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### Clark & Bill.

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H.R. Rep. No. 1121, 55th Cong., 2nd Sess. (1898)

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## CLARK & BILL.

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APRIL 20, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. SULLIVAN, from the Committee on Claims, submitted the following

## R E P O R T .

[To accompany H. R. 6816.]

The Committee on Claims, to whom was referred House bill 6816, respectfully report:

W. N. B. Clark and W. W. Bill owned a store, containing a general assortment of goods, in the Territory of Dakota, near the crossing of the James River by the Northern Pacific Railroad. On February 23, 1873, Captain Bates, of the Army, together with Lieutenant Yeckley, seized this stock of merchandise because spirituous liquors constituted a part of the same. The officers acted under military orders and supposed that they were justified under act of June 30, 1834, regulating trade and intercourse with the Indian tribes, the twentieth section of which forbids the introduction of wines and spirituous liquors within the Indian country.

The owners of these goods contended that the place where their store was carried on was not in the Indian country. This question was determined by the court of the Territory in 1874 in favor of the owners. (The opinion of the court is reported in the first volume of the Dakota Reports, at page 48.) An appeal was taken by the officers, and the case will be found reported in 95 United States Reports, 204. The Supreme Court of the United States affirmed the decision below, deciding that the officers had no right to seize these goods. Two judgments were recovered against these officers in the amounts named in the bill. Evidence has been exhibited to the committee that neither of these judgments has been paid, in whole or in part. There is also a letter from the United States district judge, certifying to the character and integrity of Mr. Bill.

Had this seizure been made by private parties the plaintiffs would probably long ago have collected their judgments for damages. The military officers acted in good faith. They were unable to respond to the plaintiffs in damages. Had these officers been able to respond they would have had to pay the judgments themselves. In that event Congress would have undoubtedly reimbursed them the amount so collected.

There would seem to be no reason why the United States should not make good to the claimants the amount awarded them by the courts. It may be said that this case has an importance because it elicited from the Supreme Court of the United States an announcement of what should be considered as Indian territory within the meaning of the act. So important a result may be in some sense regarded as an additional reason why these judgments should be paid.

An instance of an appropriation to pay a judgment rendered against a United States officer who acted illegally, though in good faith, is that of Kilbourn against Thompson in 1885 (23 U. S. Statutes, 46).

The committee therefore recommend the passage of the bill.

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