

JOSEPH HERTFORD.

MARCH 29, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. D. C. SMITH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5215.]

The Committee on Claims, to whom was referred the bill (H. R. 5215) for the relief of Joseph Hertford, respectfully report that they have considered the same, and desire to recommend that the bill do pass, and to make part of this report the very exhaustive report made by Senator Hoar on this case to the Forty-seventh Congress, Senate Report No. 33, which is as follows:

[47th Congress, 1st session, S. Report No. 33.]

(47.)

The Committee on Claims, to whom was referred the petition of Joseph Hertford, praying compensation for services as clerk to the Indian Office at the Sac and Fox Agency in Indian Territory in the year 1879, have considered the same, and respectfully report:

That Joseph Hertford, the claimant, was employed as a clerk at the Sac and Fox Indian Agency from April 24, 1879, till December 31, 1879 (both days inclusive), at an annual salary of \$1,100; that for the periods between April 24 and July 9, and between October 1 and December 31, he has received no pay; and that there is due him for service during said period the sum of \$413. The petitioner first applied for relief to the Forty-sixth Congress, and his petition was referred to the Committee on Claims. The Chairman of that committee referred to the Secretary of the Interior for information in regard to the matter; and the facts in the case, together with the reasons which made it necessary to apply to Congress for relief, are fully set forth in the reply from that Department to the inquiries of Senator Cockrell. The report is accordingly appended hereto.

To the honorable United States Senate and House of Representatives in Congress assembled:

"The petition of the undersigned respectfully represents to your honorable body that he was appointed clerk at the Sac and Fox Agency, Indian Territory, on the 24th of October, 1878, at \$1,100 per annum.

"That while so acting as clerk he was granted leave of absence by the honorable Secretary of the Interior for ninety days, which leave commenced on the 14th day of January, 1879. On his return from England to New York he reported his arrival in that city on the 28th day of March, 1879, to the office of Indian Affairs and requested to be informed when his services would be required at the Sac and Fox Agency, and received a reply that his services would be needed on the 14th of April, 1879. He proceeded as notified, arriving at the Sac and Fox Agency on the 24th day of April, and reported to the agent, Levi Woodard, as instructed. Said Agent Levi Woodard refused to recognize the orders of the Commissioner of Indian Affairs or receive your petitioner as clerk, alleging as a reason for such refusal that his, Woodard's, son suited him, and although only temporarily employed during the absence of your petitioner.

"These facts being reported to the office of Indian Affairs, your petitioner was in-

structed by telegraph to remain at the agency until an inspector was sent to investigate the agent.

"On the 8th day of June, 1879, Inspector McNeil visited the agency and commenced an investigation and found Agent Woodard a defaulter, whereupon the inspector suspended said agent and placed your petitioner in charge of the agency.

"Agent Woodard then refused to place your petitioner's name on the pay-roll of employes, viz, from the 24th of April to the 9th day of June, 1879, inclusive.

"Therefore, your petitioner respectfully prays that your honorable body will take into consideration the following, viz, that your petitioner remained in the service of the Indian Department at Sac and Fox Agency from the 24th of April, 1879, to the 31st day of December, 1879, and that he claims salary for that period of time (at \$1,100 per annum), as per statement herewith, viz:

"Salary, at \$1,100 per annum, from April 24 to December 31, both inclusive.

April, 7 days.....	\$21 15
May.....	93 60
June.....	90 70
July, August, and September.....	275 00
October, November, and December.....	275 00
	755 45
Credit cash received.....	\$321 57
Disallowed.....	19 50
	341 07
	414 38

"It may be proper in this connection to state that your petitioner was sent by the honorable Commissioner of Indian Affairs to the Sac and Fox and other agencies as an expert to examine into the accounts, with the sanction and approval of the honorable Secretary of the Interior, and while acting in that capacity incurred the enmity of the two agents, Levi Woodard and John S. Shorb, the present agent, from whom your petitioner received the most brutal and inhuman treatment while suffering from malarial fever and pleurisy. This can be verified by General John McNeil, United States Indian inspector, he being present at the time. And in consequence of the refusal of the above-named agents to place my name on the pay-roll of employes and certify to the same, I am compelled to seek relief and redress from your honorable body.

"And your petitioner will ever pray.

"JOSEPH HERTFORD.

"DEPARTMENT OF THE INTERIOR,
"Washington, February 17, 1881.

"Hon. F. M. COCKRELL,

"Chairman Committee on Claims, U. S. Senate:

"SIR: I have the honor to acknowledge the receipt of your letter of the 21st ultimo, inclosing the petition of Joseph Hertford for compensation as clerk, &c., with accompanying papers, asking for a full history of the case, all the facts known to this department, and all action had on the claim, and whether application for his pay has been made, and what action has been taken; whether his application has been reported as a deficiency or otherwise; also, whether his claim is just and proper, and, if so, why it has not been or cannot be paid by this department, without special Congressional action.

"In reply, your attention is respectfully invited to the inclosed report from the office of Indian Affairs, in which all the facts and circumstances in the case are on file and of record, of the 11th inst.

"The views of the Indian Office have the concurrence of the department.

"I am, sir, very respectfully,

"C. SCHURZ, Secretary.

"Three inclosures.

"Petition and statement of Mr. Hertford returned.

"DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
"Washington, February 11, 1881.

"The honorable the SECRETARY OF THE INTERIOR:

"SIR: I have the honor to acknowledge the receipt, by department reference of the 24th ultimo, for report, of a communication from Hon. F. M. Cockrell, transmitting

petition of Joseph Hertford for compensation as clerk at the Sac and Fox Agency, Indian Territory, during the year 1879.

"In reply, I have to say that the correspondence in this case (copies of which accompany the petition of Mr. Hertford) very fully sets forth the facts in relation thereto. Briefly, these facts are as follows:

"In October, 1878, Mr. Hertford was appointed clerk at the Sac and Fox Agency, at a salary of \$1,100 per annum. In January, 1879, he was granted leave of absence for ninety (90) days, the latter part of said leave being without pay. On the 28th of March he reported his arrival in New York, and requested to be informed when his services would be required at Sac and Fox Agency. He was informed that said services would be required about the 14th of April, 1879. He proceeded to the agency, but did not arrive there until the 24th of April. The agent, Levi Woodard, refused to place him on duty, and Mr. Hertford was directed to remain at the agency until an inspector was sent out there. On the first of June, 1879, Inspector McNeil suspended Mr. Woodard from duty as agent, and placed said Hertford in charge from June 9. Mr. Hertford remained in charge of the agency until August 10, 1879, when he was relieved by the present agent, John S. Shorb. For this period, from June 9 to August 10, 1879, both days inclusive, he has received his pay at the rate of \$1,100 per annum. The records of this office show that Mr. Hertford again became clerk, by direction of this office, on the 11th of August, 1879, and remained such until the 31st of December, 1879, although the agent refused to place him on his rolls beyond October 1, 1879, from which date until December 31, 1879, he has received no pay.

"For the periods for which no payment has been made, viz, from April 24 to June 8, both days inclusive, and from October 1 to December 31, 1879, both days inclusive, the two agents, Woodard and Shorb, refuse to certify to the employment of Mr. Hertford, and in fact claim that he rendered no service. If allowed payment for these periods there would be due him the sum of \$413.

"Under the act of March 3, 1875, it is provided that 'Indian agents shall be required to state under oath, upon rendering their quarterly accounts, that the employes claimed for were actually and bona fide employed at such agency, and at the compensation as claimed, and that such service was necessary, and that such agent is not to receive and has not received, directly or indirectly, any part of the compensation claimed for any other employe.'

"In the absence of this affidavit, and in view of the refusal of both Agent Woodard and Agent Shorb to furnish the same covering the periods above mentioned, there does not appear to be any power vested in this office whereby payment can be made, and the only remedy left to Mr. Hertford would seem to be that chosen by him, viz, by a bill of relief.

"As, however, Mr. Hertford was at the agency during the periods for which he claims payment, under an appointment from this office, prepared and requesting permission to enter upon the duty as clerk, I am of the opinion that his claim is just and proper, and I have the honor to recommend that the above statement of facts be transmitted to the Committee on Claims of the United States Senate, with the recommendation that the relief prayed for by said Hertford be granted. The letter of Hon. F. M. Cockrell, with its inclosures, is herewith returned.

"Very respectfully,

"E. M. MARBLE,
"Acting Commissioner."

The committee therefore report the accompanying bill, and recommend that it be passed.