

WILLIAM MIDKIFF.

JULY 2, 1884.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 3804.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 3804) for the relief of William Midkiff, beg leave to report :

During the month of August, 1868, the claimant, William Midkiff, was residing on his farm in Cooke County, Texas, where he was engaged in herding and raising mules and horses, and had at the time of the raid hereinafter mentioned a heard of 60 horses and mules on and about his premises.

On the 28th day of August, 1868, a roving band of Comanche and Kiowa Indians, who had temporarily abandoned their reservation for purposes of plunder, made a raid into Midkiff's neighborhood and stampeded, stole, and carried away a part of his mules and horses.

According to Midkiff's affidavit he lost his entire herd by the raid, though his statements are somewhat vague and indefinite on the point as to whether he recovered any of the stock or not.

Isaac Hobbs, whose affidavit is presented by claimant, states that there were 100 head in the herd, and that there were 40 head left after the Indians had left the vicinity.

The fair inference from these affidavits is that Midkiff lost but 20 head from his herd, and cannot upon, the proofs well claim compensation for any more.

Several other affidavits in support of the claim are also on file, but these affidavits, while clearly establishing the fact of the raid, the ownership and locus of the stock, and the fact that Midkiff lost some of his stock by the raid of these Indians, give no information as to the number of head lost, except inferentially.

The evidence fairly shows that the average value of the horses and mules was at the time of their loss \$100 per head.

In 1873 this claim was, conformable to the statutes, duly presented to the Secretary of the Interior for examination and adjustment, and was by him duly referred to the Commissioner of Indian Affairs, whose letter and opinion thereon is hereto appended and made a part of this report.

Your committee are of the opinion that it was the duty of the Government to keep these Indians on their reservation, and to restrain and prevent them from making raids among the white settlements, and that the Government was negligent in suffering this raid to be made; and

that owing to such negligence, as well as the fact that under the Indian policy of the United States no redress can by law be obtained from the Indians, the Government of the United States is in equity and good conscience justly bound to compensate Mr. Midkiff for his actual loss.

These Indian tribes have, under our policy since the early settlement of the country, been treated as quasi-independent nations, foreign and distinct from the rest of the people of this country, but a species of wards of the Federal Government.

A broad and enlightened public policy would certainly allow compensation to the citizen for property destroyed by an alien enemy, and whether this destruction be by a foreign nation outside of our territorial jurisdiction, or by an Indian nation within our own borders, can make no difference in principle or equity. In either case it is the duty of the Government to afford protection and grant compensation.

Your committee recommend that the bill be amended by striking out the word "five," in line 4 of the printed bill, and inserting in place thereof the word "two;" and that the words "sixty eight" be inserted after the word "and," in line 8 of the printed bill; and that the bill when so amended do pass.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., August 26, 1873.

SIR: I have the honor to submit herewith the claim of William Midkiff for \$10,000, the estimated value of 60 horses and mules alleged to have been stolen by Kiowa and Comanche Indians in August, 1868, from the claimant, near his residence in Cooke County, Texas.

The Indians in council deny having committed the depredation. The claimant swears that he was the owner of sixty head or more of "horses and mules;" that they were driven off by the Indians, and that he has recovered but four. Three witnesses testify that there was a raid made by these Indians in that neighborhood at the time designated; that horses were killed and stolen, and they confirm the statement of the claimant as to the number of horses owned by him and driven off by the Indians.

It is thought that the testimony adduced is sufficient to prove the depredation, but the claimant fails to specify the number of mules and the number of horses taken, and the evidence is not specific as to the number of each.

Two of the witnesses value the animals at \$100 each, and this would seem to be a fair valuation, assuming the horses were not of the mustang or pony breed, and that the mules were few. Four horses were recovered by the claimant, and valuing the remainder of the animals, fifty-six, at \$100 each, would give him in the aggregate \$5,600; and it is recommended that the claim be allowed for that amount.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.