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H. W. Lee.

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H.R. Rep. No. 1124, 53rd Cong., 2nd Sess. (1894)

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H. W. LEE.

JUNE 21, 1894.—Committed to the Committee of the Whole House and ordered to be printed.

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

### REPORT:

[To accompany H. R. 5363.]

The Committee on Indian Affairs, to whom was referred House bill 5363, has had the same under consideration, and report the same back to the House with the recommendation that it do pass.

This identical bill was introduced in the Senate in the Fifty-second Congress, was passed by that body, and its passage recommended by the House.

The report made by the House committee in the last Congress states all the facts necessary to an understanding of the bill, and it is adopted as the report of the committee at this time.

[House Report No. 2194, Fifty-second Congress, second session.]

The bill is for the relief of H. W. Lee, an attorney residing at Stevens Point, Wis., who was employed by a portion of the Winnebago tribe of Indians in that State for several years. The nature and extent of the services rendered are stated in his affidavit, as follows:

STATE OF WISCONSIN, *Portage County*, ss:

Henry W. Lee, being duly sworn, on oath says that he is 56 years of age and an attorney at law.

That he was first retained by individual Winnebago Indians in the spring of 1873, to prevent their enforced removal from the State of Wisconsin, which employment was extended to all the stray bands of Winnebago Indians in Wisconsin and confirmed by a general council about two months later; and again confirmed by a general council, and powers of attorney substantially from all the adult male heads of families in the fall of 1874, at which council delegates were elected to make a binding contract with the deponent for his compensation to be received by him out of the moneys he might cause to be paid to said Indians, not to be less than 10 nor more than 25 per cent. That the said powers of attorney, together with the minutes of said meeting and other papers showing deponent's relations to said Indians were left with H. L. Muldrow, Assistant Secretary of the Interior, May 14, 1885.

Deponent further says that pursuant to such employment he has performed years of labor and expended, as deponent verily believes, more than \$2,000. That it would be impossible for deponent to give more than an outline of his services, the most important of which consisted in several journeys from Wisconsin to Washington to examine the laws and treaties as they relate to the Winnebago Indians; petitioning Congress, through its Senators and Representatives, the legislature of Wisconsin, the Secretary of the Interior, and Commissioner of Indian Affairs; attending several councils held in Sauk, Marquette, Columbia, Monroe, Marathon, and Shawano counties; personally seeking Government lands in Marathon, Shawano, Portage, and Langlade counties; briefing and arguing their cases before the governor and legis-

lature of Wisconsin, and solicitor-general for the Indian Department; defending their homesteads from contest in all Government land departments; preparing, printing, and publishing petitions in large numbers; securing the employment and attending to disputes between individuals and employes; attending to domestic difficulties; giving money, food, and lodging to individuals, and writing thousands of letters; and deponent avers that he has traveled thousands of miles and spent a large portion of his time in their behalf since the year 1873 until about the year 1886; since that time they have not needed his services very much, because the money obtained through deponent's effort has obtained for them friends as well as money.

And deponent further says that the payment to the Winnebago Indians of Wisconsin under the act of January 18, 1881, of the sum of \$131,702, and for other moneys received by them since that time, is due alone to the efforts of deponent.

At the time deponent commenced his labors, in April, 1873, these people were being expelled from the State of Wisconsin, and no attention was being paid to their legal rights; that it was deponent who first called the attention of Congress by the Hon. Allen G. Thurman, in January, 1864, and again as to their monetary rights by the Hon. G. W. Cate, in January, 1876; and in 1879 deponent again presented the subject to the United States Senate, and deponent continued to petition Congress and agitate the subject continually until the necessary relief was granted, and deponent could not have been more successful or more energetic if he had been working under a full contract approved by the Secretary of the Interior.

HENRY W. LEE.

Subscribed and sworn before me this 21st day of April, 1892.

D. E. FUST,

Notary Public, Portage County, Wis.

It will be observed that the services were continuous for a period over about thirteen years, from 1873 until 1886. A portion of the tribe of Winnebago Indians, who refused to go to Nebraska, remained in Wisconsin and entered homesteads under homestead laws. Those were afterwards canceled by the Land Office on contests entered against them on the ground of abandonment. Those contests were pending in the latter part of 1882 and during 1883. Notices of contests were given in the latter part of 1882, and on January 26, 1883, Mr. H. Price, Commissioner of Indian Affairs, wrote to Mr. Lee as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, D. C., January 26, 1883.

DEAR SIR: On the 12th of December last the General Land Office reinstated the homestead entries of certain Winnebago Indians in Wisconsin and dismissed the contests, the contestants having the right to initiate contests *de novo* by giving notice to the Indians through this office.

It is understood that this action of the General Land Office was based upon your letter of October 6 last. I am now in receipt of notices of contests in certain cases. It is the desire of this office that the rights and interests of these Indians should be protected as far as possible. I have, therefore, to request that you will take charge of the matter and act as their counsel in the contested cases.

It is proper to state that this office has no funds available to pay attorneys' fees. It will, therefore, be necessary for you to look to the Indians for compensation. I inclose herewith notices of contests as follows:

S. O. Jaasted *vs.* Hunk-shen-e-kah, H. E. No. 2552.

S. O. Jaasted *vs.* Ah-oh-eha-koh, H. E. No. 2929.

S. O. Hastad *vs.* Wan-se-ha-koh, H. E. No. 3126.

S. O. Haastad *vs.* Wan-se-ca, or White Pine, H. E. No. 3127.

The hearing of these cases is to be had at the land office at Wausau, Wis., on the 15th day of February next. You will please acknowledge the receipt hereof and report the action taken.

Very respectfully,

H. PRICE,  
Commissioner.

H. W. LEE, Esq.,  
Stevens Point, Wis.

Afterwards, on November 22, 1883, the same Commissioner of Indian Affairs, in regard to the result of the contest, wrote as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, November 22, 1883.

DEAR SIR: I inclose herewith for your information a copy of the decision of the honorable Secretary of the Interior, dated November 21, 1883, in the matter of the contested homestead entries of the Winnebagoes, in Wisconsin. The particular case

submitted by this office for his decision was that of Jo-je-gah, No. 2103, and incidentally that of Ma-wa-jo-jop-qua-kah, No. 2105.

You will observe that the Secretary holds that the relief act of January 18, 1881, had the effect to extend the time within which the homestead could be entered and completed for a period long enough, at least, to enable the Indians to use to advantage the money appropriated in making entries, etc., and that the entries and selections which come within the terms of that act are not, at least in their present status, the subject of contest. In Jo-je-gah's case he directs that Baranowsky's contest be dismissed, and if Jo-je-gah wishes to relinquish his entry, David Big Hawk be permitted to enter the land. You should, therefore, inform Big Hawk of this decision and advise him of the necessary steps to enter the land.

You will also please advise the other Indians in whose cases notice of contest has been sent you of this decision and of what should be done by them. They should take the requisite steps as soon as possible after receiving their money.

Very respectfully,

H. PRICE,  
*Commissioner.*

H. W. LEE, Esq.,  
*Stevens Point, Wis.*

Afterwards, in 1884, Mr. Lee wrote the Secretary of the Interior in regard to getting his pay for the services rendered. In reply thereto the Secretary of the Interior, Mr. Teller, wrote him as follows:

DEPARTMENT OF THE INTERIOR,  
*Washington, February 28, 1884.*

DEAR SIR: I have yours of this date concerning the payments to be made to the Winnebago Indians. The money to be paid to the Indians at this time is for the purpose of making their homestead entries, and it is a condition precedent to receiving the remainder of the money appropriated for them. The second payment is to be made for the purpose of enabling them to secure such implements, etc., as may be required to commence farming and permanently occupying their lands. The remaining three-fifths will be paid to them at one time. I do not see how these Indians can afford to pay to you any portion of the first and second payments; certainly not the first, for on the expenditure of this payment in a certain way depends their claim for future payments. I admit that you have rendered valuable service to these Indians in connection with the homestead contests, and that you ought to be paid by such individuals as have derived benefit from your services; but I can not consent that you receive any portion of the first and second payments.

I think when the third payment is made, which will amount to about \$79,000, you should be allowed to appear and use all proper means to secure the payment of your debt, or at least a portion of it. I do not see any advantage that can accrue to you or Indians from your appearance at a time when you can not be allowed to divert from the use proposed any of the money paid to them at the first payment. I understand that the forty-three families refusing to appear at the place of payment do so under your advice. If this is so you are not acting in the interests of the Indians, for if they refuse to perfect their homestead entries there will be no further payment made to them. I suggest that you continue to aid these people until they have secured their homesteads, and depend on their good faith to pay you when the final payment is made. After the entries are completed I will cheerfully aid you to secure the money that is due you for services rendered. I trust that you may find this consistent with your idea of duty in the premises.

Very respectfully,

H. M. TELLER,  
*Secretary.*

H. W. LEE, Esq.,  
*Washington, D. C.*

Besides those letters there is an abundance of documentary evidence in the nature of correspondence between Mr. Lee and the Interior Department, all going to show that he was recognized by the Indians who employed him and by the Commissioner of Indian Affairs, as their attorney, and it sufficiently appears that he rendered services to the Indians as attorney, and secured for them valuable rights, which they perhaps would not receive otherwise.

He was advised by the Department to make a contract with the Indians, whereby payment of his services would be secured. In May, 1885, the Department received a contract, dated February 25, 1885, purporting to be executed by 25 Winnebago Indians and Mr. Lee. The contract was not approved by the Department, and hence was not valid. About the same time Mr. Lee caused to be filed in the Department a power of attorney from 114 of the Indians. For some reason, not

appearing on the record, those were not approved. Mr. Lee then wrote to the Department, asking for the conditions of a contract that would meet its approval. No answer appears to have been made to his letter. Under date of June 23, 1888, he was informed by Mr. A. B. Upshaw, Acting Commissioner of Indian Affairs, that the Department is unable to grant him any relief, and says:

"Mr. Lee's only remedy is that pursued by Hon. John E. Ellis, in the Pottawatomie case, to wit, a resort to Congress and the passage of an act authorizing the investigation and payment of the claim in such amount as may be found due."

The bill follows the suggestion of the Secretary and provides for an investigation by the Secretary to ascertain what, if any, services were rendered by Mr. Lee, and what, if anything, is equitably due him, and if anything be found due him the consent of the Indians interested must first be obtained, and the amount so found due, if any, shall be paid in such manner as the Secretary of the Interior shall direct. It will be seen that the rights of the Indians are carefully guarded in every respect; that the claim for compensation must first be investigated by the Secretary of the Interior to ascertain whether he justly and equitably is entitled to any compensation whatever.

If anything is found due him the Secretary of the Interior shall fix the amount. After that is done the consent of the "stray bands of Indians, or a majority of the heads of families thereof," must be obtained before any payment can be made, and payments shall be made in such manner as the Secretary of the Interior shall direct, out of any money in the Treasury belonging to such stray bands of Indians; but the amount shall not exceed \$10,000.

The committee unanimously recommend the passage of the bill without the amendment.

