

JAMES A. J. AND JOSEPH H. McVAY.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Papers in the Indian depredation claim of James A. J. and Joseph H. McVay.

JANUARY 24, 1890.—Referred to the Committee on Indian Depredation Claims, and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 20, 1890.

SIR: I have the honor to transmit herewith copy of a communication of October 3, 1889, from the Commissioner of Indian Affairs, inclosing certain papers in the Indian depredation claim of J. A. J. and J. H. McVay, No. 1150, which claim was transmitted to Congress in January, 1887, as required by law.

The papers referred to were returned to the Indian Office from the House of Representatives, pursuant to the act of March 3, 1885, on September 24, 1889, and are as follows:

Two joint affidavits of claimants; Office letter of January 2, 1880, and Department letter of February 17, 1880.

The Commissioner states that this testimony would not justify any change in the conclusions heretofore reached by his office in the case, and, in compliance with his recommendation, the papers are herewith returned, with request that they be filed with the above claim.

Very respectfully,

JOHN W. NOBLE,
Secretary.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, October 3, 1889.

Sir: On Sept. 4, 1886, this office presented a report on depredation claim, No. 1150, of J. A. J. and J. H. McVay, amount, \$7,110, and pursuant to Department letter of Sept. 11, 1886, the claim, with all the

papers then on file, was transmitted to Congress January, 1887, as required by law. Subsequently, to wit, on September 24, 1889; the following papers pertaining to this case were returned to this office from Congress, pursuant to act of March 3, 1885 :

Two joint affidavits of claimants; Office letter of January 2, 1880, and Department letter of February 17, 1880.

This testimony would not justify any change in the conclusions heretofore reached on the claim by this office, and I have the honor to recommend that the above papers (which are herewith inclosed) be transmitted to Congress to be filed with the claim.

Very respectfully,

R. V. BELT,
Acting Commissioner.

Know all men that we, J. A. J. and J. H. McVay, of the county of Del Norte and State of California, by these presents do nominate, constitute, and appoint B. F. Dowell, of Jacksonville, Jackson County, Oregon, our true and lawful attorney, for us and in our name, place, and stead, to appear before the legislature of Oregon, or in any of the departments of the State of Oregon, and in the Court of Claims, before Congress, and at any of the Departments of the Government of the United States, and to prosecute to recovery, and to ask for and demand from either of said governments all sums due us or to become due us for property lost, stolen, destroyed, and used by the United States forces by reason of Indian hostilities in the years 1856 to 1858 in Curry County, State of Oregon. To execute for us and in our names any bond of indemnity that may be necessary to secure the pay, and in our names to receive and receipt for the same, and generally to do and perform everything necessary to be done, as fully and effectually, to all intents and purposes, as we ourselves could do if personally present, hereby ratifying and confirming all our said attorney may lawfully do in the premises, with power of substitution, and revoking all other powers of attorney granted by us.

Witness our hands and seal this 20th day of January, A. D. 1872.

JAS. A. J. McVAY. [L. S.]
J. H. McVAY. [L. S.]

Witnesses present:

BENJAMIN WEST.
JOHN C. RICKERT.

STATE OF CALIFORNIA, *County of Del Norte, ss :*

Personally appeared before the subscriber, county clerk in and for said county, the above-named J. A. J. and J. H. McVay, who are well known to me, and acknowledged the foregoing power of attorney to be his act and deed, and I certify that I have no interest in this claim.

In testimony whereof I have hereunto set my hand and affixed my official seal this 20th day of January, 1872.

[SEAL.]

R. H. PEVELER,
County Clerk Del Norte County, Cal.

We, Benjamin West and John C. Rickert, of the county of Del Norte and State of California, make oath that we are well acquainted with J. A. J. and J. H. McVay, the within grantors, and that they signed and acknowledged the within power of attorney in our presence to be their act and deed, and that they did not promote, encourage, or in any manner sustain the late rebellion, and were known to be opposed thereto, and distinctly in favor of its suppression.

BENJAMIN WEST,
JOHN C. RICKERT.

Subscribed and sworn to before me this 20th day of January, 1872.

[SEAL.]

R. H. PEVELER,
County Clerk Del Norte County, Cal.

STATE OF CALIFORNIA, *County of Del Norte, ss :*

James A. J. McVay and Joseph H. McVay, now residents of the county of Del Norte, State of California, being duly sworn, say, that in the month of February, A. D. 1856, they were equal and joint partners, residing and doing business in the county of Curry, in the then Territory but now State of Oregon, near the mouth of Rogue River

and were owners and in possession of the property mentioned in the annexed account; that on the morning of the twenty-third day of February, in the year 1856, the Indians in the vicinity of their residence commenced active hostilities, and waged an unrelenting war against the white settlers of the neighborhood; that in consequence thereof, these deponents were compelled to flee for safety and take refuge in a neighboring fort erected by the citizens for their defense; that immediately thereafter, to wit, on the 24th day of February, 1856, the said Indians entered the premises of these deponents, burned their dwelling-house, furniture, broke up and otherwise destroyed their mining property besides killing their cattle; and these deponents further say, that on or about the 1st day of April, A. D. 1856, they, together with other citizens, were ordered by the military officer, namely, Colonel Buchanan, then and there in command of the United States forces, to abandon their premises, and the remainder of their property not destroyed by the said Indians, consisting of one yoke of work oxen, which said Colonel Buchanan did take and use for the benefit of the army under his command. And these deponents further say, that the price put upon each separate article, and peice of property in the said annexed account, and set opposite, is no more than the then true cash value thereof; that the whole of said property was either destroyed by the Indians or used by the commanding officers before named for the benefit of the Army, thus resulting in a total loss to these deponents, amounting in the aggregate to the sum of \$4,560.

And deponents further say that in consequence of the hostile attitude of the Indians hereinbefore mentioned they were powerless and utterly unable to protect their property from their depredations.

And deponents further say that said Colonel Buchanan did take possession of and use as a Government post the fort hereinbefore mentioned.

And deponents further say that during the month of March, 1858, while living near the mouth of Pistol River, in said Curry County, State of Oregon, under circumstances similar to those above mentioned, they lost property, by reason of Indian hostilities, to the amount of \$2,100, as will more fully appear by reference to account hereto annexed, marked "B," and that the price put upon same, and set opposite thereto, is no more than the then actual cash value thereof, all of which was a total loss to these deponents, and to prevent which was utterly impossible.

JAS. A. J. MCVAY.
J. H. MCVAY.

Attesting witnesses:
BENJAMIN WEST.
JOHN C. RICKERT.

Also appeared before me, said Peter H. Peveler, county clerk, John C. Rickert and Benjamin West, subscribing witness thereto, who, being by me duly sworn, say they know the said J. A. J. and J. H. McVay, are well acquainted with them, and know them to be the identical persons they represent themselves to be, and that they are oyal to the Government of the United States and in every respect credible persons.

Sworn to and subscribed before me this 20th day of January, A. D. 1872. Attest my hand and seal of our county court hereto affixed.

[SEAL.]

P. H. PEVELER,
County Clerk Del Norte County, Cal.

The United States Dr. to J. A. J. & J. H. McVay.

For the following-described property destroyed by hostile Indians and used by the United States forces during the Indian war near the mouth of Rogue River, Curry County, Oregon, in February, 1856, to wit:

One store-house	\$800. 00
One dwelling-house	500. 00
Furniture	300. 00
3 gold-mining machines	225. 00
300 pounds quicksilver, at \$1.62½	487. 50
Lumber in flume	250. 00
1 endless pump	50. 00
3 wheelbarrows, at \$15	45. 00
3 galvanized sheets copper, at \$15	45. 00
7 mining shovels, at \$2.50	17. 50
1 scraper (cast-iron).....	40. 00
100 yards hose	100. 00

Clothing.....	\$150.00
1 choice mule.....	250.00
3 yoke choice work-oxen.....	900.00
1 wagon.....	200.00
Groceries and provisions.....	200.00
Aggregate.....	4,560.00

B.

The United States Dr. to J. A. J. & J. H. McVay.

For the following property destroyed and driven off by the Indians in the month of March, 1858, near the mouth of Pistol River, Curry County, Oregon, to wit:

2 horses and two mules.....	\$500.00
One dwelling-house and furniture.....	800.00
Gold-mining machines.....	600.00
Flume lumber.....	200.00
	2,100.00

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 20, 1880.

SIR: I have the honor to submit herewith for your action, a claim of James A. J., and Joseph H. McVay for \$6,660, on account of depredations alleged to have been committed by the Oregon Indians in 1856 and 1858.

The claimants, in their sworn declaration, dated January 20, 1872, alleged that in 1856, they were joint partners, doing business in Curry County, Oregon, near the mouth of Rogue River; that on the 23d day of February (1856) the Indians in the vicinity of their residence commenced open hostilities against the whites, compelling them to abandon their property and take refuge in a neighboring fort; that on the following day (February 24) the Indians burned their "dwelling-house and furniture, broke up and otherwise destroyed their mining property, and killed their cattle;" that the effects belonging to claimants and not destroyed by the Indians, were appropriated and used by the United States soldiers, and that the charges made for the property lost, as set forth in the schedule filed, are just and true, amounting in the aggregate to \$4,560.

They also allege that in March, 1858, while living near the mouth of Pistol River, Curry County, Oregon, they lost at the hands of the Indians property to the value of \$2,100, as set forth in the accompanying schedule. The claimants give a general description of the property alleged to have been destroyed, but fail to show that they have not received any compensation, in whole or in part, for their loss. Nor do they comply in other respects with the requirements of the Department rules.

It will be observed that a large portion of their claim is for property alleged to have been used by the Army, and for the loss of which the Indians are in nowise responsible. Also that the claim, which is based upon depredations alleged to have been committed in 1856-58, was not presented to this office until January 14, 1873. No evidence is filed in support of the claim.

The agent at Grand Ronde Agency reports the death of all the Indians who participated in the war of 1856-58 and states that his Indians in council aver that they were "informed by the older Indians that property belonging to the whites had been destroyed by them, but of its value or nature they know nothing."

In view of the facts set forth, and as the allegations of the claimants are entirely unsupported by other evidence, I respectfully recommend that their claim be disallowed.

Very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington City, February 17, 1880.

SIR: In compliance with the terms of the seventh section of the act approved May 29, 1872, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1873, and for other purposes," I have the honor to transmit herewith the claim of James A. J. and Joseph H. McVay, amounting to \$6,600, for compensation on account of depredations committed by Oregon Indians.

A letter (inclosed) dated the 20th day of January, 1880, from the Commissioner of Indian Affairs, reporting the nature, character, and amount of said claim, is accompanied by the evidence presented in support thereof, and shows the action taken by that officer, under the rules and regulations prescribed by this Department for the investigation of such claims; all which is respectfully submitted for the consideration of Congress as contemplated by said seventh section of the act aforesaid.

Very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

H. Ex. 150—2

○