

LIVINGSTON, KINCAID & CO.

[To accompany Bill S. 199.]

MAY 29, 1858.

Mr. LEITER, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred Senate bill No. 199, for the relief of Livingston, Kincaid & Co., submit the following report :

That they have carefully examined the memorial and testimony of the claimants, and, upon consideration thereof, they concur with the Committee on Indian Affairs of the Senate, and adopt the report of that committee made to the Senate on the 15th day of March, A. D. 1858, a copy of which is hereto attached and made a part of this report. Your committee recommend the passage of said bill.

Mr. SEBASTIAN made the following report :

The Committee on Indian Affairs of the Senate, to whom was referred the memorial of Livingston, Kincaid & Co., beg leave to report :

That on the 2d day of November, 1854, Charles A. Kincaid, one of the members of the firm of Livingston, Kincaid & Co., of Salt Lake city, Utah Territory, left that city as a passenger in the mail stage, from thence to Independence, in the State of Missouri, in possession of the sum of ten thousand and seventy dollars, in gold coin, consigned to a mercantile firm in St. Louis, to whom memorialists were indebted; that the party in and accompanying the mail stage were attacked near Fort Laramie and all massacred, with the exception of Charles A. Kincaid, the stage robbed of its contents, embracing the gold coin, and Mr. Kincaid severely wounded. He was found afterwards and carried into the fort. The United States were nominally at peace with these Indians, the Sioux, at the time of the massacre and robbery of the mail party, though a state of hostilities was soon after recognized, and General Harney despatched to the plains for their chastisement. The amount of money, with the particular description of the number and value of the pieces, are stated upon the

cash book of the firm, and deposed to by the clerk of the establishment. The loss of the money rests upon the testimony of Mr. Kincaid, the only survivor of the party, and the corroborating testimony of the confessions of some of the Indians, soon thereafter captured by General Harney. It is true that the provisions of law have not been pursued in the mode of proving this loss. The relations between the United States with these Indians has been such since the date of the depredations as to dispense with the necessity of taking the proof before the proper Indian agent. Could that provision of the intercourse law have been complied with, and the steps usual in such cases been adopted by the President to obtain satisfaction, it would have been fruitless, as the annuities due to these Indians by the treaty of Fort Laramie are payable only in goods, for which there is not any express authority of law allowing them to be retained as indemnity. Those annuities are so small that it would require the whole of an annuity belonging to the particular band, if indeed, that could be ascertained, to satisfy the particular claim. The robbery was most probably committed by some small straggling band of Indians, and, under the circumstances, it would be impolitic to take the goods intended for a whole band to pay for the depredations of a straggling and irresponsible portion of them, should the perpetrators belong to these bands. Since treated as hostile, the annuity is then gone by the act of war, and there is nothing left for indemnity. The committee, believing that the substance and spirit of the law have been complied with, report a bill for the payment at once of the indemnity which the intercourse act guaranties in all such cases.