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**Samuel Norris. (To accompany bill House of Representatives, no. 753.).**

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H.R. Rep. No. 11, 38th Cong., 2nd Sess. (1865)

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SAMUEL NORRIS.

[To accompany bill House of Representatives, No. 753.]

FEBRUARY 10, 1865.—Ordered to be printed.

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

R E P O R T .

*The Committee on Indian Affairs, to whom was referred the petition of Samuel Norris, of California, beg leave to report :*

That by an act of Congress, approved September 30, 1850, the President was authorized to appoint three commissioners to make treaties with the Indian tribes in the State of California, and in accordance therewith he appointed Messrs. McKee, Barbour, and Wozencraft. About the 1st of January, 1851, said commissioners arrived in California to enter on their official duties. Their instructions from the Indian Department at Washington were couched in very general terms, giving them large discretionary powers to negotiate with the Indians.

Under date of October 15, 1850, the Acting Commissioner of Indian Affairs says: "The board will convene, and after obtaining what light may be within its reach will determine upon some rule of action which will be most efficient in attaining the desired object, which is *by all possible means* to conciliate the good feelings of the Indians and get them to enter into written treaties. You will be able to judge whether it will be best for you to act in a body, or separately, in different parts of the Indian territory," and subsequently Mr. Lea, Commissioner of Indian Affairs, says: "What particular negotiations may be required it is impossible for this office to foresee, nor can it give any specific directions on the subject. Much must be left to the discretion of those to whom the business is immediately intrusted."

In the month of May, 1851, the commissioners divided the State into three districts, and one commissioner was assigned to each district—the middle district falling by lot to O. M. Wozencraft. During the months of May, July, August, and September, 1851, he concluded six treaties with a number of different tribes or bands of Indians in the middle district. The Hon. Messrs. Weller, McDougal, and Latham, in a letter to the chairman of the Indian committee, says:

"In the spring of 1851 the Indians generally throughout the State were at war with whites. The first measure adopted by the commissioners was to furnish the Indians with food, and stop the war by removing the cause, which did contribute largely towards putting a stop to war and opening the country to the miners."

Commissioner Wozencraft, to carry out the stipulations of the treaties, as also to feed the Indians, when convened in council to make the treaties, made three several contracts with Samuel Norris and Norris and Lovell, of the dates of June

9, October 1, 1851, and September 9, 1851, to furnish one thousand head of beef cattle and sixteen thousand pounds of wheat and wheat flour, to be delivered between the Cosumnes river and the upper Sacramento, when ordered by said Wozencraft, at the market prices at the places of delivery, to be paid by said Wozencraft as Indian Agent, by drafts drawn upon the Commissioner of Indian Affairs of the United States at the time or times of delivering the cattle, wheat, and flour.

From the evidence on file, it is manifest that the said Samuel Norris did make delivery of nine hundred and forty-seven head of cattle, in compliance with his contracts. The delivery of the residue is attempted to be proven only by the evidence of Wozencraft, while the delivery of the nine hundred and forty-seven head is established by the evidence of Wozencraft, Storms, Reading, and others. It cannot be ascertained by the evidence on file whether the cattle were all legitimately disposed of by the sub-agents or not. This fact should not, however, prejudice the claim of Norris, he having fully complied with his part of the contract when he delivered the cattle. Nor should the further fact that the treaties thus concluded were afterwards rejected by the Senate, for subsequently Congress adopted substantially the same policy, by collecting the Indians on reserves and feeding them. It is not necessary to discuss the legal question which governed the court of claims in rendering a decision adverse to this as well as the claim of Hensley, for there is no question that the beef for which compensation is claimed was furnished to officers of the government in good faith, and applied successfully to put an end to a war of extermination between the whites and Indians, in furtherance of the policy of Congress, nor is there a question that the government ought to pay for property so applied to public uses.

Drafts were regularly drawn in favor of said Norris and Norris and Lovel, by Wozencraft, to the full amount claimed in the petition of said Norris, and it does not appear that anything was ever paid on them.

After a careful examination of the premises, your committee, therefore, finds: *First*, that Wozencraft possessed extraordinary powers to make treaties, given him by the Indian Bureau, and that he exercised those powers in making contracts with Samuel Norris and Norris and Lovell. *Second*, that under these contracts nine hundred and forty-seven head of cattle and fifteen thousand six hundred and fifty-three pounds of wheat and flour, were delivered. *Third*, that drafts were drawn by Wozencraft on the Indian office in payment, but which were never paid, while the drafts issued to Frémont and Hensley, under precisely similar circumstances, have been recognized and paid by Congress.

The evidence in this case sustains the petition far better (in the judgment of your committee) than the evidence in the Frémont and Hensley cases, and, taking those as precedents, your committee are unanimous in recommending that Samuel Norris be paid fifteen cents per pound for nine hundred and forty-seven head of cattle, averaging four hundred pounds per head, and fifteen cents per pound for fifteen thousand six hundred and fifty-three pounds of wheat and flour, and herewith report a bill for that purpose.

S. H. BOYD.