

TIMOTHY McCORMICK.

JUNE 9, 1880.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAWYER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5837.]

The Committee on Claims, to whom was referred the claim of Timothy McCormick, together with the accompanying bill (H. R. 5837), having had the same under consideration, submit the following report:

The testimony in this case establishes the following facts:

In the month of June, 1867, the claimant was employed under a contract with Messrs. Shoemaker, Miller & Co., in the construction of the road-bed of the Union Pacific Railway Company, eastern division, from station 1637 to station 1901, on sections 232, 233, 234, 235, and 236, of the sixth forty miles of said road. On the 22d day of June, 1867, while so employed, and while a large number of workmen were engaged in working on said road-bed, the Cheyenne tribe of Indians attacked the works, and drove off the claimant and his workmen; and on the 26th day of said month said tribe of Indians set fire to and burned the camp of claimant and his men, then situated and being at mile 234 of the Union Pacific Railroad, eastern division, at Cow Creek, and destroyed, carried away, or used the provisions, tents, cooking and other utensils which the claimant had provided and stored in his said camp for the use of himself and his men. Accompanying, and as a part of the testimony of claimant and two of his workmen, is a statement showing the kind and value of the property thus taken or destroyed. The value thereof is stated to be the sum of \$2,217.75. Pursuant to the provisions of the 7th section of an act approved May 29, 1872, the Hon. Secretary of the Interior Department, on the 8th day of January, 1874, transmitted said claim to the Speaker of the House of Representatives, together with a copy of a letter from the Commissioner of Indian Affairs, dated April 8, 1873, for the consideration of Congress, as contemplated by the said 7th section of the act aforesaid. The Commissioner of Indian Affairs in his letter above referred to says:

I have the honor to submit herewith the claim of Timothy McCormick, for \$2,217.75, on account of a depredation alleged to have been committed by Cheyenne Indians in June, 1867. At the time of the alleged depredation Mr. McCormick was a contractor on the eastern division of the Union Pacific Railroad. The Indians attacked his men while at work, and driving them off, destroyed or carried away a large quantity of provisions and a few other articles stored in claimant's camp. The Indians in council admitted the fact of the depredation. It is otherwise fully established by the testimony adduced. With respect to the exact amount and value of the articles taken, the testimony is not so satisfactory. Doubtless the claimant suffered loss by the depredation, but it may fairly be questioned whether he lost to the extent claimed. He furnished a schedule of the articles stolen or destroyed, to the correctness of which

affiants Clancy and Gilfoyle testify in a general way, not giving any specific reason for their general belief, nor any conclusive proof of their knowledge with reference to the facts set forth in said schedule. It is thought that the claim might, without injustice to the claimant, be reduced one-half, and it is recommended that it be allowed with such reduction.

In corroboration of the views of the Commissioner of Indian Affairs as to the value of the goods taken or destroyed, it may be remarked that the affidavits in support of the claim appear to have been all prepared by the same hand; and the exact agreement of three of the affiants as to the precise number of pounds or gallons of the several articles taken, and from which it is to be fairly presumed the workmen were daily deriving their supplies, renders it highly probable that a high estimate both as to quantities and values was to cover contingencies placed upon the articles taken or destroyed, and that no such accurate statement thereof could easily have been made.

Your committee are satisfied that the claimant suffered a heavy loss, as alleged, by the hands of the Cheyenne Indians, and that he is entitled to compensation, and after a careful consideration of the evidence we recommend that he be paid the sum of \$1,108.87, and that the accompanying bill be amended in accordance with this report and passed.