

# TRANSACTIONS

OF THE

# KANSAS STATE HISTORICAL SOCIETY,

1897-1900;

TOGETHER WITH

ADDRESSES AT ANNUAL MEETINGS, MEMORIALS, AND  
MISCELLANEOUS PAPERS.

ALSO,

A CATALOG OF KANSAS CONSTITUTIONS, AND TERRITORIAL AND STATE  
DOCUMENTS IN THE HISTORICAL SOCIETY LIBRARY.

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## CLAIMS FOR LOSSES OF KANSAS SETTLERS DURING THE TROUBLES OF 1855 AND 1856.

Written by WILLIAM HUTCHINSON, of Washington, D. C., January, 1898, for the Kansas State Historical Society.

WHILE the Kansas of to-day is a rich, populous and thriving commonwealth, I sometimes wonder how many of the leading citizens holding her manifold positions of public trust, as well as of the rank and file, who in fact constitute the bone and sinew of statehood, fully realize and comprehend the trials and hardships, the sacrifices and conflicts, amid which the state was born. I believe the early history of Kansas—and no state in the union had such history as ours—with its elements of romance as well as its pages of blood; with its strife of factions as well as its free offerings upon the nation's funeral pile, should be learned and treasured as a precious relic by every citizen of the state. Although one of the youngest in the statehood, yet there are unwritten volumes of thrilling events, of heroic devotion to country and cause, pertaining to the lives of the early settlers in Kansas while a territory, that must ever form a dark background of the Kansas of to-day. It may be that any attempt to bring before the public a faithful review of what the pioneers of the territorial period endured may be considered by some as time lost. For instance, they may regard it merely as the exhibition of a specimen of antique from the "old curiosity shop" of the commonwealth for me to attempt to show how the people of Kansas as a whole ought to feel an interest in the passage of a bill that has been before many congresses since 1861, asking the general government for indemnity for losses by the citizens of the territory of Kansas during the civil disturbances which prevailed there from November 1, 1855, to December 1, 1856.

How many in Kansas to-day know that there were such losses, or the extent of them, and the attendant suffering? And yet it is a matter of history that the Kansas conflict was a conflict of freedom with slavery, in which nearly 200 lives were sacrificed, and it was estimated that at least two million dollars' worth of property was destroyed, mostly by government officials or at the hands of parties acting under their advice. This was before one-half of the present inhabitants of Kansas were born, and yet no bill has passed congress to satisfy the same.

As we sometimes learn something useful from back numbers, or even old almanacs, I am willing to take the stand and recite a few memorable facts in this connection for which I have the data, if you will give them currency.

It was during the administration of our territorial governor Wilson Shannon that the most of these atrocious deeds of murder, plunder and arson were committed, and the responsibility of the same was so directly chargeable upon the national government that the succeeding governors, Walker, Geary, and Medary, all severally favored and recommended our appeal to congress for an appropriation to meet the great losses sustained. To give character and authority to such asking, the territorial legislature, in January, 1859, upon the request of Governor Medary, took action in the matter, and the next month an act was passed appointing three commissioners—one by the council, one by the house, and one by the governor—whose duty it should be to audit and certify all claims for the loss of property taken or destroyed during the disorder which prevailed in the territory from November 1, 1855, to December 1, 1856, and each claimant was to receive a certificate of such decision or award. The certificates thus awarded by

the commissioners were to be presented to the auditor of the territory, who should, on presentation, draw his warrant on the treasurer of the territory for the respective sums named.

Thus authorized, this commission consisted of Edward Hoogland, Henry J. Adams, and Samuel A. Kingman; and William McKay was appointed attorney, so that all proceedings would be regular and legal. They commenced their session in Lawrence March 1, 1859, and continued in session constantly, taking testimony and rendering awards, for nearly five months, moving into different counties at the convenience of claimants. Each and every claim was either established or rejected, upon proof of the facts, under ordinary rules of evidence. Nearly 500 claims were considered, and less than fifty were rejected, though many were greatly reduced from the amount claimed. One claim of \$50,000 was awarded at but \$408. The total amount claimed was upwards of \$1,500,000. The amount awarded was \$450,001.70. This included 78 buildings burned, 368 horses and 533 cattle taken or killed, and \$37,349.61 was the award for crops destroyed.

The following classification was made, as between free-state and pro-slavery men: Amount of property owned by free-state men, \$335,779; owned by pro-slavery men, \$77,198. This is, of course, only an approximate estimate, and is obviously incomplete, as the total amount was much larger than the sums here named.

At this period (1859) not one-third of the area of the territory was settled, with organized counties, and the settlers living in the eastern or border counties suffered most. Lawrence, in Douglas county, was especially the focal point at which the pro-slavery shafts were aimed. This was confirmed by the later raid of Quantrill's band. The foregoing 500 claimants were distributed by counties, as they then existed, as follows:

Douglas county.....	184	Leavenworth county .....	97
Lykins county.....	59	Shawnee county.....	47
Linn county.....	36	Anderson county.....	16
Atchison county.....	11	Bourbon county.....	9
Jefferson county.....	8	Franklin county.....	8
Wyandotte county.....	7	Jackson county .....	5
Johnson county .....	4	Brown county.....	3
Nemaha county .....	3	Doniphan county.....	3
Pottawatomie county.....	2	Wabaunsee county .....	1
Calhoun county.....	1	Buchanan county .....	1

Some of these names have since been changed.

The largest claim allowed was for \$49,772, to Shaler W. Eldridge; and the smallest was for \$9.10, to Henry B. Lacy, both of Douglas county. Among the largest claimants were J. A. Wakefield, Chas. Robinson, S. W. Eldridge, G. Jenkins, G. W. and W. Hutchinson & Co., Miller & Elliott, George W. Brown, and Hornsby & Ferrill, of Douglas county; M. W. Delahay, Geo. H. Keller, Milton B. Clark, N. McCracken, H. A. Lowe, and Scott J. Anthony, of Leavenworth county; John M. Reed, Robert Edwards, James Fletcher, Fry P. McGee, J. W. Farnsworth, and Benjamin D. Castleman, of Shawnee county; John Sharkey, Orville C. Brown, and Samuel Geer, of Lykins county; R. H. Crosby, Lorenzo Northrup, and M. T. and G. M. Dyer, of Jefferson county.

These claims, as a whole, may be divided into several classes, according to the attending circumstances: First, those for indemnity for property of loyal citizens taken for subsistence and commissary stores used by the recognized territorial militia. Second, those for property taken by United States officers or the legal posse under them. Third, those for property taken directly by United

States troops. Fourth, those for property taken by the same parties named in the second class, who, after being dismissed or disbanded as a posse, committed depredations and robberies at which their late officers connived.

The same legislature that created this board of commissioners made provision for the Wyandotte constitutional convention, which met the next July and framed the constitution under which we were admitted into the union. The law creating said commission provided that they should report to the said constitutional convention, and, further, that said convention should make suitable provision for securing the payment of their awards by the federal government by incorporating with the constitution a provision to that effect.

Their report was made accordingly to the convention assembled at Wyandotte in July, 1859. As a member of that convention, I labored to have the constitution contain a provision making the payment of our losses by the government a condition precedent to our admission. A majority feared this would endanger our admission, and it was decided instead to affix, as a schedule to the constitution, the following:

*“Resolved, That congress be requested to pass an act appropriating \$500,000, or in lieu thereof 500,000 acres of land, for the payment of the claims awarded the citizens of Kansas by the claim commissioners appointed by the governor and legislature of Kansas, under an act of the territorial legislature passed February 7, 1859.”*

The commissioners were paid by the territory five dollars a day for their services, their clerks four dollars a day, and ten cents for every mile traveled. In due course these 500 Kansas claimants all received warrants on the treasurer of Kansas, signed by the auditor, for the amounts severally awarded them. The total is nearly half a million dollars, and they are still unpaid by the state or the United States.

In March, 1860, Governor Medary appointed Henry J. Adams a special agent to collect and carry to congress the papers and evidence belonging to these claims, embracing all the original testimony, books and documents of the late commissioners. This action was in pursuance of a concurrent resolution of the legislative assembly of the territory, which ended with the following:

*“Provided, that those who are interested in said claims shall pay the expenses of said special agent.”*

Mr. Adams immediately entered upon his work, and the preliminary step was to collect funds to meet his expenses. He visited the most accessible parties, and as soon as he collected enough to take him to Washington he started, and I was persuaded to continue the collections for him, and it proved no small labor to canvass eight or ten counties upon such an errand. I thus spent several weeks, from time to time, as Mr. Adams needed the money. He was thus kept in Washington a part of two years, and the only assistance I had in canvassing was from Colonel Eldridge, who provided me with a horse to ride a portion of the time. When the claimants were not able to pay at the time, I remember I sometimes took their notes, ranging from one dollar up. I have several of said notes yet that I cherish as a part of the history. I have one for twenty-five, signed by J. N. O. P. Wood, of Lecompton, and I was morally certain when he gave it that he had the money in his pocket and might have paid.

Mr. Adams was a faithful and competent agent, and he lost no time in submitting the claims to congress, and on the 2d of March, 1861, the committee on claims, through its chairman, Mr. Tappan, of New Hampshire, made a lengthy report of about a hundred pages, favoring the claims, and with an accompanying bill. The report included all the mass of testimony taken in Kansas in support

of the claims, and when printed made a volume of 1767 pages, that is generally found in two volumes. A copy of this is in the library of the Kansas Historical Society, as well as other documents belonging to this case. The first session of the thirty-sixth congress adjourned two days afterward, so that no further action could be taken.

The war of the rebellion soon followed, and for a time thus ended the Kansas claims before congress. I came to Washington during the war to take up the prosecution of the claims where Mr. Adams had left it, and for lo! these thirty years I have tried my utmost to keep the measure among the living issues, and to prevent its growing musty with age. I am not sure that I have succeeded. In any event, I have been so fortunate as to be able to sustain myself here without assessing the claimants. The bill that has been urged in favor of these claimants through several congresses provides for the appointment of a commissioner to make a final settlement in each case, mainly upon the evidence heretofore taken before the Kansas commissioners, with such additional testimony as may be produced; but we had no idea that much could be added after so long a period. This commissioner was, by the bill, to be the judge of the United States circuit court for the district in which Kansas was located. Hon. John F. Dillon, then of Davenport, Iowa, but now of New York City, was then holding the said office, and after correspondence with him he consented to take the said office, and he fixed the dates for me to fill the blanks in the bill as to when he would hear the claimants.

The first favorable action I was able to obtain was in the fortieth congress, when the Hon. Amasa Cable—then of Wisconsin, but now of Nebraska, made a report for the committee on claims, indorsing every principle we claimed for the measure, and recommending the passage of a bill appropriating \$500,000, etc. The bill went upon the calendar, but could never be reached for final passage. It would be tedious to follow the many times I have, in the last twenty-five years, appeared with books and papers in hand before the committee on claims in the house and filled my appointed hour. I have usually been quite alone in such labor, but a few times was aided by eminent attorneys to present the legal aspect of the case. For this purpose, I employed the Hon. Fred P. Stanton first, then Gen. William Birney, then William A. Phillips, after he was in congress, and they all made able arguments from a legal standpoint. But in the latter congresses the committee has generally declined to hear legal arguments, but said they only wanted the facts, and that they assumed to know the law themselves.

I have not kept the bill before every congress, as we are able to judge when favorable action would be impossible. I have always consulted with our members about that, and we have never had an adverse report. In every congress after the bill was introduced, I have been allowed to name the member of the committee on claims to whom I wished the bill referred as a sub-committee, as one man usually takes the case first. If I can secure this favor, he reports to the full committee, when I again appear before them. Besides Judge Cobb, I have at different times, in other congresses, thus appeared before J. C. Burrows, of Michigan, ex-Governor Blair, of Michigan, Maj. William Warner, of Missouri, and Mr. Ray, of Pennsylvania. They have all been convinced of the justice and equity of the claim, and some of them have been ready to report the bill. But there is still another, whose name I have not given, who had the bill in charge during one congress. He was a colonel during the war, then a Methodist minister, then a congressman, serving on the committee on claims. After I had presented the case fully to him in all its bearings, he took me aside one day and said: "You cannot expect a measure of this magnitude to have favorable action

unless we, the committee, have some special consideration." Just then and there my labor ended for that congress, and it was at least three years before my disgust subsided so that I cared to make another trial.

These bills have usually been introduced by the member from the second Kansas district, as the larger interest was there, but other members have aided, especially Governor Morrill, who, when a member, showed his interest by introducing a bill, somewhat modified, by providing that the court of claims shall have jurisdiction to determine the merits of the several claims.

Our labor has been wholly confined to the house, as the bill carries an appropriation, but different senators have signified their approval of the measure, if it ever reached that body, and have assured me that they could secure favorable action. No member of the present house that I have approached had thought it could be of any possible use to offer the measure in this congress, but I hope to do so in the next.

I think it would be well for the present generation in Kansas, as well as the claimants, to know something of what I have stated, especially as I am receiving letters from them every year, frequently by way of complaint that nothing has been accomplished. What is the duty of the Kansans of to-day in the premises? There is certainly an obligation resting upon them, as shown by the aforesaid warrants on the territorial treasurer. Some of the delegation now here believe it the proper course for the state legislature to first provide for payment of the losses, as in the Quantrill raid cases. I only present this point in the case for consideration, and would not assume to advise. I think, however, that the least they should do would be to adopt some form of resolution urging action on the part of congress. That has been done more than once by former legislatures.

I have an official copy of one, dated February 12, 1872, as follows:

"Concurrent resolution memorializing the congress of the United States.

"WHEREAS, The losses suffered by the people of the territory of Kansas from the action of the territorial officials, and because of their failure to afford the protection due from the government, during the years 1855 and 1856, have never been paid; and

"WHEREAS, A bill is now pending in the congress of the United States for such payment: therefore,

"Resolved, the senate concurring, That congress be respectfully requested to afford the relief sought for in said bill at an early day, and our senators and representatives in congress are requested to use all honorable endeavors in this behalf.

"Resolved, That the secretary of state be directed to transmit a copy of these resolutions to the president of the senate and speaker of the house of representatives, and one to each of the members of congress from this state.

"Adopted by the house of representatives February 12, 1872.

ALEX. R. BANKS,

*Chief Clerk House of Representatives.*

"Concurred in by senate February 13, 1872.

GEO. C. CROWTHER,

*Secretary of Senate.*

"I, W. H. Smallwood, secretary of state of the state of Kansas, do hereby certify that the foregoing is a true and correct copy of the original concurrent resolution now on file in my office.

"IN TESTIMONY WHEREOF, I have hereunto subscribed my name [SEAL.] and affixed the great seal of the state. Done at Topeka, Kan., this 29th day of February, A. D. 1872.

W. H. SMALLWOOD,

*Secretary of State.*"

You ask, What as to the future? What can we expect from congress? No doubt the Kansas claimants, what are now left of them, or their heirs or legal representatives, will ask the same.

I am sorry I cannot give a more encouraging answer. It must be seen at a glance that in the nature of things the chances for favorable action diminish

with every congress. At the beginning of our effort the story of the Kansas troubles and consequent losses was upon every tongue, and congressmen needed no instructions as to the general history. We had champions there then, ready and primed to advocate our cause whenever the bill could reach its final passage. I well remember Judge Poland, of Vermont, General Butler, of Massachusetts, General Farnsworth, of Illinois, Mr. Julian, of Indiana, and many others, as well as our own representatives, were ready with their speeches awaiting call; but how changed! There is scarcely a man in congress to-day who has any personal knowledge of these events. Not one of our present delegation, as far as I know, was an actor in those scenes. Hence, every time our bill is offered, I must begin with the primer lessons, and the task grows progressively harder. It is poor consolation for the claimants to be told that other measures of merit have slept in the lap of congress for even a hundred years and at last found favor. I can only say that, whatever the Kansas legislature may do, all reasonable effort will be made here to obtain justice before we have all passed over the river.

NOTE.—June 1, 1900.—Action concerning these claims has been allowed to slumber because a bill has been pending for two years, based on the same facts precisely, for indemnity to the Emigrant Aid Company, of Massachusetts, for loss of the Free-State hotel, at Lawrence, which claim has been donated to the Kansas State University. It amounts to \$20,000. It has passed the senate twice, and is on the calendar of the house, with a fair prospect of favorable action by next session.

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## MARAIS DES CYGNES TRAGEDY.

Written for the Kansas State Historical Society by ED. R. SMITH, of Mound City.

**T**HERE is much in the history of Kansas not yet recorded in the books. There are many tragic events that occurred in the early territorial days not yet down in cold type; in fact, now known to but few left of the brave, hardy pioneers, the first settlers on the debatable bloody skirmish line, with freedom upon the one side and slavery on the other—the demarkation between Kansas and Missouri.

In complying with your kind invitation, it is my purpose to give to you some of the more important events occurring in Linn county that finally led on to the Marais des Cygnes massacre of May 19, 1858, when eleven unoffending free-state settlers were captured “from the hearths of their cabins, the fields of their corn,” were “swooped up and swept on to the low, reedy fenlands, the marsh of the swan,” and were murdered in cold blood. In doing this I must recount some of the tragic events occurring here prior to my coming; that is, prior to April, 1857, since which my story will largely be from personal knowledge.

In 1856 General Clark, of Georgia fame, marched his army of border ruffians through Linn county. There was but little here for them to destroy at that time, but that little they effectually disposed of. Such free-state men as they were able to capture they took with them and sent under guard to Westport, Mo. Many of them never returned. Murder and disease relieved both captured and captor. The more fortunate anti-slavery settlers, upon the approach of the invading army, escaped through the brush, leaving their families to the tender mercy of men whose mission was to drive away all opposition to the making of Kansas territory a slave state. General Clark assured all that he came in contact with “that there was room in the territory for but one party, and that was the pro-slavery party, and all not in sympathy with making Kansas territory a slave state had to get out, and that within an hour.” James Montgomery was one of those who escaped, though vigorously pursued.