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Report : Claim of W. Gorman

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IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1860.—Ordered to be printed.

Mr. SEBASTIAN made the following

REPORT.

[To accompany Bill S. 235.]

The Committee on Indian Affairs, to whom was referred the claim of Willis A. Gorman, for compensation as commissioner in investigating certain charges of fraud against George Alexander Ramsay, beg leave to report:

That on the 5th April, 1853, the Senate passed a resolution requesting the President to cause to be investigated, certain charges of fraud and official misconduct, preferred against Alexander Ramsay, as the late governor of Minnesota Territory, and, by virtue of his office, superintendent of Indian affairs. That this duty had been previously devolved upon the committee of the Senate, who had partially discharged the duty, and, upon the passage of this resolution of the Senate, turned over the records of their proceedings to the President, to continue and complete this duty. The President, thus invested with the duty, commissioned R. M. Young, of Washington city, a commissioner, under instructions to proceed to Minnesota, and there to cooperate with Governor Willis A. Gorman, who was then governor and *ex officio* superintendent of Indian affairs, in the investigation of these charges, and fixed his compensation at eight dollars per diem and his necessary expenses. That they jointly sat as a commission, and made their report to the President, who communicated the same to the Senate. That R. M. Young was paid, partly by the Secretary of the Interior, and the balance of his account by the Senate, from its contingent. That the account of Willis A. Gorman, the other commissioner, was presented to the Interior Department for payment, and afterwards lost or mislaid there, while the Secretary of the Interior recommended the payment of these claims by the Senate, and reimbursement of the part payment to Judge Young to the contingent fund of the department.

These facts warrant the following conclusions; upon which the committee recognize this claim.

First. That the President was intrusted and undertook a duty primarily and appropriately belonging to the Senate.

Second. That he delegated this duty to R. M. Young and Willis A. Gorman, as commissioners, who performed it according to their instructions, and reported their proceedings to the President, which were

then transmitted to the Senate, from whose authority they had emanated.

Third. That one of the commissioners has been paid the balance of his compensation by the Senate, from its contingent fund, according to the rates previously fixed by the President, while for the same services the other commissioner has not been paid.

This state of facts raises the question whether the services performed by Governor Gorman were such as legitimately belonged to his office as superintendent of Indian affairs. The committee think *not*. The duty of the superintendent of Indian affairs does not embrace the investigation of the frauds or malpractices of his predecessor, except so far as they may be connected with the administration of his ordinary duties. His authority was derived alone from the appointment of the President to that duty, who himself derived it from the Senate. He did it as special, and not as the official representative of the President; as commissioner, and not as an executive officer. If this duty was *by law* executive in its character, it was not competent to the President to confide it jointly to another. The committee is of opinion that these labors were extra-official, and that the claimant should be paid his compensation and reimbursed his actual and necessary expenses, at the same rate as that by which his colleague in those labors compensated.

His account stated is for the amount of \$820, for which amount the committee report a bill.