

HENRY HOFFMAN.

JUNE 12, 1880.—Laid on the table and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 3972.]

The Committee on Claims, to whom was referred the petition of Henry Hoffman, accompanied by a bill (H. R. 3972) for his relief, having had the same under consideration, respectfully submit the following report:

The evidence in this case shows that in the summer of 1863, on account of hostilities by the Indians, the settlers on Beaver Creek and Birch Coolie, in the county of Renville, in the State of Minnesota, had abandoned their homes leaving a quantity of grain in stacks on their premises; that, on account of the danger of said stacks of grain being destroyed by fire, the adjutant-general of the State of Minnesota, on August 20, 1863, authorized Lieut. Col. William Pfander, of the First Minnesota Mounted Rangers, in charge of the frontier defenses north and south of Fort Ridgely, in said State, to make an agreement on the part of the State to secure said grain from destruction. Thereupon Colonel Pfander made an arrangement or agreement, the nature and terms of which do not appear, with the claimant, who proceeded to the localities indicated and thrashed out 406 bushels of wheat, 110 bushels of barley, 115 bushels of rye, and that he hauled 107 bushels of wheat, 90 bushels of barley, and 24 bushels of rye to New Ulm, in said State, and sold the same for \$117.10, and retained that sum in part pay for his labor and expenditure in thrashing out said grain. Shortly afterwards Lieutenant-Colonel Pfander was called to Fort Snelling, the remainder of the grain unsold being stored on the premises or near where the labor was performed. This grain being needed for feed for the government animals at Fort Ridgely, Lieut. Col. John T. Averill, then commanding the post, ordered the post quartermaster to have the grain hauled to the post for that purpose. It nowhere appears whether the whole, or how much, of the grain thus stored was, under the order of Lieutenant Colonel Averill, used or appropriated by the government. He states he made the order mentioned; that the amount of grain received was considerable; that he cannot state the exact amount, but that the order was carried out according to the best of his knowledge and belief.

Claimant insists that the Government of the United States is liable, in view of these facts, to pay him the balance of his claim for his labor in thrashing the grain and the amount he paid the hands who assisted him.

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| His claim is for use of thrashing machine and 8 horses 8 days, at \$15 per day. | \$120 00 |
| Pay of laborers (9), drivers, and escort, 8 days, at \$1.50 per day each | 108 00 |
| Making | 228 00 |
| Deducting the amount received for grain sold | 117 10 |
| Leaving a balance due of | 110 90 |

As no contract is alleged or proven, it may safely be assumed that none was made. No doubt the claimant acted under permission, of Lieutenant-Colonel Pfander, who, it will be remembered, derived all the authority he pretended to exercise from the State authorities alone. The evidence fails to disclose, under whatever arrangement was made, from what source, unless it may be inferred, the claimant was to receive pay for his labor. The inference would be that the State was to reimburse him, or that he was to receive payment from the sale of the grain. The grain, however, was the property of the settlers who had raised it, and who were compelled to abandon their homes to insure their personal safety, and they, if any persons, are entitled to receive the proceeds of that portion used by the government unless they have been reimbursed, of which there is no evidence before your committee. The claimant cannot insist that he had a lien on the grain for the value of his labor in securing it from destruction, and thus render the United States liable, in the absence of evidence of any contract, express or implied, with any officer of the government. The only evidence tending to prove that claimant was requested to perform the labor the pay for which this claim is made, establishes also that such request was made by an officer of the State of Minnesota, and who was acting only by authority of said State, and of course could only bind his principal.

Your committee are of the opinion that no liability exists on the part of the United States to pay said claim, and therefore recommend that said bill accompanying the papers in this case do not pass.