

## Claims for Loss in Territorial Kansas

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### I. BLEEDING KANSAS

The creation of Kansas Territory in 1854 sparked a period of political unrest and violence that foreshadowed the Civil War to come half a dozen years later. Kansas Territory was created pursuant to the Kansas-Nebraska Act of 1854. This Act repealed the Missouri Compromise of 1820. Under the Missouri Compromise, Congress had agreed to admit new states in pairs, one pro-slavery state and one free state. Under the Kansas-Nebraska Act of 1854, Congress abandoned its resolve to admit balanced pairs of states and decided that each Territory would enter the Union either as a free or slave state depending upon a popular vote by all of the citizens of the Territory. The decision as to whether Kansas would enter the Union as a state that permitted or prohibited slavery was to be determined by a popular vote. At this time, however, the definition of a “citizen” in terms of state citizenship was vague to the point of meaninglessness and, thus, any person who was actually present in the Territory at the time a vote was taken could vote. This so-called rule of “popular sovereignty” for determining whether a new state would be free or slave meant that both pro- and antislavery forces decided to flood the territory with their supporters. Antislavery forces in several northeastern states, particularly New York and Massachusetts, established “emigrant aid companies” that offered to pay relocation and travel expenses for Northerners who would move to Kansas. Pro-slavery forces urged Missourians, in many cases just a few miles east of the Kansas-Missouri border, to flood into Kansas and vote in every significant election. To complicate matters even more, the territorial government officials were appointed by two pro-slavery Presidents, Franklin Pierce and James Buchanan.

The result of all of these factors was that Kansas Territory was the site of massive unrest and frequent battles between pro-slavery and antislavery forces from 1854 until 1859 when free state forces were

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finally victorious and the antislavery Wyandotte Constitution of 1859 was approved by a constitutional convention held at Wyandotte. This five-year period of unrest has come to be called “Bleeding Kansas.” The history of this period has been studied by generations of historians and the consensus among them is that violence, particularly in the form of armed raids by both sides, was commonplace. The result of these frequent clashes—as well as the involvement of federal military forces to quell them—was that many of the residents of the Territory suffered major losses. In particular, Douglas County, of which Lawrence was the county seat, saw massive conflict and the destruction of property during this period. Surrounding counties also saw a great deal of violence and many residents suffered losses.

The large scale of the losses suffered by residents of Kansas Territory from the very beginning of its settlement led to a “‘treaty,’ executed at Lawrence, Kansas, December 8, 1855, and signed by Governor Wilson Shannon, Charles Robinson, and J.H. Lane.”<sup>1</sup> A provision of this “treaty” stated: “And provided further, that Governor Shannon agrees to use his influence to secure to the citizens of Kansas Territory remuneration for any damages suffered in any unlawful depredations, if any such have been committed by the sheriff’s *posse* in Douglas county.”<sup>2</sup>

In January 1857, Governor Geary recommended, following the spirit of the 1855 “treaty,” that Congress pass legislation establishing a commission to take testimony as to losses by Kansas residents.<sup>3</sup> Congress did not pass such legislation.<sup>4</sup>

## II. THE CLAIMS COMMISSION OF 1857

The response of the Kansas Territorial Government to the widespread violence and looting that had plagued Kansas Territory since its creation, in the absence of federal action from 1855 to 1857, was to establish commissions to travel throughout the counties affected by the violence, hold formal hearings at which residents could present claims of losses, and forward these losses to the Congress in the hopes that

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1. G.W. & W. HUTCHINSON & CO. ET AL., *LOSSES BY CITIZENS OF KANSAS TERRITORY*, H.R. MISC. DOC. NO. 41-7, at 1 (1869). This “treaty,” since it specifically mentioned losses caused by Sheriff Jones’ actions, would have been for the benefit primarily of free-staters, since Jones was a pro-slavery partisan. *Id.*; see *infra* text accompanying note 39.

2. H.R. Misc. Doc. No. 41-7, at 1.

3. *Id.* at 2.

4. *Id.*

Congress would authorize payment of the claims. During the territorial period, there were separate claims commissions established in 1857 and 1859. On February 23, 1857, the Territorial Legislature passed bills authorizing the appointment of a “Commissioner for Auditing Claims.”<sup>5</sup> H.J. Strickler was appointed as Commissioner pursuant to the legislation. Strickler was a Virginian who moved to Kansas Territory and took a claim in Tecumseh in Douglas County. He was appointed as the Territory’s Adjutant General in 1855 and served in that role for more than a decade. He was an engineer by training, not a lawyer.<sup>6</sup> Nevertheless, he conducted the claims hearings in an exceptionally lawyerlike way and, although he had expressed pro-slavery sentiments, did so impartially.<sup>7</sup>

The process that Strickler adopted for his hearings was straightforward. He heard testimony on two types of claims. “Public claims” were those for “[m]oneys actually and necessarily expended for the purpose of maintaining and carrying into effect the laws of this Territory, or for the purpose of suppressing any rebellion or insurrection, whether in sustaining the militia or any posse of the marshal or any sheriff of any county of the Territory.”<sup>8</sup> “Private claims” were:

Claims of all persons who may have sustained any loss or damage in consequence of, or growing out of, the difficulties in this Territory, by way of loss of property or consequent expenses at any time since the passage of the Act to Organize this Territory, viz: May 31, 1854.<sup>9</sup>

Strickler took out advertisements in the Territorial newspapers<sup>10</sup> setting out the definition of claims and stating the times and places that he would hold hearings.<sup>11</sup> He held hearings at seventeen locations, with most hearings lasting two days.<sup>12</sup> Claimants were required to present their claims in the form of a written petition “reciting all the facts and

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5. H.J. Strickler, Claims of the Citizens of the Territory of Kansas, H.R. Misc. Doc. No. 35-43, at 1-3 (1858).

6. See H.J. Strickler, KANSASBOGUSLEGISLATURE.ORG, [http://kansasboguslegislature.org/members/strickler\\_h\\_j.html](http://kansasboguslegislature.org/members/strickler_h_j.html) (last visited Mar. 24, 2017).

7. *Id.*

8. H.R. MISC. DOC. NO. 35-43, at 1.

9. *Id.*

10. *Id.* at 1-2; see generally WILLIAM E. CONNELLEY, KAN. STATE HISTORICAL SOC’Y & DEP’T OF ARCHIVES, HISTORY OF KANSAS NEWSPAPERS (1916), <https://babel.hathitrust.org/cgi/pt?id=coo1.ark:/13960/t0gt6t140;view=1up>.

11. H.R. Misc. Doc. No. 35-43, at 1-3.

12. *Id.* at 2.

circumstances connected therewith.”<sup>13</sup> They were required to bring with them “bills of items or other vouchers, all duly authenticated under oath, officially certified by officers, civil or military.”<sup>14</sup> Claims had to “be supported by the fullest proof possible to be obtained” and all property had to “be described with reasonable certainty, and the value particularized and stated.”<sup>15</sup> Claimants were also informed that they should have two witnesses who could testify under oath as to the truth of the claims.<sup>16</sup> The requirements for claimants to meet were as stringent or more stringent than required in normal court proceedings in the Territory at the time.

During the course of the proceedings, Commissioner Strickler heard testimony from 357 petitioners and granted relief to 350.<sup>17</sup> Not all petitioners received the full amount claimed. In total, petitioners claimed \$301,225.11.<sup>18</sup> Of this total, Strickler approved as “proven” a total of \$254,279.28.<sup>19</sup> Of the total claims made, \$38,942.90 were “public claims” and \$215,311.38 were “private claims.”<sup>20</sup> The claims were submitted to Congress on April 7, 1858.<sup>21</sup> None of the submitted claims was approved or paid by Congress.<sup>22</sup>

### III. THE CLAIMS COMMISSION OF 1859

The failure of the Strickler Commission to gain any relief for Kansas Claimants did not deter the Territorial Legislature from a second attempt. In January 1859, then-Governor Medary requested that the legislature pass another bill authorizing a second claims commission and another round of testimony from claimants.<sup>23</sup> In addition to the fact that the Strickler Commission had failed to gain any compensation, another motive for appointing a second commission may have been the suspicion that Strickler had not been entirely impartial because he was a member of

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13. *Id.* at 2–3.

14. *Id.* at 3.

15. *Id.*

16. *Id.*

17. *See id.* at 672–78.

18. *Id.* at 678.

19. *Id.*

20. *Id.*

21. *See id.* at 1.

22. *See* H.R. Comm. of Claims, Kansas Claims, H.R. Rep. No. 36-104, at 81 (1861).

23. William Hutchinson, *Claims for Losses of Kansas Settlers During the Troubles of 1855 and 1856*, in 6 TRANSACTIONS OF THE KANSAS STATE HISTORICAL SOCIETY, 1897–1900, 360, 360 (Geo. W. Martin ed., 1900).

the pro-slavery faction, which by 1859 had been soundly defeated.<sup>24</sup> One month after the governor's request, the legislature passed a bill authorizing the creation of a new claims commission and appointed Edward Hoogland, Henry J. Adams, and Samuel A. Kingman as the three commissioners.<sup>25</sup> In addition, William McKay was appointed as the commission's lawyer.<sup>26</sup>

There were both differences and similarities in the operations of the 1859 Commission and the 1857 Commission apart from the larger number of commissioners and the addition of a commission lawyer. The 1859 Commission did hold hearings at multiple locations, although it would seem that the Commission established its base at Lawrence and stayed in continuous session there for five months.<sup>27</sup> Certainly, requiring all claimants to come to Lawrence may have disadvantaged those who lived far from there. Since Lawrence was a free-state stronghold, this may well have resulted in advantaging the claims of free-staters.<sup>28</sup> The basic process followed by the two commissions remained essentially the same.<sup>29</sup> Each citizen with a claim was required to come before the Commission and present sworn testimony as well as a written statement supporting the claims.<sup>30</sup> At least two witnesses were required to present sworn testimony that the claimants' statements as to losses were true and accurate.<sup>31</sup> Once this was done, the commissioners determined whether all, a portion of, or none of the claim should be granted. Once a determination of the amount of the claim to be granted was made, the claim was then scheduled to be included in the report to the territorial legislature asking for funds to pay the claims. Each claimant found to have a valid claim was given a certificate to be presented once Congress funded the claims.<sup>32</sup> Unfortunately, these claims from the second

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24. See H.R. REP. NO. 36-104, at 81–82.

25. Hutchinson, *supra* note 23, at 360–61.

26. *Id.* at 361.

27. *Id.*; H.R. REP. NO. 36-104, at 89–90.

28. See Hutchinson, *supra* note 23, at 361 (noting that the property claims of free-staters amounted to approximately five times those of pro-slavery residents in the 1859 Commission hearings).

29. The following description of the process is derived from the two commission reports cited. Compare H.R. REP. NO. 36-104, at 88–90 (providing “Rules and Regulations” for the 1859 claims), with H.J. STRICKLER, CLAIMS OF THE CITIZENS OF THE TERRITORY OF KANSAS, H.R. MISC. DOC. NO. 35-43, at 2–3 (1858) (describing procedures for the 1857 claims).

30. H.R. REP. NO. 36-104, at 88–89.

31. *Id.* at 89.

32. *Id.* at 83–84; see Act of Feb. 7, 1859, § 10, reprinted in H.R. REP. NO. 36–104, at 86.

commission's hearings met the same fate as the claims from the first: Congress never appropriated funds to pay them.<sup>33</sup>

As noted, the number of claims presented to and approved by the 1859 Commission was somewhat greater than those presented to and approved by the 1857 Commission. In 1857, 357 claims were presented,<sup>34</sup> while the 1859 Commission heard testimony on 487 claims and approved 440.<sup>35</sup> Many of the same claimants who came before the 1857 Strickler Commission to ask for reparations also came before the 1859 Commission.<sup>36</sup> Interestingly, however, the claims were often not precisely the same for various reasons. As was true in 1857, the vast majority of the claims presented were approved, at least in part.<sup>37</sup>

#### IV. ILLUSTRATIVE CLAIMS

The best way to understand the process by which the Kansas Territorial Claims Commissions operated is to examine the actual process as applied to claimants. In so doing, one quickly realizes the seriousness of the process and its value as a historical source.

The fifty-eighth claim presented to H.J. Strickler in November 1857 was filed by Lorenzo Hoyt, a citizen of Lawrence.<sup>38</sup> The claim arose out of the infamous May 21, 1856 "sack of Lawrence," led by Federal Marshal I.B. Donaldson and pro-slavery Sheriff Samuel Jones,<sup>39</sup> a raid which one contemporary writer claimed caused \$200,000 in damages to the city and its citizens.<sup>40</sup>

The claimant, Lorenzo Hoyt, stated that his dwelling house, which also served as a boarding house for visitors to Lawrence, and the property therein "was plundered, carried away, or destroyed by" armed men who were part of the Marshal's posse.<sup>41</sup> Lorenzo's claim totaled

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33. Hutchinson, *supra* note 23 at 362 ("The total is nearly half a million dollars, and they are still unpaid by the state or the United States.").

34. H.R. MISC. DOC. NO. 35-43, at 672-78.

35. These claims are printed in H.R. REP. NO. 36-104, at 97-105. It is notable that the bill to appropriate these funds, H.R. 1017, 36th Cong. (2d Sess. 1861), was presented just a little more than one month before the firing on Fort Sumter on April 12, 1861 and a little more than a month after Kansas was admitted as a state to the Union on January 29, 1861.

36. Compare H.R. MISC. DOC. NO. 35-43, at 672-78, with H.R. REP. NO. 36-104, at 97-105.

37. See H.R. REP. NO. 36-104, at 97-105.

38. H.R. MISC. DOC. NO. 35-43, at 100-03.

39. *Id.* at 100-01; Nicole Etcheson, Bleeding Kansas: Contested Liberty in the Civil War Era 100-105 (2004).

40. Richard Cordley, A History of Lawrence, Kansas, From the First Settlement to the Close of the Rebellion 92-103 (1895).

41. H.R. MISC. DOC. NO. 35-43, at 100-01.

\$640 for various household articles including personal clothing, cushions, crockery, a “7-shooter” pistol, a “choice rifle” worth \$40, and a “rifle, very superior” worth \$50.<sup>42</sup> He also claimed \$25 for lost books, \$75 for provisions “taken and destroyed,” and \$75 in lost profits from his boarding house business.<sup>43</sup> Lorenzo’s claims were backed up by sworn testimony of Mary Hoyt and Charles Hoyt, members of the family.<sup>44</sup> Commissioner Strickler allowed the full claim of \$640 as a private claim.<sup>45</sup>

Sarah E. Hoyt, Lorenzo Hoyt’s wife, presented claim No. 1 to the 1859 Claims Commission.<sup>46</sup> She pointedly testified as to why her husband, Lorenzo, was not the claimant as he had been in 1857:

This petitioner further states that on the said 21st day of May she was deserted by her said husband, and had been for the period of one year prior to that time, . . . and that the said articles hereinbefore mentioned belonged wholly to this petitioner . . . . And this petitioner further avers that the said Lorenzo Hoyt has been a common drunkard for the period of twenty-five years last passed . . . .<sup>47</sup>

Although the petitioner had changed from 1857 to 1859, the claims remained exactly the same.<sup>48</sup> Of the witnesses presented to prove the claims, two remained the same and several more were added. Charles Hoyt, Sarah’s son, testified both in 1857 and 1859.<sup>49</sup> In 1859, Charles’ sworn testimony was more detailed and was an item by item accounting of the last property for which claims had been filed.<sup>50</sup> Interestingly, his testimony was not quite as absolute as it might have been since he stated: “Don’t know that mother was damaged by losing boarders consequent upon said ransacking of the house.”<sup>51</sup>

The second witness was Mary Hoyt, as was true in 1857.<sup>52</sup> She testified not only that the claims were valid, but also that Lorenzo Hoyt

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42. *Id.* at 101–02.

43. *Id.* at 102.

44. *Id.* at 102–03.

45. *Id.* at 103.

46. H.R. Comm. of Claims, Kansas Claims, H.R. Rep. No. 36-104, at 124 (1861).

47. *Id.* at 125.

48. *Compare id.*, with H.R. MISC. DOC. No. 35-43, at 101–02.

49. H.R. Misc. Doc. No. 35-43, at 103; H.R. Rep. No. 36-104, at 128–29.

50. *See* H.R. REP. NO. 36-104, at 128–29.

51. *Id.* at 129.

52. *Id.* at 126; H.R. MISC. DOC. No. 35-43, at 102.

had, in fact, abandoned his wife on May 21st, 1856 and that Sarah's claims should be granted fully and Lorenzo's dismissed.<sup>53</sup>

A third witness in the 1859 hearing was one Sheldon C. Russell, a boarder at the house, who testified not as to the truth of the claims presented by Sarah but rather to the fact that all of the property lost had belonged solely to Sarah and not to Lorenzo.<sup>54</sup>

A fourth witness, Turner Sampson, had also been one of the boarders at the house. His testimony, too, was to the effect that the business and all its property had been owned solely by Sarah and not Lorenzo.<sup>55</sup> On cross-examination, Sampson also testified that the losses claimed by Mrs. Hoyt had, in fact, occurred.<sup>56</sup>

Lyman Allen testified that he had sold goods to Mrs. Hoyt during 1856 and that she was doing business alone, that there was no husband present, and that she was called "Widow Hoyt."<sup>57</sup>

Shuler Eldridge, one of Lawrence's leading citizens, went into some detail in his testimony regarding Mrs. Hoyt's marital status.<sup>58</sup> He explained that both Lorenzo and Sarah Hoyt had worked for him in Kansas City in 1855 and that Lorenzo abandoned Sarah and the children at his home in spring 1855.<sup>59</sup> Eldridge testified that he brought Sarah and the children to Lawrence during the winter of 1855–1856 and it was at that time that Sarah established her boarding house.<sup>60</sup> As to Lorenzo at this time, all that Eldridge could say was that "he was dissipating in St. Louis."<sup>61</sup>

Finally, George Ford testified that he had met Lorenzo Hoyt on March 8, 1857 at which time Hoyt said that he was returning to join his family *whom he had not seen in two years*.<sup>62</sup>

Mrs. Hoyt claimed a total of \$650 and the 1859 Commission approved her claim at the amount of \$610.<sup>63</sup>

The comparison between the two hearings is quite instructive. First, it would appear that Sarah Hoyt had been excluded from making the case

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53. H.R. Rep. No. 36-104, at 126.

54. *Id.* at 128.

55. *Id.* at 127.

56. *Id.* at 130.

57. *Id.*

58. *See id.* at 130–31.

59. *Id.* at 130.

60. *Id.* at 130–31.

61. *Id.* at 131.

62. *Id.* at 130.

63. *Id.* at 133.

in 1857 that she, not Lorenzo, was the appropriate claimant for the damages suffered in the May 1856 raids. This she was able to correct in 1859. Second, the number of witnesses who testified and the extent of their testimony before H.J. Strickler in 1857 differed quite significantly from what occurred in 1859. There were multiple witnesses in 1859, and the testimony printed in the Commission report is far more detailed and shows that the witnesses testified under oath but were cross-examined. Thus, while Commissioner Strickler granted the full amount claimed in 1857, the 1859 Commissioners disallowed a small amount, presumably on the more detailed testimony heard by them.<sup>64</sup> The cross-examination of the witnesses introduced into the 1859 Commission hearings also suggests that the later process was more thorough and, thus, perhaps, more reliable.

The sixty-first claim presented to the Strickler Commission of 1857 came from Charles Robinson, one of the leaders of the Free State movement who would become first governor of the state.<sup>65</sup> Robinson came to Lawrence in June 1854 as confidential agent of the New England Aid Society.<sup>66</sup> Robinson's house was burned on May 21st in 1856.<sup>67</sup> In 1857 he claimed a total loss of \$15,800 which he stated had been caused "by some men who were said to belong to the territorial militia and marshal's posse."<sup>68</sup> Among the losses claimed by Robinson were a loss of \$3,500 for the destruction of his house; \$1,500 for the loss of his barn, stable, furniture and other goods; \$300 for his library; \$1,500 for his medical library and surgical instruments; \$3,000 for the loss of clothing, jewelry, and papers; and \$150 for the loss of three rifles (including \$70 for the loss of two Sharpe's rifles) and two Colt's revolvers.<sup>69</sup> Interestingly, Robinson also claimed a loss of \$6,000 for "furniture in hotel and used by [C]ongressional [C]ommittee."<sup>70</sup> Separately listed was a claim for \$10,000 for "false imprisonment" of four months.<sup>71</sup> In support of his claims, Robinson presented three witnesses: Joel Grover, J.S. Emery, and George F. Earl, all of whom

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64. Interestingly, while the text of the 1857 Report speaks of a total claim of \$640, this was a mathematical error. The accurate amount was \$650, as was used in the 1859 Report.

65. H.J. Strickler, Claims of the Citizens of the Territory of Kansas, H.R. Misc. Doc. No. 35-43, at 108 (1858).

66. See ETCHESON, *supra* note 39, at 38.

67. H.R. MISC. DOC. NO. 35-43, at 108-09.

68. *Id.* at 109.

69. *Id.*

70. *Id.*

71. *Id.*

swore that Robinson's claims were true and accurate.<sup>72</sup> Commissioner Strickler found that Robinson was entitled to the full \$15,800 claimed for loss of property, but said nothing of Robinson's separate claim for false imprisonment.<sup>73</sup>

Charles Robinson resubmitted his claims to the 1859 Commission.<sup>74</sup> This time his claim totaled \$26,220, including a claim for \$500 for his four months' false imprisonment, when Robinson was held in a pro-slavery jail.<sup>75</sup> Robinson also added a total \$7,000 for the destruction of three manuscripts he had been working on at the time of the May 21, 1856 raid.<sup>76</sup>

In support of the claim Robinson provided several of his own affidavits, which identified several unpublished manuscripts and books, including \$3,500 for a manuscript history of California and \$2,500 for a manuscript "ready for the press" on anatomy and physiology.<sup>77</sup> A second affidavit covered the house and its contents. These affidavits were supported by an affidavit signed by the same three witnesses who had testified before the 1857 Commission who had knowledge of the contents of the house, and the circumstances of its destruction.<sup>78</sup> In addition, Robinson offered the findings of the 1857 Strickler Commission in further support of his claim.<sup>79</sup> He provided a supporting affidavit from his wife concerning the contents of the house, and specifically the contents of the library and the several manuscripts that had been lost.<sup>80</sup> Finally, Robinson offered the affidavits of three other witnesses who had knowledge of his lost manuscripts who offered opinions concerning their value.<sup>81</sup> The Commission confirmed the Strickler award of the house and furnishings and other property for a total of \$15,800, refused to award damages for the false imprisonment, reduced the claim for the manuscripts by \$1,971, but awarded interest of \$3,124.<sup>82</sup> The final award of \$23,953 was 91% of Robinson's claim. Once again it is obvious that the three commissioners took their responsibilities quite seriously; they did not accept the claims without

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72. *Id.* at 109–10.

73. *Id.* at 110.

74. H.R. Comm. of Claims, Kansas Claims, H.R. Rep. No. 36-104, at 402 (1861).

75. *Id.* at 403–04, 407.

76. *Id.* at 403.

77. *Id.*

78. *Id.* at 404.

79. *Id.* at 403–05.

80. *Id.* at 405.

81. *Id.* at 406–07.

82. *Id.* at 408.

applying critical analysis—which in Robinson’s case led to his claim of \$7,000 for lost manuscripts to be reduced by more than twenty-five percent—and strictly following the charge as to what claims were within the Commission’s jurisdiction (since Robinson’s imprisonment was not a loss of property, it fell outside the Commission’s charge from the Legislature and was duly denied). Once again, we see that the 1859 Commission submissions by the claimant were significantly more detailed than those provided to the 1857 Commission. Once again, the 1859 Commission agreed substantially with the findings of the 1857 Commission, although, in Robinson’s case, made a higher award because the claimant asked for more damages and, presumably, convinced the Commission that the higher claims were justified.

#### V. THE LEGAL SIGNIFICANCE OF THE 1857 AND 1859 CLAIMS COMMISSIONS

The Claims Commissions of 1857 and 1859 have significance from the legal perspective in several ways. First, they illustrate the legal process by which citizens who felt that they had suffered losses as a result of the insurrection that took place in Kansas Territory could seek to vindicate these losses. Appeals to Congress for compensation for losses were not unheard of. After the New Madrid Earthquake of 1811, Congress passed legislation to compensate farmers and others who had lost property as a result of the natural disaster.<sup>83</sup> Of course, the compensation authorized by Congress after the Madrid earthquake was quite unusual and the losses were due to an unprecedented natural disaster. Congress also was used to receiving petitions from individuals who felt that they had suffered losses from nonpayment of debts by the federal government. The Kansas claims were substantively different, however, and were unprecedented. In these proceedings, residents of Kansas Territory who had suffered losses as a result of the conflict in the Territory could be divided into those who had suffered losses due to having property taken by federal forces and those who had lost property because of the factional fighting and the frequent, bloody raids carried on by both sides.<sup>84</sup> While the former claims resembled other claims against the federal government, the claims for compensation for losses suffered by private citizens as a result of the acts of other private citizens had no precedent in U.S. law.

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83. Act of Feb. 17, 1815, 3 Stat. 211, 13 Cong. Ch. 45.

84. See *supra* notes 8–9 and accompanying text.

From a legal-historical perspective, it is also quite fascinating that the Territorial Legislature authorized this extremely legalistic process in 1857 in the midst of the ongoing battles that have come to be called “Bleeding Kansas.” By the time the 1859 Commission was authorized and began its hearings, Kansas Territory was calm and the Free State forces had triumphed. It was in 1859 that the Territorial Legislature passed the Wyandotte Constitution that eventually became the basis for the Kansas Constitution when Kansas was admitted to the Union in January 1861.<sup>85</sup> In 1859 the citizens of Kansas and their representatives were clearly looking towards statehood. But in 1857 Kansas was still in a state of insurrection and the eventual winners of the battle for the soul of the state and whether it would be a free or slave state were still unknown. That the Legislature was willing to authorize a Claims Commission and that the Commission heard claimants from all sides of the controversy is really quite remarkable.

#### VI. THE HISTORICAL SIGNIFICANCE OF THE 1857 AND 1859 CLAIMS COMMISSIONS

While the reports of the 1857 and 1859 Claims Commissions have significant legal historical importance, they are also extremely important as a historical source for the material culture of Kansas during the territorial period. Generally, when historians wish to reconstruct what daily life was like in an earlier period, they must use sources such as letters, diaries, newspaper advertisements, etc. While all of these can be extremely useful in reconstructing a picture of the material culture of a particular place at a particular time, they are “unverified sources” and are subject to the uncertainties of all historical sources, i.e. fraud, forgery, and general inaccuracy. The Claims Commission Reports, on the other hand, are legal documents in which every claim and valuation of the claims has been presented under oath by the claimant, corroborated by sworn witnesses, and adjudged by a neutral arbiter. These layers of corroboration provided by the legal process followed by the Claims Commissioners gives a level of verifiability almost unheard of in historical research.

The full value of the evidence provided by the Claims Commission Reports can be appreciated by turning for a minute to one of the great debates in United States history: to what extent did American citizens

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85. On the Wyandotte Constitution, see *Wyandotte Constitution*, KAN. HIST. SOC'Y: KANSAPEDIA, <https://www.kshs.org/kansapedia/wyandotte-constitution/13884> (last visited Mar. 24, 2017).

own guns? The claimants in the 1859 Commission Report number almost 500. Each of these claimants provided evidence of losses, including firearms and other weapons, often in great detail. Thus, by going through the Report one can gain a clear view of firearm ownership in the Kansas Territory. Indeed, one can go farther and, by identifying the political allegiances of each claimant, one can actually get a sense of the relative firepower of the Free State versus the pro-slavery parties in Territorial Kansas.

The 1857 and 1859 Claims Commission Reports are not well known either by legal historians or by general historians of the period. Yet, they are an immensely rich source of historical information, information which is almost unique since it was produced by a strict legal process of sworn statements and neutral arbiters. Hopefully, this article may help to bring these important sources to the attention of both legal and general historians and enrich future accounts of the history of Kansas and the settlement of the Western frontier.