

7-10-1840

Shropshire and Ross

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H.R. Rep. No. 711, 26th Cong., 1st Sess. (1840)

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SHROPSHIRE AND ROSS.

JULY 10, 1840.

Read, and laid on the table.

Mr. RUSSELL, from the Committee of Claims, submitted the following

REPORT:

The Committee of Claims, instructed by a resolution of the House of Representatives of the United States "to inquire into the expediency of liquidating the claim of Messrs. Shropshire & Ross for supplies furnished the troops of the United States during the summer of 1832," make the following report :

The Governor of the State of Missouri having ordered into the service a corps of the militia of that State for the defence of the frontier in 1832, and they having been received into the service of the United States, in what was called the Black Hawk war, Mr. Wilcox, the assistant quartermaster, procured supplies of Messrs. Shropshire & Ross. The amount charged by them for the supplies furnished was \$2,290 66, and for which they presented their account for payment to Captain Brant, a quartermaster in the United States service at St. Louis. On inspecting the account, he discovered that some of the articles were charged at a higher rate than he was paying to others for similar articles; and he refused payment unless the price should be reduced to what he deemed reasonable and just; which was reluctantly consented to by Messrs. Shropshire & Ross: and the sum of \$537 94 was deducted from the bill by an agreement with the parties, and the sum of \$1,752 72 paid, and the bill received in full by the said Shropshire & Ross. Afterward, one of the firm being in the city of Washington, represented to General Jesup, the Quartermaster General of the United States, that injustice had been done them in the settlement of the said bill, and urged upon General Jesup the payment of the sum of \$537 94, the amount of said reduction. This, however, General Jesup refused to do; but being urged, and not being possessed of a knowledge of the facts in the case, he consented to refer the subject to an arbitration consisting of two individuals—one selected by General Atkinson, and the other by the claimants. Captain Brant was notified of the arrangement; and the persons selected having convened, and heard the case (as was alleged) fully, made a report, or award, in favor of the claimants, to the amount of \$537 94. After General Jesup was apprized of the report, or award, he requested a review by the referees, or arbitrators, upon the idea that the case had not been understood, or the testimony not duly appreciated by the arbitrators; which was had, and they adhered to their report as before made. After this, John Haverty who was knowing to the settlement of the account, and the reason which caused the reduction, made and forwarded to General

Jesup an affidavit stating the facts within his knowledge. This affidavit, with a statement of the claim, was then submitted by General Jesup to the Second Comptroller of the Treasury, where payment of the claim was demanded; he decided against the validity of the claim. When the case was submitted to the Second Comptroller, General Jesup stated that if he had known of the facts disclosed in Mr. Haverty's affidavit, he would not have consented to a reference or arbitration. The evidence on which the arbitrators or referees acted, their report or award, their statements, the account receipted, the agreement to submit, the correspondence, Mr. Haverty's deposition, the decision of the Second Comptroller, and a communication from Mr. Wilcox, are all submitted to the committee; as also a report from General Jesup to the Secretary of War, on the same subject, bearing date the 16th day of January, 1840.

The committee have examined the account, and the evidence and circumstances attending the payment of it by Captain Brant. His conduct in this matter is worthy of commendation; and, if other disbursing officers of the Government would give evidence of as great vigilance in protecting the public against improper exactions upon the Treasury, it is believed large sums of money would have been saved to the Government which have been disbursed without a just equivalent.

When this bill was paid and receipted, a reduction was made from the prices of flour and corn particularly, so as to bring them down to near the current price. This reduction was voluntarily made, and the bill paid and receipted. The claimants now ask to be paid according to the bill originally presented. This bill, when paid, extinguished their claim upon the Government for the articles contained therein; and they cannot now be indulged in urging a more enlarged claim for the same articles. The report or award does not create any new right which the claimants did not possess before or at the time such reference was made. General Jesup had no power to arbitrate this matter; it had been closed by competent parties, with a full knowledge of their respective rights, and in accordance with justice.

The claim for the articles furnished has been settled at the department, and should not again be opened: Where a suit has been instituted by the Government against its debtors, or where complicated, extensive, and intricate researches become essential in the investigation of reciprocal claims of the Government and its debtor, too complexed for a jury, and which have been referred to gentlemen of intelligence and integrity, with the approbation and consent of the Secretary of the Treasury, and a full and fair hearing by the respective parties has been had, and a report made, such report is received as *prima facie* evidence only of the rights of the respective parties. But in this case there was nothing to refer; and if General Jesup had known the facts disclosed by Mr. Haverty's affidavit, he would never have consented to an arbitration. The fact that there was nothing to arbitrate or refer, the entire want of authority on the part of General Jesup to bind the Government in the particular mentioned, and his ignorance of the state of facts, are circumstances not to be disregarded. With these views, the committee are of opinion that the claimants have no just claim upon the Government; and offer, for the consideration of the House, the following resolution:

Resolved, That it is inexpedient to grant the relief sought for by said resolution.