

APPROPRIATION TO PAY CERTAIN CLAIMS TO SIOUX INDIANS FOR LOSS OF HORSES

JANUARY 14, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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

REPORT

[To accompany H. R. 5850]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5850) authorizing an appropriation for the payment of certain claims due certain members of the Sioux Nation of Indians for damages occasioned by the destruction of their horses, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill was reported by the Committee on Indian Affairs in the Sixty-eighth Congress, but failed of passage in the closing days of that Congress. It is a final effort to secure the settlement of some old Indian claims which had their inception in the unauthorized killing of 465 head of Indian horses upon the Cheyenne River Reservation in South Dakota at the instance of the United States acting through its Bureau of Indian Affairs.

The testimony shows that the larger claimants have either been settled with or now have their claims in process of settlement through the Court of Claims, but the claims of those whose relief is sought in this bill are so small that the Indians involved can not afford to prosecute them in the Court of Claims as the cost would be prohibitive.

By the act of June 7, 1924, the Secretary of the Interior was directed to investigate these claims and report to Congress. This report sets out all the facts necessary to a clear understanding of the issues involved and is appended hereto for the information of the House.

DEPARTMENT OF THE INTERIOR,
Washington, December 2, 1924.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: An act of Congress approved June 7, 1924 (Pub. No. 211, 68th Cong.), reads:

"That the Secretary of the Interior be, and he is hereby, authorized to investigate and report to Congress the facts in regard to the claims of members of the Sioux Nation of Indians residing in the State of South Dakota for horses killed on the Cheyenne River Indian Reservation in the years 1895, 1896, and 1897, which horses are alleged to have been erroneously suspected of being infected with glanders, and killed by, or by order of, employees of the United States Government, and for which no compensation has been paid: *Provided*, That the Secretary of the Interior is authorized to determine what attorney or attorneys have actually rendered services of value to any of the Indians who may be found to be entitled to reimbursement in accordance with the provisions of this act and what compensation such attorney or attorneys may be entitled to receive therefor on a basis of quantum meruit and report the amounts so ascertained and determined to be due to the various claimants and attorneys to Congress not later than December 3, 1924."

In compliance with the provisions of the act, Examiner of Indian Inheritance Joseph Coursey and Inspector Thomas B. Roberts, sr., of the Indian field service, were designated to conduct the investigation, and a copy of their report dated October 6, 1924, with the accompanying papers, is inclosed herewith. There is also inclosed a copy of supplementary report from Examiner Coursey, dated November 14, 1924, and accompanying papers submitting 14 additional claims.

These reports show that 84 Indian claimants were found, claiming a total of 225 horses killed, the value of which, from the best obtainable evidence is placed at \$13,950. This department concurs in the reports and recommends the appropriation of the amount mentioned for these claimants. The names of the Indians, with the exception of a few cases where the heirs have not been officially determined, all appear in the reports of Messrs. Coursey and Roberts.

A brief statement of the circumstances under which the horses of the Indians were killed would appear necessary to a clear understanding of the case:

Information having reached this department that a large number of horses belonging to Indians of the Cheyenne River Reservation, S. Dak., were probably afflicted with glanders, in order to check the disease the Indian agent was authorized during the years of 1895 and 1897 to employ veterinary surgeons to examine and kill all horses found to be so infected. During the years mentioned and until January 22, 1898, many horses belonging to Indians on the reservation were killed under diagnosis made by Dr. John W. Elliott, the veterinarian employed as above stated. On the date last mentioned this department suspended the order theretofore granted for killing the animals. Subsequently this department requested the Secretary of War and the Secretary of Agriculture to each detail a competent veterinary surgeon to conduct a careful investigation for the purpose of determining the accuracy of the diagnosis made by Dr. John W. Elliott, the veterinarian under whose examination the horses were being killed.

The Secretary of War detailed Veterinary Surg. Richard B. Corcoran, Eighth Cavalry, then stationed at Fort Yates, N. Dak., and the Secretary of Agriculture detailed Dr. Robert H. Treacy, an employee of the Bureau of Animal Industry of the United States, having charge of the station at Bismarck, N. Dak.

After applying the mallein test and other scientific methods of diagnosis to more than 300 horses on the reservation, these Government officials, in a report to this department, declared that the animals were found free of glanders. They also examined several horses previously inspected and examined by Doctor Elliott and ordered killed, and found them to be free from the disease.

It should be further stated that Mrs. Esther Rosseau, an Indian stock raiser and rancher on the Cheyenne River Reservation at that time, a number of whose horses were killed after examination by Doctor Elliott, was authorized by act of Congress approved February 7, 1907 (34 Stat. L. 2408), to bring suit in the Court of Claims against the United States for a determination of the amount, if any, due her on account of horses belonging to her and so destroyed. In her case, reported in 45 Court of Claims, page 1, et seq., the court found that the diagnosis of Doctor Elliott, after examination of horses belonging to her, was erroneous and that the animals were wrongfully killed. The court granted her a judgment against the United States in the sum of \$29,500.

With regard to determining attorney's fees, as required by the act directing an investigation into these claims, so far as known in this department, Mr. Ralph H. Case, an attorney with offices in the District National Bank Building, this city, is the only attorney who has rendered any services in connection with these claims. At the solicitation of certain of the Indian claimants he became interested as early as August, 1921, when he made a trip of 10 days' duration to the reservation at his own expense. Subsequently he appeared a number of times before officials of this department in regard to procuring necessary action to bring about a settlement of the claims of the Indians; and he was also in conference several times with members of certain committees of the Congress while bills were pending relating to the matter.

Mr. Case was present during the recent investigation made by Messrs. Coursey and Roberts. Most of the Indians, by power of attorney given Mr. Case, agreed to pay him 10 per cent of whatever amount was paid them in settlement of their claims. He has stated that he regards his services as fully worth \$1,500. Ten per cent of the amount above recommended to be paid the Indians would be \$1,395; and this department believes the latter sum would be a fair and reasonable fee.

It is suggested that the sum of \$1,395 be appropriated for Mr. Case in full compensation for his service rendered in connection with these claims, the amount to be paid out of the Treasury of the United States and not authorized to be deducted from any appropriation made for the Indians. This suggestion is made because of the fact that these Indians have waited long and patiently for a settlement of their claims, which, it now seems, should have been recognized and paid by the Government long ago. In such event the services of an attorney would not have been needed by the Indians. Under all the circumstances, and particularly in view of the fact that the values placed on the animals killed are regarded as entirely fair and that interest has not been added to the amounts found due, to require the Indians to pay attorney fees out of such amounts would not be in accordance with the equities in the case.

Very truly yours,

HUBERT WORK.

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