

WILLIAM J. CLARK, ADM'R.

[To accompany bill H R No. 2284.]

JUNE 21, 1870.—Ordered to be printed.

Mr. STRONG, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom was referred the petition of William J. Clark, administrator on the estate of Gad E. Upson, deceased, for relief, have examined the same, and submit herewith their report, accompanied by a bill for his relief.

It appears that Gad E. Upson, was from the State of Connecticut; that he was the United States agent for the Blackfeet and other Indians in the remote Territory of Montana; that as such agent he was instructed to conclude a treaty with said Indians, and to associate with him, in the negotiation, the governor of that Territory; that he succeeded in effecting his object, and while en route to Washington he died. Mr. Clark, as administrator, has been actively engaged in settling the accounts of said Upson with the United States, and has effected it, with the exception of items amounting, in the aggregate, to about nineteen hundred dollars, vouchers for which the proper accounting officers of the treasury regard as inadmissible, according to their construction of the law governing them, but admit the equities of the case. Among the items so objected to is a voucher for \$——, for Upson's services as United States commissioner in negotiating the treaty; another for \$400, the value of certain stock animals belonging to Upson's estate killed by hostile Indians in April, 1866. Of the vouchers pertaining to Upson's accounts are those of different employes for their wages, or salary, paid by Upson; and he is charged for the amount of the income tax which the treasury officers claim he should have deducted therefrom and detained for the government.

Upon due consideration, your committee are of opinion that in good conscience the estate of Upson should be credited with the amount in controversy. The claim for additional compensation is well taken. His salary as agent was only \$1,500 per annum. Upson's agency was remote from the borders of civilization; the necessary expenses of living were increased by cost of transporting supplies; his personal exposure was greater on account of his instructions to conclude a treaty; and the duty required more complicated and onerous than his regular duties as agent. The law under which the accounting officers except to the allowance of this item presupposes that the services connected with negotiation of treaties are to be performed without additional compensation. That law is of ancient date, and was passed when our Indian relations were not so complicated as they were when Mr. Upson's services as negotiator were required; and it has been demonstrated to your committee that officers of the Interior Department connected with negotiations of

treaties with Indians have been allowed additional compensation, notwithstanding the law under which the accounting officers have ruled. In relation to the charges made against Mr. Upson for not retaining the amount of "income tax" claimed by the government, your committee cannot for a moment imagine that at the time of payment Mr. Upson had been informed of the requirements of the government in that respect; for, as a man of business, he would have known that if he did not retain the tax he would be responsible to the United States for the amount. Your committee are fortified in this view by the fact that the circular letter from the Treasury Department requiring the deduction was issued after the death of Mr. Upson.

In view of the whole matter, your committee recommend the adoption of the accompanying bill.