

INDIAN DEPREDAATION CLAIMS.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

RETURNING,

WITHOUT APPROVAL, HOUSE BILL NO. 3204, ENTITLED "AN ACT TO REFER CERTAIN CLAIMS FOR INDIAN DEPREDAATIONS TO THE COURT OF CLAIMS."

MARCH 1, 1901.—Referred to the Committee on War Claims and ordered to be printed.

To the House of Representatives:

I return herewith, without approval, House bill No. 3204, entitled "An act to refer certain claims for Indian depredations to the Court of Claims."

General relief has been extended to citizens who have lost property by reason of Indian depredations by the act of March 3, 1891, conferring jurisdiction upon the Court of Claims to hear and determine such cases. That act provides for payment for damages growing out of depredations committed by any Indian or Indians belonging to a band, tribe, or nation in amity with the United States, excluding from consideration all claims which originated during the existence of actual hostilities between the United States and the Indian tribe.

In making this discrimination the act of 1891 follows the general principle which has been asserted in all general legislation which has ever been enacted for the payment of claims for property destroyed by Indians. The first act which promised such indemnity, that of May 19, 1796, contained the same restriction, and it was reported in every subsequent general act of Congress dealing with the subject. This policy, which has been clearly manifested from the beginning, is in accord with the recognized principle that a nation is not liable for damage to the private property of its citizens caused by the act of the public enemy. This statute has been thoroughly considered by the Court of Claims and by the Supreme Court and its interpretation fixed, and it has been declared to be in accord not only with the policy of Congress as expressed through the legislation of a century, but with the general principles of international law.

I am informed that the records of the Court of Claims show that the claims of four of the five beneficiaries named in the present bill have been presented to that court under the general law and decided adversely, the court having held that a state of war existed between the United States and the Sioux Indians in the year 1862, when the claims arose. The remaining claim, which originated under the same circumstances and at the same time, would, of course, be subject to the same defense if presented.

The bill provides that these claims shall be sent back to the Court of Claims for trial, according to the principles and rules which governed the commission appointed under the act of February 16, 1863. That act, which was a special act relating to losses occurring during the hostilities of the previous year, did not, of course, impose the requirement of amity, the claims allowed by the commission being paid out of funds belonging to the hostile Indians sequestered by the statute. The effect of this bill if it became a law would be to provide for the payment out of the Treasury of the United States of these claims, which were not presented for payment out of the Indian funds and which have been rejected by the courts under the general law.

There are many hundreds of cases, aggregating a large amount claimed, which have been filed in the Court of Claims, but which are excluded from its jurisdiction for the same reason which necessitated the dismissal of the petitions filed by these claimants. There is no legal obligation on the part of the United States and no promise, express or implied, for the payment of such claims.

The measure of governmental liability is fulfilled by the passage of the act of March 3, 1891, and the prompt payment of the judgments rendered thereunder. To single out for payment a few claims of this large class, to the exclusion of all others, would, in my judgment, be unjust; and such action would also with reason be cited as a precedent for extending governmental aid in all similar cases.

For the reasons given I am constrained to withhold my approval from the bill.

WILLIAM MCKINLEY.

EXECUTIVE MANSION, *March 1, 1901.*

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