as yet allowed or have not been sent up by the Secretary of the Interior.

"Mr. President, it is to the interest of the Republic that there be an end of litigation, and if these men have had claims litigated and passed upon and they have been allowed by the House, why should they be stricken out of the bill by the Senate? It is not pretended that they are not just claims. If there was a shadow of suspicion cast on the claims there would be some reason in that, but there is none. They are admitted to be just, they are admitted to be right, but they are simply stricken out because they may conflict with the plan proposed for future settlements. These claims having been already settled, why should they be relegated to the future to be settled then? I cannot see any reason for that. It does not seem to me to be a fair proposition."

Mr. Miller, of California (page 1722):

"What I object to is this practice of the Government of the United States, which is unbecoming a great government, interposing technical objections to shilly-shally around and put off payment in the manner of a bankrupt debtor or a man who is not disposed to pay his debts. That is the position in which the Committee on Appropriations to-day are putting the Government of the United States in relation to the citizens who hold these claims. That there is an obligation to pay these claims out of the funds held in trust by the Government belonging to the Indians there can be no doubt; but the Committee on Appropriations or the chairman of the Committee on Indian Affairs who has charge of this bill seems to desire to put off the payment continually. It is so year after year. This process has been going on for a great many years, and when we are confronted by the condition of things, then we invent some new scheme, some new plan by which these claims shall be put off; we have not got the report we want, or there is something lacking, and a man who has vigilantly prosecuted his claim and has had it adjudicated, and the amount found due shall not be paid because somebody who has not used the time diligently and whose claim has not been adjudicated is not paid and that furnishes a reason why the man who has a just claim which has been adjudicated shall not be paid. That seems to me a strange position to take. I cannot see why when a claim is adjudicated and found to be due this great Government should desire to put off the day of payment, and to bring up technical and other objections to avoid the payment.

"I will go further and say that I am in favor of paying all just and adjudicated claims of this class out of the Treasury. I believe it is incumbent on the Government

to do it. The law was once that the Government was required to pay such claims. It was afterward amended so that the payment should be made out of funds belonging to the Indians. To refuse to pay these claims, to allow the Indians to commit depredations without their being required to pay or the Government being required to pay the resulting damages to property, is only to encourage Indian depredations and to continue the practice. If a white citizen of the United States commits a depredation on the Indians he must pay double the amount of the damage sustained by the Indians. I want to see Indian depredations stopped, and I do not know any better way than to require payment. The Government is bound to furnish protection to its citizens. I do not want the citizen to be paid more than he has actually suffered. I want the claim to be just; I want it investigated thoroughly and completely and adjudicated in every phase of it before payment is made. I contend in these cases, or in some of them that I have personal knowledge of at any rate, there has been such an investigation and such an adjudication, and there remains no doubt about the bona fides or justice of the claims."

Mr. Maxey (page 1723):

"We have said that these Indian disturbances were not wars, that Indians were not to be regarded as belligerents. They are wards of the nation. The Government of the United States has assumed to take care of them and to protect the frontier against them by placing them on reservations and under the control of the military; and they have thus invited people to go on the frontier, risk their lives, and risk their property.

"The Government has invited them to do that, and has placed agents over the Indians; but for all that they break out and they carry with them the torch; they burn, pillage, rob, destroy, murder and carry into captivity; and when these unfortunate people come to Congress and ask for relief, because every man has not been prepared to bring forward his claim in the mode and manner which is required, all others who have done so are to be relegated to some commission hereafter to be appointed to regulate these things. Sir, that is not just. Let 'every tub stand upon its own bottom.' If a man has an honest claim let it be brought forward, and if the claims amount to \$8,000,000, as the Senator from Wisconsin says, if they are just claims for depredations committed by these wards of the nation upon the defenseless frontier people in the destruction and robbery of their property, this Government, as an upright and honorable and honest gentleman would do, ought to pay the last dollar of it if the Indians have not enough money of their own to pay that debt. I assume in the broadest form the position that it would be just and right and fair to do it."

Mr. Cockrell (page 1724):

"It is a matter of absolute necessity that we shall sift these claims, that we shall ascertain those that are properly chargeable against the nations and tribes that have annuities and with whom we have treaty stipulations and whose money we have, so that we can pay the claims. Now, I am for making these Indians pay every solitary dollar due for the actual depredations committed by them, whenever they have any money or whenever they have any lands out of which they can be paid. I want to hold them responsible to the fullest extent of the law; but I only want to pay what is actually due, the real value of the property destroyed or the real injury done to it, and not mere imaginative damages that may have resulted, and which should never be allowed in any court of justice. Therefore, we put in the amendment, under the head of 'Indian depredation claims,' at page 47, requiring a thorough investigation of this whole matter. We appropriate \$10,000 for it. The Secretary can take this money and he can have a thorough investigation made; he can report to us all the facts; he can show us the evidence upon which these claims are allowed, and the treaties and the funds. Then we can go to work and settle the cases intelligently and honestly and fairly; but we cannot do it until we have that information, and it is idle to undertake to do it. We are simply making fish of one and flesh of another. We are making a favorite of one, and we are doing great injustice and wrong to hundreds of others."

## APPENDIX H.

*Claims presented, allowed, and disallowed in various claims tribunals, showing the proportions of claims to allowances.*

### I.

Southern Claims Commission, under act of March 3, 1871 (16 Stat. L., 524):

Amount claimed.....	\$60,258,150 44
Amount allowed.....	4,636,920 69
Amount rejected.....	55,621,229 75

(See House Miscellaneous Document No. 30, Forty-sixth Congress, second session.)

## II.

Court of Claims in cases decided from December term 1867 to December term 1880:

Amount claimed.....	\$80,315,529 20
Amount allowed.....	19,770,540 98
Amount rejected.....	60,544,988 22

(See seventeenth volume Court of Claims Reports, page 11.)

## III.

Claims commission under convention with Great Britain of February, 1853 (10 Stat. L., 988):

Amount claimed, "millions."	
Amount allowed, about.....	\$600,000 00

(See message of the President communicating the proceedings, printed by the Senate Printer, 1858, page 4.)

## IV.

Claims commission under convention with Mexico of July 4, 1868 (15 Stat. L., 679):

Amount of claims against the United States.....	\$86,661,981 15
Amount allowed in claims against the United States.....	150,498 41
Amount rejected in claims against the United States.....	86,511,392 74
Amount of claims against Mexico.....	470,126,613 40
Amount allowed in claims against Mexico.....	4,125,622 20
Amount rejected in claims against Mexico.....	466,000,991 20

(See Senate Executive Document No. 31, Forty-fourth Congress, second session.)

## V.

Claims commission under convention with France of January 15, 1880 (21 Stat. L., 673):

Amount of claims against the United States.....	\$17,368,151 27
Amount allowed in claims against the United States.....	625,566 35
Amount rejected in claims against the United States.....	16,742,584 92
Amount of claims against France.....	2,427,544 91
Amount allowed in claims against France, 13,659 francs 14 cent., or about.....	2,732 00
Amount rejected in claims against France.....	2,424,812 91

(See House Executive Document No. 235, Forty-eighth Congress, second session, pages 191, 193.)

## VI.

Claims under the act of July 4, 1864, filed in the office of the Quartermaster-General:

Amount claimed.....	\$41,107,266 48
Amount reported to the Third Auditor under the second section of said act with recommendation for settlement up to March 6, 1886..	5,750,119 71
Amount rejected.....	29,083,554 16
Amount of claims pending at said date.....	6,273,592 61

## VII.

Claims filed in the office of the Commissary-General up to March 10, 1886:

Amount claimed.....	\$4,944,111 14
Amount recommended to the Third Auditor of the Treasury for settlement under said act to said date.....	429,533 47
Amount rejected.....	4,509,704 17
Amount of claims now pending.....	4,873 50

## APPENDIX I.

LETTER OF COMMISSIONER OF INDIAN AFFAIRS, SHOWING THE AMOUNT OF CLAIMS FOR DEPREDACTIONS COMMITTED BY THE INDIANS, FILED IN THE OFFICE OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, D. C., March 3, 1886.*

SIR: In reply to your interrogatories relative to number, amount, &c., of Indian depredation claims pending in this office, I have the honor to inform you that with the forces employed and the amount of other duties devolving upon them, it has been impossible to collect the full and exact data you desire; such facts, however, as the office has been able to collect, and which are believed to be approximately correct, are given.

There are about forty-five hundred claims on file on account of Indian depredations, dating from 1850 to the present time, and they aggregate in amount \$13,000,000. Prior to the act of July 15, 1870 (see Revised Statutes, section 2098), claims against Indians for depredations were paid by United States Indian agents. As to what amount was thus paid the office has not been able to ascertain. By an examination of the Statutes at Large, beginning with the act of March 3, 1819 (3 Statutes, page 517), and coming down to the act of March 3, 1885 (23 Statutes, 498), it will be seen that Congress has appropriated by special acts in payment of claims about the sum of \$1,654,530.

As to what amount of claims has been allowed by and what amount has been rejected by the Commissioner of Indian Affairs or the Secretary of the Interior heretofore cannot be ascertained within the time desired by you, if in fact it could be ascertained at all in a satisfactory manner, as in many instances the same claim has been disallowed by one Secretary of the Interior and allowed by his successor.

Very respectfully,

J. D. C. ATKINS,  
*Commissioner.*

Hon. J. N. DOLPH,  
*United States Senate.*