

GEORGE S. COMSTOCK.

JULY 1, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STORM, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1416.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 1416) for the relief of George S. Comstock, having considered the same, respectfully report:

This committee considered this case and an exactly like bill in the Forty-eighth Congress, first session, and after full consideration the same was reported favorably. Your committee adopt that report, which is as follows:

The evidence in this case establishes that George S. Comstock was a resident of what was then known as Kearney County, in the Territory, now State, of Nebraska, during the year 1864, and the month of August therein; that he was the owner of several stage ranches on the overland route from Leavenworth, Kans., to California, by way of Fort Kearney; that on the 7th of August, 1864, one of the ranches, known as Oak Grove Station, was attacked by a band of hostile Cheyenne and Sioux Indians, which resulted in the killing of one Milo C. Kelly and one Butler, of Topeka, Kans., and wounding several more; also, in the killing and wounding of several of the Indians, and, finally, in their repulse. The next day the Indians returned in great numbers, and the men in charge of the ranch were driven away, the buildings connected with the ranch were burned by the Indians, and the stage and other property either stolen or destroyed by them. That, at the same time, another ranch belonging to him, known as Little Blue Station, and another, known as Thirty-two-mile Station, all on the same route, were raided by the same Indians, and, after resistance by those in charge, in which several were killed and wounded, the property was captured by the Indians named, and either burned, destroyed, or stolen. That the property at the several ranches so burned, stolen, and destroyed, was reasonably worth the sum of \$18,861.53. That the claimant never recovered any of the property so lost, and has never received any pay for the same or any part thereof.

The claim of Mr. Comstock, as above set forth, in addition to his own testimony, is supported by that of Erastus S. Comstock, who was in charge of claimant's business at the Oak Grove ranch, and had personal knowledge of the property lost at that place, of the nature and extent of the same, and the Indians causing it; also by the testimony of James M. Comstock, who, at the time of the loss and destruction of the property in question, had charge of the business at Little Blue Station and personal knowledge of the value and amount of the property destroyed, and of the Indians by whom it was destroyed.

In further support of his claim, Mr. Comstock produces the testimony of John Bickold, James Douglass, Charles N. Emory, and Albert Holliday, then resident of the Territory of Nebraska, who testify to the losses of the claimant from personal knowledge, corroborating his testimony and that of the others named. All of the witnesses, except George S. Comstock, declare on oath that they have no interest in the claim. Claimant is further supported by the testimony of John Lyon, postmaster at Fort Kearney, and Enos Hook, who swear to a general knowledge of the property and loss, and of the name of the Indians committing it, and that the statements made by Comstock as to his losses are true. The character of the witnesses testifying is

certified by W. A. Mills, captain of the Twelfth Missouri Cavalry, and by the various officers before whom their testimony was taken.

Since the original presentation of the case to the Commissioner of Indian Affairs, Mr. Comstock has filed additional evidence, viz, that of John Gilbert, testifying from personal knowledge to the time, extent, and cause of the loss. Also, further evidence of Erastus S. Comstock and James M. Comstock, giving in detail their means of knowledge. Also, the affidavit of D. V. Stevenson, of Nebraska, a freighter on the route in question at the time of the destruction of the property named, testifying to the then market value of the property claimed to have been destroyed.

In addition to the testimony offered by the claimant, it appears from the report of V. T. McGillycuddy, of the Pine Ridge Agency, Dakota, that the Indians charged with these depredations were at that time in Southern Nebraska, on the Republican and Blue Rivers.

That many of the Indians now at his agency admit in council and in private conversation with him that they did destroy all the property they could lay their hands on, on this stage route, and Gall, a member of 'Two Faces' band, admitted being wounded in an attack on claimant's ranch in August, 1864. None of the Indians then in Nebraska, and now at his agency, deny committing the depredations. That judging from the cost and risk of transportation, the charges made in (claimant's) bill of losses are not unreasonable.

The claim in question has been submitted to the Commissioner of Indian Affairs, and its allowance at the sum of \$12,404.36 recommended by him to be paid from money due the Sioux of different tribes, including the Santee Sioux of Nebraska. The Representative in Congress from the claimant's district has been before the committee, and from his personal knowledge of the character of the person making the claim and those testifying for him, and the general circumstances surrounding it, strongly urged the allowance of the full amount of the claim, but in view of the recommendations of the Interior Department, the committee does not feel warranted in reporting for a larger amount than \$12,404.36.

Your committee recommend that the bill be amended by adding after word "thousand," in line eight of the bill, as now printed, the words "four hundred and four dollars and thirty-six cents," so that it will read when amended "twelve thousand four hundred and four dollars and thirty-six cents," that being the amount recommended and allowed by the Department of the Interior.

The present Commissioner of Indian Affairs, while admitting that this claim is established by unquestionable proof, and that it is a just and lawful claim, objects to its allowance on the ground of the statute of limitations. To obviate this, your committee recommend that the bill be amended by adding after the words "sixty-four" in line 12 of the bill the following proviso: "*Provided*, That the statute of limitations shall not apply to this case.

And as so amended, your committee recommend that the bill do pass.

The report of the Acting Secretary of the Interior in this case, stating the report of the Commissioner of Indian Affairs, is hereto attached and marked Exhibit A, and made a part of this report.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1864.

SIR: In compliance with the first clause of section 445, Revised Statutes, I have the honor to transmit herewith the reports, papers, and evidence in the claim of George S. Comstock, of Kearney County, Nebraska, for compensation on account of

depredations alleged to have been committed by hostile Cheyenne and Sioux Indians, amounting to \$18,861.53, in 1864.

A report of the Commissioner of Indian Affairs, dated February 2, 1884, shows the nature, character, and amount of said claim, the evidence presented in support thereof, and the action taken by that officer under the rules and regulations prescribed by this Department, under section 466, Revised Statutes, for the investigation of such claims.

He recommends an allowance of \$12,404.36, to be paid from money due "Sioux of different tribes, including Santee Sioux of Nebraska."

I concur in the recommendation of the Commissioner.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

To the SPEAKER HOUSE OF REPRESENTATIVES.

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