

IN THE SENATE OF THE UNITED STATES.

MAY 16, 1890.—Ordered to be printed.

Mr. MOODY, from the Select Committee on Indian Depredations, submitted the following

R E P O R T :

[To accompany S. 3833.]

CLAIMS ARISING FROM INDIAN DEPREDACTIONS.

The Select Committee of the Senate on Indian Depredations, to whom was referred Senate bill 3833, submit the following report:

The Select Committee on Indian Depredations has before it one hundred and fifty private bills for the payment of Indian depredation claims arising out of transactions covering many years of the existence of this Nation, beside many petitions. It has also eleven general bills, each of them providing in substance the organization of a tribunal before which such claims can be adjudicated.

Your committee has not undertaken to consider these private bills, but has determined upon recommending a means by which all private claims for Indian depredations coming within certain limitations may be adjudicated and finally disposed of. That many of these claims are meritorious as claims not only against the Indians committing the depredations, but against the Government when the remedy against the Indian shall fail, can not successfully be denied, if the action of the Government since its organization is taken into consideration.

Your committee came to the conclusion that the wisest course to pursue, in justice to the Government, to the Indians, and to the claimants, in relation to such claims was to relegate them to the courts of the United States already established, and not provide any separate tribunal or court for their disposition. In this respect the bill differs from all the bills before it save one, and also from the one which has recently been reported from the like committee of the House of Representatives.

The bill in substance provides for clothing the Court of Claims and the district and circuit courts of the United States with jurisdiction to hear and adjudicate all claims arising out of depredations committed by Indians belonging to tribes in amity with the United States, and also out of depredations committed by the white men upon such Indians, and by one band of friendly Indians upon another band in cases where no just cause or provocation existed which induced such depredation, not, however, going back to a period anterior to the year 1867, except in such cases arising prior to that time as were duly prosecuted before the Secretary of the Interior or Congress and are still pending. It provides that the Government and the Indian tribe

against whom the wrongful conduct is alleged shall have due and proper notice of the prosecution of the claim, and that the Government shall take upon itself the defense thereof, both for the Government and for the Indian; it clothes the Court of Claims with general jurisdiction of these subjects, and gives to the United States district courts concurrent jurisdiction in cases where the sum claimed does not exceed \$2,000 and the circuit courts concurrent jurisdiction where the sum claimed exceeds \$2,000 and does not exceed \$10,000. If the district or circuit court take jurisdiction in any case, the suit is to be brought in the district where the claimant resides, or where the transaction occurred out of which the claim arose, at the option of the claimant.

The bill makes provision for the conduct of the cases according to the ordinary mode of procedure in such courts in cases prosecuted against the Government, specifying, however, what shall be set forth in the petition, that the trial shall be to the court without a jury, and that an appeal shall be according to the practice in equity. The bill further provides, where the claimant recovers, for a judgment against the United States, and also against the band or tribe of Indians whose members committed the wrong, and in case a white man committed the wrong against an Indian, for a judgment against the white man. The payment of the judgment is first to be made, where it is against the band or tribe, out of the funds of the tribe available therefor, and where it is against a white man and in behalf of the Indian, out of his property. Ultimately, if no satisfaction can be had by such mode, the judgment is to be reported to Congress and paid by an appropriation therefor. No judgments, however, are to be rendered against the United States in any case where the property taken or destroyed was unlawfully, and by the knowledge and consent of the owner, upon an Indian reservation. The final judgments in all cases are to be conclusive of the rights and obligations of the parties. All claims are to be presented within three years or be thereafter barred, and no case arising after the passage of the act can be considered.

It is hoped by the committee that if Congress shall enact this measure into a law it will speedily put an end to all the numerous cases that have arisen out of depredations wrongfully committed by Indians, and will subject all such claims to the careful scrutiny of the courts, so that just ones may be paid in such sums as shall be reasonable and right, and improper ones rejected. The argument in favor of the passage of such a measure can not be too strongly emphasized. Almost from the inception and organization of the Government it has taken upon itself the exclusive and indisputable control of the Indian tribes within the borders of the Nation; it has arbitrarily excluded from the Indian country all citizens, save those expressly authorized by law to enter therein. In the interest of preserving peace between the Indian and the white race, it has undertaken to prevent the white man from pursuing any remedy against the Indian for wrongs committed by robbery, by arson, or by theft. It has thrown a shield around its Indian wards effective to prevent his being subjected to any processes similar to those existing against the whites.

As a compensating course therefor, from a very early period in the history of the Government, it has undertaken to itself procure reparation from the Indian and to guaranty to the party injured an eventual indemnification.

As early as May 19, 1796, the following act was passed, found in the First Statutes at Large, page 472, being section 14 of an act entitled

“An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontier :

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 here 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.

Recognizing in the same act the obligation to protect the Indian against the encroachments of the white man, it was enacted “That if any citizen or other person shall go into any territory belonging to any nation or tribe of Indians and shall there commit robbery, larceny, or trespass, or other crime against the person or property of any friendly Indian or Indians he shall not only be punished as therein provided, but when property was taken or destroyed shall forfeit and pay to such Indian twice the just value of the property so taken or destroyed; and the act further provided that if such offender shall be unable to pay a sum at least equal to 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.” (1 Statutes at Large, page 470, section 4.)

Again, such act expiring by its own limitation on the 3d of March, 1799, the foregoing provision was re-enacted as follows:

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.

This act was approved March 3, 1799, and the section is found in 1 Statutes at Large, 747. It also contained a promise of indemnification to the Indian against the depredations of the white man.

The act of 1799 having expired by its own limitation, by an act approved March 30, 1802, United States Statutes at Large, Volume I, page 143, section 14, the same provision was re-enacted, as follows:

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 guaranty 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.

This act containing this provision had no limitation and was in force until it was modified by the act approved June 30, 1834, Statutes at Large, fourth volume, page 729, the seventeenth section of which statute is found on page 731, and is as follows:

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 subagent, 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 subagent 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 guaranty 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 claims 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.

It will be seen that by the last statute the modification was in providing compensation for the injury if the depredation was committed within the Indian country upon property lawfully therein, as well as for property taken or destroyed outside of the Indian country.

But throughout all these statutes runs the doctrine of the obligation of the Government to see that the white man is indemnified for these unlawful injuries: First, out of the Indian fund, and that failing, out of the Government treasury; and also the doctrine that the white man should pay twice the value of the property which he injured or destroyed and a like eventual indemnification by the United States.

The provision granting indemnity to Indians for losses occasioned by white persons has never been repealed. It still is an existing enactment, and is contained in sections 2154 and 2155 of the United States Revised Statutes.

The reciprocal obligation to the citizens of the United States to pay them for depredations committed by Indians has been subjected to several statutory amendments, though in each of them the principle has been recognized that it was the duty of the United States to cause indemnification to be made out of any available funds belonging to the Indian tribe, and in the more recent enactments, and by many appropriations therefor, the recognition of the obligation to eventually indemnify the citizen for such losses has been renewed.

On February 28, 1859 (11 Statutes, 401, section 8), Congress repealed that part of the act of June 30, 1834, above quoted, which provided for indemnification out of the Treasury, although preserving the right of the persons suffering losses by Indian depredations to be paid whenever the Indians had annuities out of which the claims for losses could be deducted.

The joint resolution of June 25, 1860 (12 Statutes, 120), declared that this last act should have no retroactive effect.

The repealing act of February 28, 1859, and the declaratory act of June 25, 1860, are as follows, so far as they relate to this subject:

[11 Stat., 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.

[12 Stat., 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.

Thus it will be seen that from May 19, 1796, to February 28, 1859, a period of about sixty-three years, the policy of requiring the Indians to pay for the unlawful depredations committed by them against the whites, and of requiring the whites to pay for the unlawful injuries committed by them against the Indians, and an eventual indemnification to each class in case the effort to make the party committing the injury pay failed, was in active force, and payment for claims for Indian depredations was made out of the public treasury without special appropriation by Congress.

After the passage of the act of 1859 such payments continued where the Indians had annuity funds, down to July 15, 1870, when, by an act approved on that date (16 Statutes, 360, section 2098, Rev. Stat.) it was provided that thereafter no claims for Indian depredations should be paid until Congress should make special appropriation therefor. This did not repeal the existing law in relation to Indian depredations; it merely affected the mode of payment. It nevertheless recognized by its terms the fact that Congress would and should make appropriations for such purpose. The provision of the act of June 30, 1834, as modified by the act of February 28, 1859, has been incorporated into the Revised Statutes of the United States, and is section 2156 thereof.

It reads as follows:

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.

On May 29, 1872, an act was passed (17 Statutes, 190, section 7, now appearing in section 445 Revised Statutes) requiring the Secretary of the Interior to make an examination of the Indian depredation claims presented to him and report them to Congress with his allowance or disallowance and the evidence upon which his action was based.

This was a practical return to the ancient policy of the Government and a renewed recognition of the liability of the United States. It plainly contemplated payment by Congress of claims presented to the Secretary of the Interior and allowed by him, but gave a further protection against unjust claims by securing a re-examination of the evidence by the committees of Congress. From year to year the Secretary of the Interior has reported to Congress numerous claims of this class, both allowed and disallowed. A few of these cases have been paid by special appropriation acts therefor by Congress, but many of them remain unpaid.

Since then several appropriations have been made by Congress for the purpose of continuing the investigation of claims for Indian depredations. By the act of March 3, 1885 (23 Statutes, 376), an appropriation of \$10,000 was made to enable the Interior Department to make such additional investigations of claims for Indian depredations. Further appropriations have been made by the following acts: Act of May 15, 1886 (24 Statutes, 44), \$20,000; act of March 2, 1887 (24 Statutes, 464), \$20,000; act of June 29, 1888 (25 Statutes, 234), \$20,000; act of March 2, 1889 (25 Statutes, 998), \$20,000.

It is pertinent to inquire why all this care, extending through so many years, to provide for the presentation and examination of this character of claims, if it was not the intention of Congress to pay them and the reasonable expectation of the claimants that they would be paid.

Some of these claims have been provided for and have been paid, with no more apparent merit than numerous others which have not been paid.

Among those may be mentioned the following:

For depredations committed by Rogue River Indians of Oregon, claims proven and allowed were paid at the average rate of 37 cents on the dollar.

Inkpadutah Sioux.—One paragraph in the Army appropriation bill, approved March 2, 1861 (12 Statutes, 203), appropriated \$9,640.74 to pay for the destruction of property at Spirit Lake, Iowa, by Inkpadutah's band of Sioux Indians in 1857. Under its provisions twenty-nine claims were presented and an aggregate of \$27,608.55 was allowed by the Commissioner.

Following is a list of claims paid, chiefly from the annuities of Sioux, Northern Cheyennes, and Arapahoes for the twenty years previous to 1870. It shows the character of loss, amount paid, and by what authority:

[10 Stat., 1018, Art. 3.]

Cameron, Theodore, goods stolen by Rogue River Indians, \$10.30; authority of act of July 31, 1854.

[11 Stat., 747, Art. 11.]

Peterson, Hans C., furniture destroyed by Sioux, \$2,283.92; treaty of April 19, 1858. Burleigh, W. A., horses stolen by Yankton Sioux, \$750; treaty of April 19, 1858.

[14 Stat., 718.]

Prather, John J., goods and horses, by Arapahoes, \$16,746.67; treaty of October 18, 1865, Art. 1.

Tracy, Charles F., mules, by Kiowas and Apaches, \$14,650. *Ibid.*

[15 Stat., 620.]

Dresser, George T., clothing, by Utes, \$881; treaty with same, March 2, 1868. Sheford, George L., personal property, \$108. *Ibid.*

[15 Stat., 655.]

Fish, R. M., two mules, by Cheyennes, \$400; treaty, May 10, 1868.

Fletcher, John, sixty-nine head of cattle, by Cheyennes and Arapahoes, \$3,450. *Ibid.*

Combs, J. M., horses, mules, and merchandise, by Cheyennes, \$2,035. *Ibid.*

Christianson, Lawrence, *et al.*, horses and household goods, \$644; by Cheyennes. *Ibid.*

Irwin, John, harness and robes, by Northern Cheyennes, \$305. *Ibid.*

Logan & Waddington, horses, mules, and merchandise, \$6,585. *Ibid.*

Newman & Powers, mules and harness, by Cheyennes and Arapahoes, \$12,200. *Ibid.*

Newman, H. L., oxen, by Kiowas and Arapahoes, \$3,450. *Ibid.*

Oburn, William C., cattle killed and stolen by Cheyennes and Arapahoes, \$4,000.

Ibid.

Streeter, James, & Co., merchandise stolen by Cheyennes, \$4,392.50. *Ibid.*

Smith, Lucy A., merchandise stolen by Cheyennes, \$2,564.10. *Ibid.*

Warlope, Peter, mules, horses, and merchandise stolen by Cheyennes, \$3,961.50.

Warren, Henry, mules stolen by Comanches and Cheyennes, \$15,867.50. *Ibid.*

Brice, James M., mules and expenses, \$9,000. *Ibid.*

[15 Stat., 673.]

Hogan, J. M., horses stolen by Snakes or Shoshones, \$6,600; treaty with eastern tribes of Shoshones and Bannocks, July 3, 1868.

Short, Celia C., surveying instruments, field-notes, rifles, etc., \$678. *Ibid.*

THE SIOUX MASSACRE.

On February 16, 1863 (12 Stat., 652), Congress enacted a law abrogating all laws and treaties heretofore made with the Sisseton, Wahpeton, Medawakanton, and Wahpekoota bands of Sioux Indians, or any of them, "so far as said treaties or any of them purport to impose any future obligation on the United States, and all lands and rights of occupancy within the State of Minnesota, and all annuities and claims heretofore accorded to said Indians, or any of them, to be forfeited to the United States."

Section 2 of this law appropriated \$200,000 out of these Indians' annuities for that and the following year, to be apportioned by commissioners among the surviving members of Minnesota families who suffered by the depredations of the tribes before named, or by the United States troops during the Indian war in that State, nor exceeding the sum of \$200 to any one family. These claims, to the number of 2,940, were paid upon the award of the said commissioners.

Since the act of July 15, 1870 (16 Stat., 360, sec. 4), which directed that "no claim for Indian depredations shall hereafter be paid until Congress shall make special appropriation therefor," the following, among others, have been paid by special enactments, the volume and page of the statute where the act may be found being given :

CLAIMS PAID BY SPECIAL ACT.

On July 15, 1870 (Stat., 360, section 4), an act was approved which directed that "no claims for Indian depredations shall hereafter be paid until Congress shall make special appropriation therefor." Up to this date nearly all claims for redress for the depredations of Indians were paid by the Indian agents for the annuities, by the direction of the Secretary of the Interior or the Commissioner of Indian Affairs.

Since the law last quoted took effect such claims have been paid by special act or in an appropriation bill. Following is a list of those thus paid, the amount paid, names of the tribes from whom such funds were withheld, with date of act:

[16 Stat., 307.]

Adams, A. M., horses and cattle stolen by Kiowas and Comanches in 1866, \$29,492.62.
Baca y Salasar, stock stolen by Navajoes in 1866, \$9,000. *Ibid.*

[16 Stat., 377.]

Lincoln, Helen and Heloise, whose parents were murdered by Kiowa Indians January 5, 1868, are given the above names, and \$2,500 for each is reserved from said Indians' annuities, and retained in the Treasury till said girls reach twenty-one years of age, the Government to pay them 5 per cent. interest annually on the same during their minority; on reaching twenty-one years of age the principal to be paid each in full, or their lawful issue if said girls die prior thereto.

[17 Stat., 675.]

Kelly, Fanny, in full for property destroyed by the Sioux in 1864, \$10,000.
Marble, Ann, in full for loss of horses, mules, and wagons, by Cheyennes and Sioux in 1864, \$2,250. *Ibid.*

[17 Stat., 701.]

Gerry, Elbridge, for valuable services rendered the Government in 1864, and for all claims for horses stolen by the Sioux to date, \$13,200.

[18 Stat., 424.]

German, Adelaide and Julia, two children captured by Cheyennes and Arapahoes, while en route from Georgia to Colorado; Secretary of the Interior directed to set aside \$2,500 from annuities of said Indians for the benefit of each of these persons, and the Government to pay them 5 per cent. interest on this sum until they become twenty-one years of age, when they are to be paid all of the principal; or, dying previous to that age, the principal to go to their lawful issue.

[20 Stat., 396.]

A. S. Lee's heirs: Directs the Secretary of the Interior to pay in equal portions to Susanna Marble, Millie Frances Lee, and John Abel Lee, heirs of Abel S. Lee, or their legal representatives, the sum of \$2,915, with interest thereon at 7 per cent. per annum from June 9, 1872, out of any money due the Kiowas, said payment to be in full of all claims of said heirs for property destroyed by the Kiowas in 1872. Short, Mrs. Celia C., \$5,000 in five annual installments of \$1,000 each, out of any money appropriated for the use of the Cheyennes. *Ibid.*

Germain, Catharine and Sopha, two children captured in Kansas by Cheyenne Indians, \$2,500 to be reserved for each from annuities of said Indians, the Government to pay said children 5 per cent. interest on this fund annually until they are twenty-one years old, when entire principal to be paid them; or, dying previous to that age, the amount to be paid their lawful issue. *Ibid.*, 603.

[21 Stat., 199.]

In an agreement with the White River Utes in Colorado is the following provision: "And out of the portion of the money coming to the White River Utes the United States shall pay annually to the following named persons during the period of twenty years, if they shall live so long, the following sums, respectively:

Mrs. Travella D. Meeker.....	\$500	Mrs. Sarah M. Post.....	\$500
Miss Josephine Meeker.....	500	Mrs. Eaton, mother of George Eaton.....	200
Mrs. Sophronia Price.....	500	Parents of Arthur L. Shepard.....	200
Mrs. Maggie Gordon.....	500	Father of Fred. Shepard.....	200
George Dresser.....	200	Parents of Wilmer Eskridge.....	200

Shaw, Mrs. Sarah, the Secretary of the Interior to pay her the sum of \$5,000 in five annual installments of \$1,000 each out of any money appropriated for the use and benefit of the Cheyenne Indians. *Ibid.*, 276.

Cook, Amanda M., Secretary of the Interior to pay her \$2,000 out of the annuities of the Cheyenne or Arapahoe Indians, who captured her and killed her mother in Wyoming in 1865. *Ibid.*, 588.

Durfee and Peck, William and John Shirley, Lemuel Spooner, \$58,659.46 for destruction of fort, buildings, and merchandise, \$7,541.75 to be deducted from moneys due the Comanches; \$27,779.62 from the Sioux; \$5,520 from the Kiowas; \$17,548.09 from the Comanches and Kiowas. *Ibid.*, 640.

Redus, William, \$3,600 in full for 104 beeves stolen by the Osages in 1872. *Ibid.*, 652.

[21 Stat., 87.]

Redress to sufferers by a raid of the Northern Cheyenne and Arapahoe Indians through the western part of the Indian Territory and Kansas, namely:

Dora Westphalen, money, mules, and clothing.....	\$800.00	Mary Locher, household goods.....	\$85.00
Peter Westphalen, money, mules, and clothing.....	365.00	Maria Denmie, stock and grain.....	601.00
D. C. Tracy, cattle, horses, and mules.....	1,300.00	Christopher Abbot, horses.....	815.00
Julia Lanfug and daughters, horses and personal property.....	1,500.00	A. C. Blume, damage to crops.....	103.00
Barbara Springler, house and harness.....	1,059.00	Mary Janosek, stock and provisions.....	731.00
Dina Stenner, horses and grain.....	925.00	John Banda, grain destroyed.....	133.00
Frank Sperank, horses and grain stolen.....	316.30	Frank Vocasek, grain and horses.....	744.00
Ernest Zelbig, grain.....	60.00	Paul Jansoek, provisions.....	236.80
		Total.....	\$9,870.10

[23 Stat., 95.]

To pay the following-named claimants, who suffered from a raid of the Northern Cheyenne Indians, in September, 1878, from the unexpended balances of the treaty fund belonging to the Northern Cheyenne and Arapahoe Indians:

Margaret Smith, horses and harness stolen.....	\$395.00	Patrick Drohen, mules and cow.....	\$491.50
Mrs. E. J. Humphrey, horses and corn.....	623.00	Mary Hamper, cash.....	55.00
John R. Van Cleve, hay, money, and clothing.....	240.00	John McKenzie, stock.....	128.50
Peter D. Adams, cows.....	60.00	Lizzie Steffen, cow and corn.....	80.00
Robert Bridel, horses and cows stolen.....	585.83	J. B. Jennings, cattle.....	84.00
James Bailey, horses.....	110.00	Thomas L. Collins, cattle and hay.....	700.00
N. W. Rider, clothing and provisions.....	61.50	Wenzel Rahen, cattle, corn, and wheat.....	80.00
J. J. Keefer, horse.....	70.00	Franz Tacha, sugar, corn, and wheat.....	100.00
Henry Rathbon, saddle and bridle.....	45.00	Joseph Cilek, cattle.....	150.00
E. D. Stillson, horse and goods.....	40.00	George M. Miller, colt.....	40.00
		John Irwin, robes and harness.....	305.00

[23 Stat., 96.]

To pay the following-named claimants or their legal representatives in full satisfaction of their claims for damages caused by the Ute Indians at the time of the Ute massacre at White River Agency, in 1879, to be paid from the funds of the confederated bands of Ute Indians, namely:

Josephine Meeker, personal property stolen.....	\$460.00	George T. Dresser, clothing.....	\$881.00
Mrs. A. D. Meeker, household goods stolen.....	778.85	George L. Shepard, personal.....	168.00
Sophronia E. Price, personal property.....	701.50	Thomas F. Thompson, clothing.....	203.00
Sarah M. Post, tools and clothing.....	599.00	Albert A. Woodbury, clothing.....	79.50
W. E. Eskridge, personal property.....	220.00	E. L. Mansfield, clothing.....	187.25
		McLane & Dillmen, five horses.....	300.00

[25 Stat., 1223.]

Jones, Mrs. Eliza A. Cutter, \$5,000, to be paid in five annual installments of \$1,000 each, out of any money hereafter appropriated for the use and benefit of the Cheyenne Indians.

In the report of the House Committee on Indian Depredation Claims, it is stated that since 1885 there have been investigated with great care and labor, and at much expense to the Government, eleven hundred claims, involving a total sum of \$4,000,000. But few of these have been allowed for amounts originally claimed. Some have been entirely disallowed, and the remainder have been reduced to correspond with the facts, and \$1,300,000, or 32½ per cent. of the \$4,000,000 have been allowed. It is also stated that during all the period since the claims have been pending, Congress has appropriated by special act \$1,654,530.

Your committee quote and append hereto the very able and valuable report made by the chairman thereof from the Select Committee on Indian Depredation Claims of the House of Representatives, in full, as it gives much important information and contains an expression of the views of that committee why legislation of the character contemplated should be enacted by this Congress, though your committee prefer making use of the tribunals already established, rather than to create new ones.

Many of the treaties made by the United States provide the Indians shall either indemnify out of their available funds the persons suffering losses and injuries committed by them, and in some cases they agree to restore the property taken. In more of the treaties the Government agrees to indemnify the Indians for losses suffered by them at the hands of the white man.

CONCLUSION.

But your committee submit, that in the absence of all precedent or treaty stipulation or statutory obligation, just claims arising from unlawful acts of robbery, theft, and destruction committed by the Indians upon the whites and the whites upon the Indians, in the absence of a state of war between the whites and the Indians, should be made good through the instrumentality of the Government, either by requiring one party to pay the other, or by payment out of the Treasury.

The statutory recognition of this obligation by the fathers of the Republic was the result of a clear apprehension of duty arising from the relations of the Government to the citizens and the Indians. The policy of the Government from the earliest days until the present time has been to keep the Indian in the condition of a ward and to prevent any redress of grievance against him by the whites. There are no civil tribunals with jurisdiction of such controversies or with power to enforce a judgment against the Indian. Neither the criminal nor the civil process of State courts run within an Indian reservation, except by express consent of Congress.

The public necessity for this policy established by Federal statute has been the reason for its existence; but with the prohibition of private or State redress for wrongs, a reciprocal duty arises on the part of the United States, the duty of guarantying indemnity to those who are denied redress. It is this obligation which was enforced in the early legislative proceedings of the United States, and recognized anew by the later laws to which attention has been called.

These claims have been for years before the department; they have been examined and re-examined in the department; Congress has been flooded with bills for their payment.

This bill reported from the committee proposes a final determination, within the limit which it prescribes, of all such cases. Proper safeguards are supposed to be contained in the bill; the Government and the Indian are amply protected; there can be no reasonable ground to apprehend that any fraud will be committed in their adjudication, but that whatever is reasonably due the injured party may be ascertained and paid either from the funds belonging to the Indians, many of whom are possessed of absolute wealth, while their victims, in many instances, were bankrupted by the injury, or the Government shall pay where, by the course or policy pursued by the Government, the Indians are unable to pay.

Your committee therefore earnestly recommend the passage of the bill.

APPENDIX A.

House Report No. 1079, Fifty-first Congress, first session.

MARCH 26, 1890.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HERMANN, from the Select Committee on Indian Depredation Claims submitted the following

REPORT:

[To accompany H. R. 8150.]

Your committee finds itself overwhelmed with private bills for the payment of Indian depredation claims arising in various portions of the nation, chiefly in the extreme western, southwestern and Pacific States and Territories. It has been found utterly impossible to consider with necessary care even a small portion of these matters. It has therefore devoted its consideration to the various general bills before it which provide for a court or special tribunal before which all such private claims may be considered and finally acted upon. The records of Congress disclose the fact that for many years former committees have experienced alike inability to consider the numerous claims of this class which have been presented to Congress from time to time. It was deemed necessary, and was thought to be a great relief, when Congress provided for the investigation of Indian depredation claims through and by the Interior Department. To this end appropriations have been annually voted to defray the expenses incident to such investigation; but even this has failed to produce the desired result, inasmuch as it is now seen that the various claims investigated and favorably reported to Congress at each session can not be considered by it with a view to appropriation.

The business of this Government has at last become so immense in its details, and the increase of measures before Congress so great, that only matters of the highest public concern can be considered with that care and deliberation so essential to just and correct legislation. Your committee has therefore arrived at the conclusion that a separate and independent tribunal is now an indispensable alternative for the speedy and just settlement of claims arising through Indian depredations, and they accordingly report the accompanying bill, which in their judgment will accomplish such an adjustment of these claims as is desirable and proper. The various Departments of the Government which are connected direct and indirect with the proposed tribunal, have been consulted by your committee, and each and all of them have not only united in an opinion as to the necessity for such a resort, but have approved the general features of the bill. The class of claims which are referred under this bill have an interesting history in the legislation of the country.

The founders of the Government early appreciated the delicate relations which existed between the aborigines of the country and the

whites. To deal fairly and justly by the Indian race, to disarm these people of any suspicion as to unjust methods on the part of the whites, to prevent controversies which seemed inevitable in the various transactions between them, and to avoid personal conflicts which must necessarily have ensued and driven the races to endless hostility, it was early determined, in the act of July 22, 1790, to regulate all trade and intercourse with the Indian tribes. Great care was also provided, in further enactments, as to settlement on Indian lands and the survey of the same, and all individual transfers or purchases of land were strictly prohibited and made void. Cases frequently occurred of Indian depredations on the one hand, and of retaliation by the whites on the other. Indian depredators were pursued into their own territory by the whites, intent upon reclaiming the property taken, or of obtaining indemnity or compensation for property destroyed. Great disasters were often precipitated during these occasions. It was found, later on, further necessary to define still more clearly the relation between the two races. While the Indian, on the one hand, was promised protection against the lawless actions of the white man, on the other a guaranty of indemnity was offered the whites as to the lawless acts of the Indians. These necessities thus created an obligation on the part of the General Government to each of these classes. It became, as it were, not only a common arbiter between them, but an indemnifier as well. Having assumed to guaranty indemnity, it also assumed to enforce a recognition of the rights of each. Various acts of legislation were enacted pursuant to the principle thus adopted. An extract from the act of May 19, 1796, will more clearly emphasize the original obligation on the part of the General Government, in the following words:

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 in the meantime, in respect to the property taken, stolen, or destroyed, the United States guaranty 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. (See act June 30, 1834, sec. 17, 4th Stat. L., 731.)

It will thus be seen that the usual remedies afforded by the municipal law were absolutely denied the injured party, and he was prevented from seeking private satisfaction for the loss incurred. A thief taking away another's property, or an enemy burting another's dwelling, or trespassing in the least upon another's rights, can be followed throughout the whole nation and the courts are open to the injured claimant. The property of the wrong-doer can be seized by the strong arm of the law, and recompense had and the wrong redressed. In the interest of peace and public policy, the Indian trespasser, however, can not be pursued into any courts, nor can his property be taken in satisfaction for the injury he inflicts. The reservation line is the boundary of his refuge, and too often it has been a refuge for thieves and murderers. The injured settler of the frontier, who has perhaps but his faithful yoke of

oxen as his reliance in building his American home in the wilderness, must fold his arms and quietly submit should some Indian depredator stealthily encroach upon the settler's lines and there take away or destroy his only property. He could pursue the white criminal, could invoke the aid of the law, both to punish for the wrong act and to recover the property if found. But in the case of the Indian depredator he is restrained by the severe admonition of the law itself.

The analogy between the express liability of the States, or of municipal bodies, to answer for damages by riots or mobs, or of the United States, under treaty provisions, to compensate for injuries done aliens in this country, is not so close as is the relation of the Government to its own injured citizens—the victim of Indian depredations. Congress responded most readily, and with extreme liberality, to the demands of China for compensation for loss of life and property of alien Chinese by mob violence in Wyoming. The obligation to protect its own citizens from Indian violence is doubly strong in view of the express guardianship assumed by the Government of the Indian tribes. It undertook to guard, to care for, and to protect the Indians. It assumed the corresponding duty to maintain sufficient force by which to prevent injury to its citizens from such of these savage wards as should escape its surveillance.

In view of this relation of the General Government to the Indian tribes, its jurisdiction is supreme, and the various States, under the Constitution, can afford no remedy not in harmony with the Federal statutes. The State, as well as the citizen, must resort to the authority of the General Government for redress. Without its assent no injury can be remedied and no wrong can be punished. For every other injury to the citizen the law provides a direct remedy. Indeed, we are reminded that it is a maxim of the law that for every wrong there is a remedy. There is also a Constitutional guaranty to every citizen (and the power of the nation is pledged to its maintenance) that he shall not be deprived of his property without due process of law. When the Government withdraws from the citizen the right to sue and to protect, or to recover his property when wrongfully taken, it in effect confiscates his property. "That it has the power to so enforce the rights and interests of private citizens to secure the safety or prosperity to the public" there can be no doubt, as the Supreme Court has said, but beyond this there still exists the Constitutional principle "*that private property shall not be taken for public use without just compensation.*" This principle, as applied to the question involved in Indian depredation claims, appeals to the conscience and good faith of Congress. In another form, as we have demonstrated, this obligation to the citizen, in relation to the Indian wards of the nation, is also recognized and maintained. The Government assumed an express responsibility to the injured claimant. It became his guarantor, and while it took away his ordinary remedy it yet provides him an indemnification. It undertook to do the punishing as well as to follow the further remedy for such recovery as was possible, and to this end (in the act of Congress last mentioned) it was 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 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.

The guaranty of indemnification to its citizens was continued and re-enacted by the Government during various years and terms of Congress until the act of February 28, 1859. Up to that time all losses

were regularly paid through the Departments upon proof being made to the proper officers. No recourse was had to Congress. No other legislation was had, and no such uncertainty and delay was experienced as is now suffered through the inaction of Congress. Indemnification was made directly out of the Treasury for the property taken or destroyed. As to all losses, therefore, as accrued previous to February 28, 1859, the obligation of the Government continued unimpaired and its liability to that extent has never been disputed. These and subsequent losses constitute a valid and subsisting debt against the Government. The last-named act repealed so much of the previous legislation as provided for the indemnification being made immediately out of the Treasury, but continued the provision as to the indemnification being made out of the annuities due the Indians. A doubt, however, arose as to whether the act did not of itself repeal the guaranty of indemnification, and thus destroy the further obligation of the Government to claimants. This doubt was set at rest in the succeeding Congress by the joint resolution of June 25, 1860, which provided that the preceding act "shall not be construed to destroy or impair any right to indemnity which existed at the date of said repeal."

By act of July 15, 1870, the remaining remedy for payment, through annuities, was discontinued, and it was further provided that no claims for Indian depredations shall hereafter be paid until Congress shall make special appropriation therefor. It was, therefore, not until as late as the year 1870 that, in all cases, claimants were required to seek their remedy in Congress. The right, however, to compensation has always continued a subsisting obligation between the Government and the injured party. The remedy alone has changed. It was in 1872 that the Interior Department was first authorized and required to receive evidence relating to Indian depredation claims and to make rules and regulations for the proper investigation of the same, and to make report to Congress at each session as to the nature and amount of such claims, and whether allowed or disallowed by the Secretary, with the evidence upon which his action was based. This was again a continuing recognition, not only as to the character of this class of claims, but also as to the right of the citizen to seek, through Congress, for compensation. Between 1860 and 1885, three thousand eight hundred and forty-six claims were filed, involving \$13,600,000. Of these, two hundred and twenty-five claims have been paid. With the act of March 3, 1885 (23 Stat., 376), commenced the system of annual appropriations for the investigation of Indian depredation claims, and which authorized the Secretary of the Interior to expend these appropriations for such purpose. The further act of 1886 appropriated \$20,000 for continued investigation, and included all claims previously barred by the limitation of the act of 1834. These appropriations and the investigations made thereunder, have continued up to the present day. Since 1885 one thousand eight hundred and sixty-four have been filed.

The very words used in the recent act of March 3, 1885, and referred to by all the subsequent acts of appropriation, contain within themselves unmistakable recognition by Congress as to the continuing guaranty and obligation of the Government in relation to these claims. These acts provide that the Secretary shall determine the kind and value of all property damaged or destroyed by reason of the depredations, and by what tribe such depredations were committed and further provide that his report shall include his determination upon each claim. Pursuant to these various acts, the Interior Department has had presented to it from various claimants, in different States and Ter-

ritories of the Union, 5,710 claims, involving, as per claimants' valuation, about \$19,000,000. It has investigated, with great care and labor, since 1885, and at much expense to the Government, 1,100 claims, involving a total sum of \$4,000,000. But few of these have been allowed for amounts originally claimed. Some have been entirely disallowed, and the remainder have been reduced to correspond with the facts, and \$1,300,000, or 32½ per cent. of the \$4,000,000 have been allowed. Congress has appropriated by special acts \$1,654,530. Prior to 1870, many of these claims were paid by Indian agents.

Numerous acts of Congress have been passed since 1834, up to the present time, making appropriations in individual cases for Indian depredation claims. Seldom, since that time, has a single session passed that there has not been considered, and appropriations made for, some specific claim for depredations. These were not confined to acts committed in the early years of the nation's history, but many were for depredations committed within the last fifteen years. While the original liability, as well as the precedent, for these various payments are not disputed, yet your committee desire to submit this brief review in order that Congress may be reminded of the importance as well as the necessity for a continuation of its just policy toward these numerous claimants, and that it may also realize the absolute impossibility of doing this simple justice and affording compensation under the system which at present prevails through relief bills in Congress. If it is the intention that these just claims shall be honestly adjusted and paid, there should no longer be delay in providing some expeditious and certain method of adjudication. If, on the contrary, it is desired to repudiate and ignore them and to deny compensation, it is no less a duty, to the long-expectant and suffering claimants that this announcement should be made at the earliest possible moment by some authoritative action on the part of Congress.

The Interior Department of the Government, which has so long been considering the subject before us, has repeatedly recommended to Congress the payment of these claims. The Commissioner of Indian Affairs, in his report to the honorable Secretary of the Interior, and which is approved by the Secretary, in favorably reporting upon the bill now submitted by your committee, uses the following language:

Ninety-four years ago, under the sanction of George Washington, Congress solemnly promised eventual indemnity to the citizens and inhabitants of the United States who might, through no fault of their own, lose their property at the hands of Indians enjoying treaty relations with the United States. In all this time that promise has been kept in not more than 3 per cent. of the claims which have been filed. The law forbade these claimants, under a penalty of losing the amount of their claims, from attempting by private efforts to recover their property where such efforts might involve the country in an Indian War—from taking "private satisfaction or revenge"—in the language of the law, and forced the Government upon them as their attorney to collect for them the amounts which might be due. Becoming thus, by its own law, the agent and attorney of these people, and forbidding them any other course of proceeding, it appears to be more than in the ordinary sense bound by honor and good policy to redeem its pledges, and faithfully carry out its promises. I think the jurisdiction conferred, by the inclosed bill, is entirely just and proper, and is sufficiently guarded to protect the Government from the payment of unjust claims to undeserving people. All previous legislation upon this subject has limited the jurisdiction of the Government in the settlement of these claims, to the consideration of those resulting from depredations committed by Indians who, at the time were "in treaty relations" with the United States.

It is noticed that in subdivision, section 1, the qualification of treaty Indians is omitted, and in my opinion the omission is entirely proper for a just and equitable view of the matter. The Government of the United States was in duty bound to protect those adventurous citizens who, upon its invitation and promise if not express obligation, to afford them such protection, peopled the barren West and converted its barbar-

ism into civilization. But they did not receive that protection by reason of the inadequate military force employed in that part of our domain. It was no fault of theirs, but the wrong of the Government, and the Government ought not to attempt to plead that wrong or its negligence in negotiating treaties with these savages, as an excuse for the non-payment of the claims which may be and no doubt are in every respect just as honest and just as equitable as those which were committed by Indians who at the time were enjoying treaty relations. The Treasury Department likewise, having been consulted upon this subject, replies as follows: "The necessity for some legislation by which this class of claims should be provided for has long been apparent, and the tribunal proposed in the bill seems admirably adapted for the purpose of giving these difficult cases a thorough investigation and speedy settlement."

Nor does the disposition manifested by Congress within the past few years justify the country to believe that it is the intention to longer ignore these obligations. There is a general unanimity of sentiment after long experience and reflection that the proper course to pursue is that which your committee now recommend to Congress. The Indian Affairs Committee of this House in the Forty-eighth Congress had under consideration at that time the subject of Indian depredation claims, and it unanimously reported a bill "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." Their examination of the subject was an exhaustive one, and their report is a most interesting document. The functions of the commissioners proposed were, as far as possible, judicial, and the Attorney-General was required to see that the interests of the Government were properly defended; and the committee reported:

That after a careful consideration they have reached the conclusion that the only consistent proceeding, with a due regard on the one hand for the obligations of the Government, and on the other for the proper security of the Government from unfounded claims, 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.

In the Fiftieth Congress it became apparent to all that the Committee on Indian Affairs could not properly consider the numerous details connected with Indian legislation and at the same time pass upon the mass of Indian depredation claims before it, and the creation of a select committee became a necessity. The rules of the House provided for this. This committee having this class of legislation alone to consider were enabled to devote to it careful as well as prompt attention, and in the same session it reported to Congress a bill "To provide for the adjudication and payment of claims arising from Indian depredations." This also proposed the creation of a separate tribunal for a final adjustment of this class of claims, and the committee in reporting the bill say:

Fully appreciating the justice of the demands of the claimants now before Congress and the Departments of the Government for depredations committed by the Indians, and recognizing the moral and legal responsibility of the United States for their indemnification and payment, and being satisfied that a proper and speedy adjustment of the amounts due each party as well as the determination of a relevant and important adjunct of the question can not be had at least for years owing to existing modes of considering them, this committee has reached the conclusion that justice to the claimants, justice to Congress, and justice to the Government concur in demanding that a tribunal distinctively judicial in character whose decisions deliberately and judicially had would command the respect and confidence alike of Congress and the country should be organized and charged with this duty, and hence the committee have carefully examined and prepared and do recommend this bill to the favorable consideration of the House.

In recognition of the merits of this class of claims the same committee report:

To no class of its citizens is the American Government more indebted than to the heroic men and women, who, as pioneers of our civilization, abandoning home, and

comfort, and ease, risked life and property to secure homes, wealth, and progress as the heritage of those who should follow in their pathway. A cheerful compensation of their losses, so incurred, under the guaranty of the Government, is the deserving reward of their sacrifices.

This bill, somewhat amended, passed this House during the same session at which it was reported. It was favorably reported from the Committee on Indian Affairs of the Senate, with various amendments but failed to be considered for want of time. And now your committee submit the third report, and with it a bill, also providing for a tribunal, the passage of which they recommend with all the earnestness of former committees.

The Senate having at this session of Congress (and for the first time) created a select committee on Indian Depredation Claims, it is believed that an early and thorough, as well as a final, consideration may be given this subject by the Fifty-first Congress, and that a method may be provided for the direct payment of these long existing obligations of the Government.

Your committee express the belief that such an announcement will be glad tidings to the pioneers in the far West, who conquered the wilderness, reclaimed the desert plains, subdued the savage, and by stubborn occupancy, contended for in many a bloody contest, acquired valuable territory to this nation from India as well as foreign foe. They spread the light of civilization and freedom, that the stage-coach, and later on the palace car, might follow in peace and in pleasure. The deep ruts made by the emigrant wagon have become the channels of a mighty commerce, and have guided the way to a people who have established a wonderful empire which but a few years ago was the frontier of the nation. The Government, however, has never properly appreciated these great sacrifices or the magnificent results which they have produced. At the very time when it should have protected these people it neglected them. When they entered upon their brave pilgrimage to these distant regions of the great West they did so with implicit faith that the laws and protection of their country would go with them. They had a right to expect this. The Government through its policy as well as its acts invited its citizens to people the frontier. It extinguished the Indian title. It extended the public surveys. It enacted various laws by which the settler might acquire title to its domain. It received a fixed price for the sale of its lands and assumed to confer title. Forts were established, troops in inadequate numbers were stationed at widely separated points, treaties were entered into, Indian agencies and reservations were provided for within well-known and designated boundaries, and in all the vast territory within which the Indian depredations were committed the flag of the nation floated as the emblem of authority and protection of a great and strong Government.

To the early settlers, however, it was stronger in sentiment and theory than it was strong as a shield to them in the numerous perils and conflicts which beset them. They soon learned to rely upon their own resources. They patiently submitted to untold privations and sacrifices. They formed their own companies, provided their own arms and ammunition, constructed their own forts, and with their own commanders they marched to battle, generally against great odds, and often, when vanquished, suffered tortures inflicted by no other foe. Frequently their dwellings were burned, their cattle and horses were driven off, their crops were destroyed, their families and comrades were massacred, and when they appealed to their country for relief the response seldom came, and when it did it was too late or too feeble to be of any avail.

Many of these Indian marauders and murderers were armed with Government weapons, supplied with Government ammunition, clad in Army coats, and often started out with Government rations.

Singular as it may seem, the major portion of the pioneers of the West who still survive are people of small means. Many who were once possessed of large property lost all or nearly all by Indian depredations, and they never recovered from the injury thus inflicted. It is chiefly this class of the early settlers of the country who are appealing to the Government, to this committee, and to Congress for relief before they die. Many have abandoned all hope. They believe they are appealing to an ungrateful and forgetful country. A great number, however, have an abiding faith that justice will yet be done. Their hopes have been sustained by the various promises from year to year conveyed to them from Congress, and with this cheer still animating them they continue at each session to introduce and re-introduce their familiar claims to Congress and to appeal to their Representatives for final payment.

Your committee, in conclusion, express the belief that the bill reported not only provides for a just and careful and final determination of these claims in the interest of the claimants, but also guards the liability and rights of the Government as well as the Indians against extortionate or fraudulent claims, and we therefore report it back to the house, with a recommendation that it pass.