

FELIX MCKITTRICK.

MAY 7, 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. 5333.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5333) providing for the payment of the claim of Felix McKittrick for depredations committed by the Mescalero Apache Indians, of the Territory of New Mexico, have had the same under consideration, and beg leave to report as follows :

The claim involved in this bill has been duly submitted, with the proofs in support thereof, to the Interior Department for action thereon conformable to the statute, and has been audited and allowed at the sum named in the bill. The facts and circumstances connected with the depredation, as well as the nature of the proofs, character, and value of the property destroyed, are fully set forth and explained in the report of the Acting Indian Commissioner, hereto attached, and your committee deem it unnecessary to go into further details.

In view of all the facts, your committee deem the claim both just and reasonable, and do therefore recommend the passage of the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 7, 1880.

SIR: I have the honor to submit herewith the claim of Felix McKittrick, amounting to \$2,750, on account of depredations alleged to have been committed by Mescalero Apache Indians in June, 1873.

The claimant, in his sworn declaration of July 31, and affidavit of September 26, 1879, states that he is a citizen of the United States, and a resident of New Mexico; that he was on and prior to June, 1883, and ever since has been, a resident of the United States; that on or about the 18th day of June, in the year 1873, claimant had on the Rio Pecos, in the county of Lincoln, Territory of New Mexico, among other stock, twenty-seven horses and ten mules; that on the last-mentioned day, while in camp at the place last aforesaid, he and his men were attacked by a band of 64 Mescalero Apache Indians, and had a fight with them, and the Indians in said fight killed one boy, who was with claimant, and then stole and drove away 27 horses and 10 mules, which claimant never recovered; that the horses and mules at the time and place they were taken were worth the sum of \$2,775; that said Indians were from the Fort Stanton Reservation, in New Mexico, and that after the fight, and after taking and driving away said horses and mules, the Indians returned to Fort Stanton, and that all of said property so taken and driven away was the personal and individual property of claimant; that he has not sold, assigned, or transferred said claim or any part thereof to any person or persons whatever; that he has not received pay or compensation

therefor, or for any part thereof; that he has in no way endeavored to obtain private satisfaction or revenge for such loss; that at the time of said depredation the property stolen was being properly guarded and cared for; that at the date of the depredation and for a long time prior thereto he had been engaged in the business of stock-raising and general stock business in New Mexico and elsewhere, and that the horses and mules so stolen were used by claimant and his employes in herding and guarding his stock, and were under the immediate care of claimant and his employes; and that said loss was not occasioned by his carelessness or negligence, or that of his employes.

In support of said claim claimant files four affidavits:

Benito Juarez, in his affidavit of August 29, 1877, states that he is a resident of Lincoln County, Territory of New Mexico; that in the summer of 1873 he was in the employ of Felix McKittrick; that on or about the eighteenth day of June, 1873, the cattle camp of said claimant on the Rio Pecos in Lincoln County, was attacked by a band or party of between sixty and seventy warriors of the Mescalero Apache Indians, who killed one boy of claimant's party, and took and drove away twenty-seven horses and ten mules; that about the second day of July, 1873, at Boquilla, a small Mexican town on the Rio Hondo, about 45 miles from Fort Stanton, he saw a number of the party of Mescalero Apache Indians who attacked the camp of the claimant, and that said Indians then and there boasted of having on the said 18th day of June whipped claimant and his employes on the Rio Pecos, as aforesaid; that they had killed a boy belonging to said party, and had driven away a number of horses and mules; that on or about the 16th day of August, 1873, he was on the Fort Stanton Reservation, in Lincoln County, New Mexico, and saw there several of the horses which were taken and driven away from the camp of said claimant on the 18th day of June, 1873, by the said Mescalero Apache Indians; that the horses were in possession of Mescalero Apache Indians, and that he recognized some of the said Indians as a portion of the band or party who drove off the said horses and mules, as aforesaid; that his knowledge of the horses taken and driven from claimant's camp on the Rio Pecos, in June, 1873, was obtained by seeing most of them daily, and working with them constantly for a period of nearly three years prior to the date upon which they were driven off, as aforesaid. Further, he is perfectly acquainted with claimant's brand, which was upon each and every one of the horses and mules so driven off, and he has no interest whatever in the within claim.

Rafael Mendez, in his affidavit of September 12, 1879, states that in the month of June, 1873, he was in the employ of claimant as herdsman or ranchman in the Territory of New Mexico; that at that time the claimant had on the Rio Pecos, about 12 miles above Bosque Grande, county of Lincoln, a number of horses and mules belonging to said claimant on a ranch; that on the 18th day of June, 1873, the claimant and his men were attacked by a band of sixty-four Mescalero Apache Indians at the place aforesaid, and a fight ensued between claimant and his men (eight in number); that one of said number, a boy, was killed; that claimant and his men were beaten by said Indians, who after the fight run off twenty-seven horses and ten mules, the property of said claimant; that he was in the fight mentioned; that said mules were fine work mules, and the horses were fine cow horses—so called by cattle men—and were worth at least \$75 apiece; that he is acquainted with the Mescalero Apache Indians, and knows that it was a band of that tribe that captured and drove away said stock; that the Indians went towards Fort Stanton Reservation with said horses and mules, a distance of about 80 miles from the place of said fight; that he heard read the petition to which this affidavit is attached, signed by claimant, and that he has no interest whatever in the claim mentioned therein.

Raman Duches, in his affidavit of September 12, 1879, states that in the year 1873 he was in the employ of the claimant, Felix McKittrick, as herdsman or ranchman; that in June of 1873 he was, with others, in charge of a number of horses and mules in the county of Lincoln, in the Territory of New Mexico; that on the 18th day of June of that year the claimant and others with deponent were in camp on the Rio Pecos, about 12 miles above Bosque Grande, in the said county of Lincoln; that they were on that day attacked by a body of Mescalero Apache Indians belonging to Fort Stanton Reservation, in New Mexico; that claimant's party was composed of nine persons, and there were between sixty and seventy of the Indians; that during the fight the Indians killed one boy of claimant's company, and after the fight, which resulted in the defeat of claimant's party, the Indians run off ten mules and twenty-seven horses, the property of said claimant, and drove them in the direction of Fort Stanton; that he was in the fight mentioned, and that Benito Juarez, Rafael Mendez, and claimant were also in said fight; that said horses and mules were fine animals and worth, at the time and place where they were taken by said Indians, about \$75 each; that he knows the Indians mentioned were of the Mescalero Apache tribe, and believes they were from and belonged to Fort Stanton Reservation for the reason that when they left with the stock taken they went in the direction of said reservation; that Fort Stanton is about 80 miles from the place where said fight was had, and that he has no interest in the claim mentioned.

Thomas Cooper, in his affidavit of March 31, 1880, states that he is a resident and citizen of the United States; that he is well acquainted with the witnesses Benito Jaurez and Rafael Mendez; that they are men of good character and reputation, and that full faith and credit should be given to their affidavits.

Under date of June 8, 1880, S. A. Russell, United States Indian agent at Mescalero Agency, New Mexico, reports that he has submitted the claim to the Indians in council, and that they neither admit nor deny that the depredations were committed by Apache Indians.

After considering the evidence presented in this case I am of the opinion that the following facts are established:

1st. That claimant was the owner and possessor of the property mentioned in said declaration.

2d. That said stock was stolen and driven away by Mescalero Apache Indians, as alleged.

3d. That said twenty-seven horses and ten mules were reasonably worth \$2,000, and that claimant should receive that amount as indemnity therefor.

Very respectfully, your obedient servant,

E. M. MARBLE,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

○