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Moses D. Hogan. (To accompany Bill H.R. No. 369.).

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MOSES D. HOGAN.

[To accompany bill H. R. No. 369.]

JUNE 10, 1854.

Mr. BALL, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the petition of Moses D. Hogan, asking compensation for property belonging to him destroyed by the Sioux Indians have had the same under consideration, and respectfully ask leave to report:

That the papers in this case show that in August or September, 1842, the said Moses D. Hogan entered into a contract with Amos J. Bruce, then the acting sub-agent on the part of the United States for the Sioux Indians, near Fort Snelling, to furnish said Sioux Indians with beef and stock cattle; and that having said cattle on hand, he procured the necessary assistance, and proceeded to drive the said cattle to the point stipulated for their delivery; that when within about sixty miles of such place, a large band of Indians, (armed,) supposed to be a band of the Sioux, fell upon them, (said Hogan and his assistants,) and after ransacking their baggage-wagon, and by forcible means taking from them their provisions, camp equipage, blankets, clothing, &c., rushed upon their drove of cattle, shooting some and driving off others, to the number of twenty in all, which are valued at *twenty-five dollars each*.

The foregoing facts are set forth in the petition of Moses D. Hogan, to which his affidavit is affixed in due form, and it is fully corroborated by the depositions of George M. Pemberton and John N. Owsley, who testify that they were in the employ of said Hogan, as assistants, in driving the cattle referred to to the point named for their delivery.

The testimony further shows that Hogan, through his attorneys, Messrs. Amos and John E. Kendall, in 1843, made application at the office of the Commissioner of Indian Affairs for payment of this claim under the provisions of the intercourse act of 1834, and that the Messrs. Kendall were informed that before the department could act, the requirements of the intercourse law must be conformed to, and that for that purpose the papers were then transferred to Amos J. Bruce, the Indian sub-agent for the Sioux, with directions to bring the matter before the Indians in council, and to report the result. It appears from the letter of Luke Lea, esq., late Commissioner, that on the 9th of January following, (1844,) Mr. Bruce, through Governor Chambers, made a report stating that he had been unable to discover the band to which the Indians who committed the depredations belonged, but supposed they were a mixed band residing near the Traverse des Sioux, *not in receipt* of annuities from the government of the United States.

Mr. Lea further says, in the letter referred to, that Mr. Bruce pro-

nounces the claim a just one, and that it should be paid. He also adds, that the department returned the papers to Governor Chambers, in February, 1844, with the remark *that the claim seemed to be well established*; but, as the band to which the depredators belonged was unknown, a difficulty in the way of payment presented itself, which could be obviated only by identifying them to be members of a band drawing annuities. Here the correspondence between Governor Chambers and Mr. Bruce and the government ceased. In a subsequent letter of Mr. Lea, dated February 4, 1853, he again expresses the opinion that the claim is a just one and ought to be paid; but that, inasmuch as it does not appear that the Indians by whom the depredation was committed were entitled to annuities from the government, it cannot be paid without an appropriation by Congress.

The present Commissioner of Indian Affairs, in his letter dated February 9, 1854, which is on file among the papers in the case, endorses the opinion of his predecessor as to the correctness of the claim, but gives it as his opinion that the acts of 1851 and 1852, requiring "all annuities and other Indian moneys" to be paid directly to the Indians, *per capita*, would prevent the payment of this claim, except by special act of Congress, even if the band could be discovered, and should be a band drawing annuities from the government.

The committee deem it unnecessary to do more than to call attention to the terms of the intercourse act of 1834, which provides that "If any Indian or Indians belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy any horse, horses, or other property belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured an eventual indemnification."

That the contract for the delivery of the cattle to the sub-agent was entered into; that Hogan, while making the attempt to fulfil the terms of his contract, was robbed of his cattle to the number of twenty; that they were worth \$25 per head; that he presented his claim for adjustment without unreasonable delay; that the justness of his claim has been always acknowledged by the department appears to be undisputed; and that the spirit, if not the letter, of the law, was intended to cover cases of this description, seem to us not to admit of a doubt. The committee therefore report the accompanying bill.