

JAMES MORROW AND JONATHAN TIPTON.

[To accompany bill H. R. No. 238.]

MARCH 8, 1842.

Mr. MILTON BROWN, from the Committee on the Judiciary, made the following

REPORT :

The Committee on the Judiciary, to whom was referred the petition of James Morrow and Jonathan Tipton, report :

Captain James Morrow and Ensign Jonathan Tipton were in the military service of the United States in the Cherokee nation. By the treaty of 1835, with the Cherokees, the United States were bound to protect that tribe in their possessions and property until May, 1838. The rapacity of some bad white men who had, in violation of this treaty, intruded on the Cherokees, was such that it became necessary for the President to take steps to prevent the violation of the treaty, and the rights of the Indians secured under it. Accordingly, General Wool was charged with this duty ; and Captain Morrow and Ensign Tipton, (who now ask relief,) acting under his command, found that, among other cases, one William Brooks, an evil-disposed white man, had lawlessly driven one of the tribe from his possessions. They turned Brooks out, and restored the Indian to his rights. Brooks again drove the Indian out, and again took possession himself. This, and numerous other acts of violence, had so exasperated the tribe, that danger of an open rupture was apprehended. Morrow and Tipton then seized Brooks, and put him under guard until he promised reformation. This was in 1837, while the stipulations of the treaty were binding. For this Brooks brought his action against them in one of the Alabama courts ; and they, being on duty in another part of country, and their counsel failing to attend to the case, judgment by default was entered, and damages assessed, by a jury of inquiry, at one thousand dollars and costs. On this record from Alabama, a suit was brought in the federal court at Knoxville, East Tennessee, and a recovery thereon had for the amount of judgment and interest, &c., amounting to \$1,088 62. The costs in the federal court were \$21 70, the making out the record \$4 25—making, in all, \$1,114 57.

The question is, will Congress indemnify Morrow and Tipton in this amount, with interest from the 26th of October, 1839, the time of the rendition of the final judgment against them ?

The committee, not being fully satisfied whether the petitioners acted in strict obedience to the duty imposed on them by the commanding general, and whether their absence on military duty prevented them from giving attention to the defence of the case, (which information will be best ascertained at the War Department,) they report and recommend the passage of the bill hereto annexed.