

RESOLUTION IN REGARD TO CLAIM OF E. JOHN ELLIS vs.
POTTAWATOMIE INDIANS.

APRIL 14, 1888.—Laid on the table and ordered to be printed.

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

ADVERSE REPORT:

[To accompany Mis. Doc. 173.]

The Committee on Indian Affairs, to whom was submitted House Resolution No. —, having considered the same, beg leave to report:

The resolution under consideration is as follows:

Whereas one E. John Ellis, an attorney of the city of Washington, D. C., has pending in the House a claim for services rendered professionally for the Pottawatomie Indians; and

Whereas many of these Indians are citizens of the United States, and claim that they are not indebted to the said E. John Ellis in any sum: Therefore

Be it resolved, That the Secretary of the Interior be requested to furnish this House all the information possessed by his Department concerning said claim, for whom rendered, and circumstances under which rendered, and any other information he may possess concerning the propriety of the said proposed legislation; and also, if any moneys have been paid to any other persons for services rendered in procuring appropriation from Congress in favor of said Indians in act of August 3, 1886; and, if so, to whom and by what authority said moneys were paid.

It will be observed that the resolution seeks for information:

First. Regarding the claim of E. J. Ellis, esq., now pending, for services rendered the Pottawatomie Indians.

Second. Whether any and what moneys were paid to other persons for services rendered said Indians in procuring appropriations for their claims.

The resolution was referred by the committee to the Interior Department for information, and replies were received, which are herewith submitted. These replies declare, in substance, that it will take much time and labor to prepare the required copies and information, and thus proceed to furnish the facts as to what sums have been paid out, and to whom paid, for services rendered the Pottawatomie Indians.

Examination of the records of the Department shows the following to be the main and important facts of the whole matter:

First. The Pottawatomie Indians interested are divided into two bodies or bands, one of which is known as the Prairie band, and numbers seven hundred and eighty souls. They are under tribal relations, are still Indians as contradistinguished from citizen Indians, and reside on a small reservation in Kansas. They were interested in a certain claim against the Government which was allowed by act of the 5th of August, 1886. They had a contract, approved by the Department, with Walter H. Smith and Duncan Thompson for fees, and of the proportion

of said appropriation accruing to said Prairie band, \$17,668.81, Messrs. Smith and Thompson received as fees the sum of \$1,060.12.

This transaction was perfectly legal and right under the law and the contract.

Second. The other body or band of Pottawatomie Indians number 1,400 souls and reside in Kansas, except about 400 who live in the Indian Territory. They are known as the Citizens' band of Pottawatomies, because they are citizens of the United States, having become so under the sixth article of the treaty of 1868. Their government consists of a business committee, and this committee of seven transacts their business and regulates their affairs. August 5, 1885, some 1,200 of the 1,400 Citizen Pottawatomie Indians empowered Anthony Navarre, John Anderson, and Stephen Negahnquet to represent them and to prosecute their claims against the United States and to employ attorneys to aid them in so doing. This power was for five years from August 5, 1885, and authorized these delegates to use or expend a sum equal to 20 per cent. of whatever sum might be collected to pay their own expenses and to pay their attorneys.

The business committee of the Citizen Pottawatomies joined in this delegation of power and ratified it, and it has been held by the Interior Department as a valid power, binding on the entire Citizens' band. This power was filed in the Interior Department November 5, 1885, and Navarre, Anderson, and Negahnquet have ever since been recognized as the delegates and legal representatives of said band.

In November, 1885, one of these delegates being present in Washington, with the written and verbal assent of the other two (who were then in the Territory), employed E. J. Ellis, an attorney of Washington, to prosecute their claims, and agreed that the contract should be put in writing as soon as the other delegates arrived in Washington. The agreement was that Ellis should receive a sum equal to 20 per cent. of any claim collected, and that 10 per cent. should be paid by him to the delegates for their expenses and compensation.

Mr. Ellis argued their claims, and wrote and printed an elaborate brief, both before the Interior Department and the Committees on Indian Affairs and Appropriations, and it is believed that his brief and argument before the House Committee on Appropriations did much to procure an appropriation of some \$49,382.08 for these Indians, of which sum \$31,713.27 inured to the benefit of the Citizens' band. This appropriation was made August 5, 1886. In November, 1886, the other two delegates having come to Washington, and all three being present, they went before Chief-Justice Carter and executed the contract in strict accordance with the requirements of the statute and in conformity with the verbal contract made in 1885.

This contract was presented to the Interior Department for approval, and upon the opinion of the Attorney-General that the contract should have been executed before any service was rendered, the Department failed to approve it. However, the Department paid to Navarre, Negahnquet, and Anderson \$3,171.32 for their expenses and compensation, being 10 per cent. of the 20 per cent. which they were allowed to use and expend under their power of attorney.

Mr. Ellis appealed to Congress. The Secretary of the Interior wrote that he should be paid. The Indian delegates swore he should be paid. The business committee of the Indians formally resolved that he should be paid. The Appropriation Committee of the House testified to his services. They were known to the Committee on Indian Affairs, and so bills for his relief passed both Committees on Indian Affairs of the

Forty-ninth Congress, and in the present Congress similar favorable and unanimous reports have passed both committees.

Your committee are strongly of opinion that the contract between the Indian delegates and Mr. Ellis was legal and binding upon all parties. Its approval by the Department of the Interior was not necessary to its validity, because all parties to it are citizens of the United States. The Pottawatomies, of the Citizens' band, are as free to contract as any other citizens of the United States, and their verbal contract with Ellis, made by their legally constituted authorities in 1885, was a good contract, even though it had never been put in writing.

In view of the contract and the positive proof of the value of his services, we are of opinion that Ellis should be paid the sum of \$3,171.32, and have so reported by bill, which bill has passed the House.

The inquiries made by the resolution would seem to be fully answered, and your committee can see no necessity for incurring the labor and trouble necessary to copy and forward all the data required from the Department, and therefore report said resolution adversely and recommend that it do lie on the table.

○