

JAMES PRESTON BECK, ADMINISTRATOR.

FEBRUARY 10, 1874.—Committed to a Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 1925.]

The claimant is administrator of the estate of Preston Beck, jr., deceased; and as such he seeks to recover the sum of six thousand five hundred and sixty-five dollars and sixty-five cents, on account of depredations committed by the Navajo Indians, about the 12th of September, 1849.

Claimant's intestate and one Robt. J. Brent were partners, doing business at Santa Fé, New Mexico. Brent was killed by Indians in November, 1852. The property taken from said firm consisted of mules and horses. It was kept near the city of Santa Fé, in New Mexico, and was driven by said Indians into the Navajo country. No part of it was ever recovered. Application was made for indemnification by Beck & Brent, to the superintendent of Indian affairs, as required by section 17, act 1834, 4th Stat. at Large, 731, but they failed to recover indemnity. Subsequent to this, claimant as administrator, &c., commenced an action in the Court of Claims, alleging the damages to be eight thousand seven hundred and ten dollars, and asking an allowance of interest.

The cause was ably defended by the Government solicitor, and after being fully heard and considered, the court found for the claimant the sum of six thousand five hundred and sixty-five dollars, but refused to allow interest on the claim. In the opinion of your committee, the conclusion reached by the court is fully sustained by the law and the facts of the case.

All the proceedings in the cause, together with the testimony received by the court at the trial, and the briefs of the counsel, are fully reported in Reports of Court of Claims, 2d session Thirty-seventh Congress, vol. 1, No. 282.

It is worthy of remark, that there is a dissenting opinion in the case by one of the justices, Scarborough; but it relates to but one point, and that one which had been decided adversely to the claimant. The whole court concurred in the opinion that the Government was legally liable and bound to pay the damages sustained; but a majority held, and your committee thinks correctly, that interest could not be allowed for the time that intervened between the act of spoliation and the decision of the cause. This was made early in March, 1861. In the dissenting opinion it is held that interest ought to be allowed and paid on the value of the property taken, from the time it was taken, &c. It is not necessary, however, to consider this question here, as it was settled

by the decision of the court. Nor has your committee deemed it necessary to pass upon the question of interest that may have accrued since the cause was decided by the Court of Claims in the bill under consideration. The claimant seeks to recover only the sum found in his favor by the court, and does not ask that interest be added. Inasmuch, however, as claimant's counsel in his brief, submitted to the committee, asked and argued that interest should be allowed, it is deemed proper to state that the question was not considered.

Your committee herewith return said bill, (H. R. 1338,) and recommend that it be passed with the following amendments: Strike out the words "*and sixty-five cents*" at the end of the 7th and beginning of the 8th line.

Second. Strike out all after the word "*session*" in the 11th line.