34TH CONGRESS, 3d Session. } SENATE. { REP. COM. No. 318.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1857.—Ordered to be printed.

Mr. BROWN made the following

REPORT.

[To accompany bill S. 518.]

The Committee on Indian Affairs, to whom were referred the petition and papers of John Shaw, have had the same under consideration, and report:

The petitioner, according to his own statement, made under oath, bought from the United States a tract of land, lying on the east bank of Fox river, in the State of Wisconsin, and soon thereafter, to wit: in 1846, settled on the same for the purpose of stock raising. In the pursuit of this design, he carried with him a large number of hogs, cattle and horses, and also a considerable quantity of provisions for the subsistence of himself and his hired hands. The neighboring (Menomonie) Indians were, as he alleges, in a starving condition, the wild rice and other sources of supply having almost entirely failed the year before. These Indians visited the premises of the petitioner and importuned him to supply their absolute wants. He refused on the ground that he was not a trader, and had no more provisions than were necessary for his own purposes. But the Indians continued their entreaties, and he yielded, by degrees, from time to time, until his store was entirely exhausted—the Indians all the time making the most solemn protestations that when they received their annuities from the government they would pay him. When the provisions were exhausted, the Indians demanded his hogs and cattle for food. These he refused to surrender on any terms, as he had taken them to the country at great expense and trouble to breed from. The Indians took them by force and stealth, justifying their lawless conduct on the ground of actual starvation and the impossibility of getting food in any other way. Other witnesses, whose affidavits are found among the papers, testify substantially to the same state of facts, and all agree that the Indians admitted in council that they got the provisions and took the stock, and justified their refusal to pay on the ground that their *per capita* annuity was so small they could spare nothing from it.

Under these circumstances, the petitioner appeals to Congress to indemnify him. The committee do not think the petitioner has any

claim against the United States; but if the facts be as he and his witnesses state them, he has a just demand against the Indians, which it is the duty of the government to assist him in collecting. The Indians are, as respects their annuities and tribal funds, the wards of the government; and while it is the duty of the government to protect them against the fraudulent purposes of white men, it is no less its duty to compel them to act honestly towards *bona fide* white creditors. If Shaw, the petitioner, had gone into the Indian country in violation of the intercourse act, he would have no claim to the protection of government; or if he had been a trader, though living on land bought of the government, his claim would be very feeble. If, however, as he alleges, and as your committee believe to be true, he was an actual settler on land bought from the United States, carrying on a lawful and laudable business, having no intercourse or connexion with the Indians, and these people bought or took from him by force or stealth provisions which were absolutely necessary for their subsistence, he has a claim upon them for payment, which it is the duty of the United States to enforce.

Your committee are aware that there has been, on the part of the petitioner, no literal compliance with the requirements of the 17th section of the act to regulate intercourse with the Indian tribes. This omission may be excused on the ground that petitioner relied on the good faith of the Indians, and trusted their repeated promises to pay him, and on the further ground that he was ignorant as to the requirements of the law. His claim is now barred by the three years' limitation fixed in the intercourse act. If the claim be such as he states it, and as your committee believe it to be, it will be a great hardship to deny him all relief; and to give him that relief now, to which he was at first entitled, can work no injury to the Indians.

While your committee say all this, they do not forget that they are reporting on an *ex parte* statement of the facts. The Indians have not yet been heard. It is right that they should be, before any portion of these funds are applied to the payment of this claim; and, therefore, in preparing the bill which accompanies this report, your committee have taken care that both sides shall be heard.