50TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1204.

FRANZ AND CHARLES HUNING AND OTHERS.

MARCH 20, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BIGGS, from the Special Committee on Indian Depredation Claims, submitted the following

REPORT:

[To accompany bill H. R. 4572.]

The Special Committee on Indian Depredation Claims, to whom was referred House bill 4572, submit the following report:

Your committee find the facts fully set forth in Report No. 3438 of the Committee on Indian Affairs of the Forty-ninth Congress, and adopt said report as their own.

All the claims in this bill have been investigated by the Indian Bureau, testimony taken, and their allowance for the sums named in the bill recommended by the Commissioner of Indian Affairs and the Secretary of the Interior, and their reports duly transmitted to Congress.

Claim of Franz and Charles Huning for $6,000.

These parties were merchants in Albuquerque, N. Mex., and the owners of a branch store at Pinos Altos, a small mining town in the mountains, near Fort Bayard, to which they had transported, early in the spring of 1868, an assortment of goods. On the return trip, while in camp about 3 miles from Fort Bayard, they were attacked by a party of Navajoes (at first thought to be Apaches, but afterwards ascertained to be Navajoes), who captured 48 of the 82 mules connected with the train. Owing to the darkness of the night and the nature of the ground, the men with the train were unable to successfully resist or to pursue the Indians. They procured the services of a few soldiers at the fort, who went in pursuit, but could not overtake them. Subsequently a party, organized by the claimants, followed the trail, with no better results. One mule only was recovered.

The claimants valued their mules at $180 per head, making their claim for 47 mules $8,460. Indian Agent Arny in 1874 submitted the claim to the chiefs and headmen of the Navajoes, who say that "General Sherman agreed that all depredations previous to the treaty of 1868 should be forgotten, and that it is now too late to ask them to pay, and that Congress should provide for its payment," admitting the fact of the depredation.

The evidence in support of the claim consists of the affidavits of five persons who were with the train at that time, one of them being the wagon-master of the Hunings, whose testimony corroborates that of the claimants, except that the wagon-master says that 40 mules were missing instead of 47.

The commanding officer at Fort Bayard also furnished a statement of this attack and robbery, which confirms the other testimony. And the Commissioner of Indian Affairs found that the evidence established the fact of the depredation, and that the claimants were entitled to a fair remuneration for their loss, which he says should be $6,000, being for 40 mules, at $150 each.

This claim was reported to Congress by the Secretary of the Interior June 15, 1874.

This claim was not presented within the time limited by the seventeenth section of the act of June 30, 1834 (4 Stats., 731), but in the fourth year after the depredation was committed (instead of within three years), to wit, October, 1872.

But your committee are of opinion that the claim, being clearly established, should be paid, as recommended by the Commissioner of Indian Affairs in his report to the Secretary of the Interior, dated June 13, 1874.

Claim of Franz and Charles Huning, of Albuquerque, N. Mex., for $13,397.02.

This claim was presented for $20,620 for property taken and destroyed by Kiowas and Cheyennes, September 7, 1867.

The Huning Brothers were merchants in Albuquerque, N. Mex., and in the summer of 1867 sent a train of 12 wagons, with 8 mules to each wagon, to Junction City, Kans., for goods. The wagons were loaded at Junction City, and started homeward, accompanied by 2 ambulances, a carriage, and 5 carriage mules for the use of Mr. F. Huning's mother-in-law and her son. When at Plumb Butte, near the big bend of the Arkansas River, September 7, 1867, they were suddenly attacked by some 100 Indians, Kiowas and Cheyennes, who cut off 4 of the wagons, the 2 ambulances, and the carriage, murdered the mother-in-law (Mrs. Martha Maria Franke) and her son, burned and destroyed the 4 wagons with their contents, and one of the ambulances, and badly damaged the other ambulance and carriage. The rest of the train escaped to Fort Zarah. The Indians also stole 42 mules, which claimants value at $200 each; 52 sets of harness, valued at $10 each; merchandise destroyed, 5,000 pounds to each of the 4 wagons, valued at $10,150; 1 ambulance destroyed, $250; 1 damaged, $200; carriage damaged, $700; and 4 wagons destroyed, $250 each.

Five eye-witnesses clearly set forth all the facts in the case to the Cheyennes in council, and they acknowledged that they committed the depredation in question.

Invoices of all the articles transported in the 12 wagons, their value, and evidence of their shipment were filed in the Indian Office, the total value of such merchandise being $17,343.06. The evidence as to the value of the goods taken and destroyed is that of the claimants and their teamsters. The teamsters were of opinion that they were worth $10,000 to $12,000.

Assuming that the contents of each wagon were about the same in value, there would be a loss of about one-third of the goods shipped, equal to $5,781.02, and the Commissioner of Indian Affairs decided that such amount would be a fair equivalent for that portion of the claim. That officer estimated the value of the 42 mules at $150 per head, $6,300; of the 52 sets of harness, at $8 each, $416; the 4 wagons destroyed at $200 each, $800; and the ambulance at $100; making the aggregate recommended by the Indian Office and Department of the Interior $13,397.02.

This claim was transmitted to Congress by the Secretary of the Interior January 19, 1874.

This claim and the preceding one were reported in the regular Indian appropriation bill (H. R. 7970), second session Forty-eighth Congress, and passed the House January 22, 1885, but, with all the other claims for property stolen by Indians, were stricken out of that bill in the Senate.

Claim of Robert B. Carley.

Carley was a resident of Albuquerque, N. Mex., in 1864. On the 15th of June in that year he sent his teamsters with a train of 4 wagons, drawn by 22 mules, and accompanied by 1 mare and a saddle-horse, to the mountains, 20 miles from his home, to get wood, and that night, while in camp, they were attacked by a party of Navajo Indians, who captured all the animals. Diligent effort was made to recover them, but without success. Carley valued his mules at $200 each, the mare at $100, and the horse at $150.

The testimony of witnesses who were with the train at the time of the attack is on file, who give facts that came under their personal observation, state the efforts that were made to recover the animals, and their value. The evidence (including statements made by United States officers) also shows that some of these mules were subsequently seen in the possession of the Navajoes. The commanding general declined to make a demand on the Indians for the stolen animals because of assurances given them that if they went peaceably to their reservations they could take with them all the stock in their possession.

The Commissioner of Indian Affairs, in his report, says: "There is no doubt, from the evidence adduced, that the depredation took place as charged by claimant, and that he is entitled to indemnity"; and accordingly recommends the allowance of $3,535—estimating the value of the mules at $150 per head (which he says was the price usually awarded for that breed of animals), the saddle-horse at $125, and the mare at $100.

This claim was transmitted to Congress by the Secretary of the Interior March 28, 1874.

Claim of Bernardo Vallencia, of Bernalillo County, New Mexico.

In January, 1870, Vallencia was engaged in transporting Government stores with ox-teams from Fort Bayard to Fort Craig, New Mexico, under a contract with the quartermaster at Fort Bayard, and on the 18th of that month the Apaches took from him, not far from said fort, 60 work oxen, valued by him at $50 per head.

Affidavits of witnesses who were present at the time the oxen were taken are on file in the case. They give positive testimony as to the number of cattle captured and the circumstances connected therewith. The Commissioner of Indian Affairs says the claim is established, and after reducing the estimate of value to $40 per head, recommends allowance of $2,400.

The papers in this case were transmitted to Congress by the Secretary of the Interior December 9, 1874.

Claim of widow and children of James H. Whittington, deceased, late of Valencia County, New Mexico.

This is a claim for 3 horses and 36 mules, stolen by Southern Apache Indians in 1870, who in council virtually admitted the charge.

The claimant was on his way from Santa Fé, N. Mex., with a wagon-train of goods for merchants of Las Cruces, N. Mex., and on the night of May 20, 1870, when encamped near Paraje, a party of Southern Apache Indians stole the animals. Pursuit was made, but was unsuccessful. Subsequently, however, claimant recovered 2 mules from a Mexican, who had bought them of the Indians, and soon after he recaptured 4 more from the Indians.

His actual loss, therefore, which is established by the testimony, is 36 mules and 3 horses. And the Indian agent, who examined all the facts and circumstances of this case, regards the valuation put upon the animals by the claimant as reasonable, viz, $100 each for the mules, $100 for 1 horse, and $150 each for 2 horses.

The Commissioner of Indian Affairs and the Secretary of the Interior recommended the allowance of $4,000, and the Secretary reported the claim to Congress March 27, 1874.

James H. Whittington is now deceased, and his estate has been administered upon, and the administrator's account approved. His widow and three children survive, to whom payment is to be made under this bill.