5-24-1882

Report : Petition of L. Boddy

47TH CONGRESS, 1st Session. SENATE. REPORT No. 650.

IN THE SENATE OF THE UNITED STATES.

MAY 24, 1882.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 1923.]

The Committee on Indian Affairs, to whom was referred the petition of Mrs. Louisa Boddy, of Oregon, praying comenpsation for losses and injuries inflicted by the Modoc Indians in the year 1872, *have had the same under consideration, and submit the following report:*

It appears by the petition of Mrs. Louisa Boddy that her husband, together with a son-in-law and one grown son, became settlers upon the public lands of the United States, in the valley of Lost River, in Lake County, Oregon, some four months prior to the commencement of the late Modoc Indian war, which said war began November 29, 1872, and terminated in June, 1873. Long prior to said settlement the Indian title to said lands had been extinguished by a treaty with the Klamath, Modoc, and other Indians, which said treaty was signed October 14, 1864, and ratified by the United States Senate July 2, 1866. Said lands were afterwards surveyed by the United States and opened to settlement in 1869.

On the 6th of August, 1872, the Boddy family, consisting of the husband of the petitioner, her son-in-law, Nicholas Schira, and wife, who was the daughter of the petitioner, and her two sons, one a minor, made settlement on said lands.

On the 29th of November, 1872, the government undertook, with an inadequate military force, consisting of James Jackson, First United States Cavalry, and 35 men, to remove by force the Modoc Indians from said public lands, where they had been roaming contrary to the injunctions of the Indian agent having charge of them, to the Klamath reservation. Such an insignificant force could not and did not have any effect to intimidate the Indians. The result was that Indian hostilities were at once precipitated, and a most cruel slaughter was immediately commenced by those Indians upon the unoffending and unsuspecting settlers of Lost River Valley, which slaughter began immediately after the attack upon Captain Jack's camp by Lieutenant Jackson on the morning of November 29, 1872, at early light. Among those who were massacred were the husband of the petitioner, her two sons, and her son-in-law, who were peaceably pursuing their usual vocations.

The petitioner further states in a graphic manner her discovery of the lifeless forms of her husband and sons, stripped and mutilated, and how, struck with fear, she and her daughter fled at once to the neighboring mountains, where, without food or shelter, and thinly clad, with snow on the ground, they remained for two days before daring to make their way to any friendly shelter.

After the massacre the Indians destroyed and carried off all the personal property of the families, embracing horses, sheep, hogs, cattle, poultry, clothing, provisions, &c., and also including $829 in gold and silver coin, and burned the houses. The mutilated bodies of those who were killed were afterwards recovered and buried at Linkville by the Oregon Volunteers.

By this disaster the petitioner was reduced at once from a condition of comparative affluence to one of poverty and wretchedness.

The petioner duly presented her claim for property thus stolen and destroyed, amounting to $6,180, in due form to the Indian Bureau, and placed a duplicate copy thereof in the hands of the local Indian agent. No relief, however, of any kind has ever been received by her. She therefore appeals to Congress.

This petition is sustained by the names of one hundred substantial citizens of Oregon and residents of Lake County and vicinity, including Jesse Applegate, one of the Modoc peace commissioners; L. S. Dyar, Indian agent at the time of the massacre; J. H. Rook, Indian agent at the time of signing the petition; S. B. Cranston, register of the United States land office; and Quincy A. Brooks, assistant quartermaster-general of Oregon Volunteers, who certify "that the facts set forth in said petition are correct and true."

In forwarding to the Indian Department the claim of Mrs. Boddy for depredations committed by the Modoc Indians, as before stated, the local Indian agent, Mr. Dyar, wrote as follows to the Commissioner of Indian Affairs:

KLAMATH AGENCY, OREGON,
April 24, 1876.

SIR: I inclose herewith papers relating to claims of Mrs. Louisa Boddy and Mrs. Kate Nurse, for depredations committed by the Modoc Indians.

I have examined them, and find that the prices charged for hay, flour, groceries, and sheep are not above the ruling rates at the time and place of the depredations. I am knowing to the fact that these claimants were great sufferers from the Modocs; that their husbands and other members of their families were murdered, and much of their property destroyed by these Indians.

I am unable to present the case to the Indians, as required in article 4 of Rules and Regulations of the Department relative to such claims, as the perpetrators are now located upon the Quapaw Reservation in the Indian Territory.

Very respectfully, your obedient servant,

L. S. DYAR,
United States Indian Agent.

Hon. J. Q. SMITH,
Commissioner of Indian Affairs.

In addition to the foregoing are affidavits of four disinterested citizens, Mr. Hartery, John Fritz, Dan Calwell, and W. S. Bybee, who were the nearest neighbors to the Boddy settlement, who testify to the amount and character of the property destroyed as near as the circumstances of the case would admit. Mrs. Boddy's own affidavit, made in this city during the present session of Congress, also gives further particulars and satisfactory account of all the circumstances of her losses.

In view of the premises, and in consideration of the whole case, the Commissioner of Indian Affairs, on request of the Secretary of the Interior, communicated, under date of March 10, 1882, the following letter, which has been submitted to the Committee on Indian Affairs, to wit:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 10, 1882.

SIR: I have the honor to be in receipt, by department's reference for report, of a petition (herewith inclosed) to Congress by Mrs. Louisa Boddy, of Lake County, Oregon, praying for compensation for losses and injuries inflicted by Modoc Indians in

November, 1872. A duplicate of this petition, together with other papers in the case (some of which had before been in this office, and were submitted to the department June 12, 1876, for transmittal to Congress), were also filed in this office yesterday by J. F. Kinney, attorney for Mrs. Boddy. These papers are also herewith inclosed. Among them is a copy of the report of this office, above referred to, of June 12, 1876, upon the claim of Mrs. Boddy, which had been filed in this office for preliminary examination under the laws and departmental regulations governing the settlement of Indian depredation claims, and, as will be seen, upon the papers then before one of my predecessors, he arrived at the following conclusion:

"There is, therefore, no doubt as to the fact of the depredation, but there is no reliable evidence in the case to show the extent of it, or the amount and value of the property lost. I cannot, therefore, do otherwise than recommend a disallowance of the claim. The depredation was committed in November, 1872, and the claim was not presented for adjustment until April last [1876], and is therefore barred."

By reference to the declaration and proofs of the claimant upon which my predecessors acted (see papers marked A, herewith), it will be seen that four witnesses to the depredation were M. Hartery, John Fritz, Dan Calwell, and W. S. Bybee, who could not swear that they knew of their own personal knowledge that the identical property enumerated in the schedule sworn to by Mrs. Boddy was the property destroyed by the Modocs, but they swear they were neighbors of William Boddy, deceased, and know that "valuable property belonging to said affiant (Louisa Boddy) was destroyed, injured, or taken away" by the hostile Modocs, and that "they believe the foregoing statement of articles destroyed, injured, or taken away by said Indians, together with the value thereof, and of each and every item of said account, as set forth in the foregoing affidavit (the affidavit of Mrs. Boddy), to be correct and true."

Their inability to swear with more particularity and the impracticability of obtaining more specific evidence are explained by the petition of Mrs. Boddy to Congress and by her affidavit dated 5th instant in this city, which, of course, were not before my predecessor when he acted on the case. Particular attention is invited to these. They show that the husband of Mrs. Boddy, her two sons, aged respectively eighteen and twenty-two years, and her son-in-law, who constituted all the men in their immediate settlement, and who perhaps alone could have sworn to the exact amount of stock owned by Mr. Boddy and the exact number destroyed, stolen, or lost, were killed on the 29th of November, when the loss occurred; that her daughter (her only remaining child) and herself, upon seeing the Indians stripping the dead bodies of her son and son-in-law, fled to the mountains to keep from being murdered, and remained there two days without food or shelter and thinly clad, with snow on the ground; that the witnesses, W. S. Bybee and Dan Calwell, who were her nearest neighbors, lived three miles south of the Boddy settlement, and that Mr. Hartery and John Fritz, who were her nearest neighbors on the north, lived five and ten miles distant, respectively, and that these witnesses, as soon as practicable after the massacre, assisted in collecting the scattered stock belonging to the Boddy family; that they were frequent visitors at the home of Mrs. Boddy before the massacre and depredation, and that "each of the said men had a good idea of the amount and value of the property and stock" owned by the family, and also were the only persons, except Mrs. Boddy and her daughter, who had knowledge of the amount of stock recovered.

These papers also show that William Boddy and family removed from Roseburg, Oreg., where he had been engaged in merchandizing, to the farm occupied by them when he was killed, only about four months before the massacre, taking with him the remnants of a stock of goods pertaining to a general country store, about three thousand sheep, about seventy-five head of cattle, and about thirty-five head of horses. The claim made by Mrs. Boddy includes only five horses, one cow, and five hundred sheep, the inference being that the balance of the stock was recovered.

The remainder of the claim as presented to this office for settlement embraces such articles as would naturally be found in the house of a man engaged as Mr. Boddy had previously been, and was at the time of his massacre.

The respectability of Mrs. Boddy, and the truthfulness of her statement as to the loss of property, is abundantly attested by the signatures of about one hundred persons attached to her petition, and among them that of L. S. Dyar, who was the agent for these Indians in 1872, when the depredation was committed, and who, under date of April 24, 1876, in reporting to this office upon this claim, said that the "prices charged for hay, flour, groceries, and sheep are not above the ruling rates at the time and place of the depredations." In that letter he also states, from personal knowledge, that Mrs. Boddy was a great sufferer from the Modocs, and that much of her property was destroyed by these Indians.

From the evidence now before me I am satisfied that the property mentioned in the schedule found in the paper marked A belonged to William Boddy (husband of Mrs. Louisa Boddy) in his lifetime, and was lost or destroyed as stated in the papers in the case; but the vagueness as to the amounts of quite a number of the articles mentioned leads me to think that in all probability the actual value of some of these articles, at least,

has been overestimated, and that the sum of $5,400 would cover the loss, and I therefore respectfully recommend that the papers herewith be returned to the Senate Committee on Indian Affairs, with the request that an appropriation of that amount be made in favor of Mrs. Louisa Boddy, widow of William Boddy, deceased.

It is proper to state that, in view of the fact that ever since the Modocs, who perpetrated the depredation under consideration, were removed to the Indian Territory, they have been regarded by this office and by Congress as having forfeited all right to any of the benefits inuring to other Modocs under the treaty of October 14, 1864, with the Klamath, Modoc, and other Indians (16 Stat., p. 707), and have been assisted in self-support by a small gratuity annually appropriated by Congress, so that it would seem that the amount which may be appropriated for the relief of Mrs. Boddy should be taken from the public funds. It may be proper to state, also, that the limitation of time (three years) fixed by the seventeenth section of the act of June 30, 1834 (4 Stat., p. 732), within which Indian depredation claims may be presented, no longer obtains, as this limitation is omitted in the Revised Statutes.

Since the foregoing was written, the attorney for Mrs. Boddy has presented a brief in support of the claim, which is also herewith transmitted.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

Hon. S. J. KIRKWOOD,
Secretary of the Interior.

From all the facts in this case it is quite apparent that the massacre of the settlers on Lost River by the Modocs, on the 29th of November, 1872, was not the result of an ordinary outbreak of those Indians, but the direct result of the attack of the United States troops upon their camp on the morning of that day, with inadequate force for the purpose of their removal to the Klamath Reservation, whither they refused to go, which attempt upon the part of the military authority was made without notice to the settlers scattered along Lost River. Your committee think that this fact makes this an exceptional case, and gives this claimant an equitable right to relief, and therefore fully concur with the Commissioner in his recommendation that the sum of $5,400 be appropriated for the relief of Mrs. Louisa Boddy, widow of William Boddy, deceased, in full compensation of her losses as hereinbefore stated, and therefore report for that purpose the accompanying bill, and recommend its passage.