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William J. Turner.

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Recommended Citation

H.R. Rep. No. 599, 30th Cong., 1st Sess. (1848)

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Report No. 599.

[To accompany H. R. bill No. 430.]

HOUSE OF REPRESENTATIVES.

WILLIAM J. TURNER.

MAY 16, 1848.

Mr. THOMAS S. FLOURNOY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the papers of W. J. Turner, report:

That, from the papers hereto annexed, it appears that the petitioner has an equitable claim upon the government for forage supplied for the use of Captain Robb's company of Florida mounted volunteers, when in the service of the United States, in the year 1840. The committee herewith report a bill, directing the proper accounting officers of the treasury to adjust the claim upon principles of equity and justice, and recommend its passage by the House.

Copy of Third Auditor's decision, dated 1st February, 1844, on the claim of William J. Turner.

The United States,

To William J. Turner, Dr.

1840. Oct. 26,	For 24 bushels corn, and 672 lbs. fodder.	
" Nov. 2,	" 37 " "	1,036 do. do.
" " 7,	" 33 " "	924 do. do.
" " 9,	" 87½ " "	2,450 do. do.
Amounting, in all, to 181½ bushels of corn, at \$1 37½ per bushel		\$249 56¼
And 5,082 lbs. fodder, at \$2 per cwt.....		101 64
		\$351 20¼

It is supported by the deposition of the claimant, made on the 4th of December, 1841, wherein he swears that "he actually furnished the amount of corn and fodder charged in the above account, for the use of Captain Robb's company of Florida mounted volunteers, in the service of the United States, and delivered it at the post occupied by them, which was but a quarter of a mile from his house; that the price charged was the customary price in the country at the time, and the same that he told Captain Ketchum, A. Q. M. United States army, he should charge; that the forage was delivered agreeably to the annexed receipts; and that he has never been paid by any officer or agent of the territory of Florida or United States, but that said account, as it stands stated, is still justly due and unsatisfied."

The receipts referred to in the foregoing deposition of the claimants are produced. They are five in number; the four first being signed by John H. Heck, the first lieutenant of Captain Robb's company, and the last by Captain Robb himself, and acknowledged the receipt of the forage from the claimant on the days charged in his account, as follows:

1st, dated 26th October, 1840, for 24 bushels of corn and 672 lbs. fodder, for the use of 16 horses for six days, from 26th to 31st October, 1840.

2d, dated 2d November, 1840, for 17 bushels of corn and 476 lbs. fodder, for the use of 17 horses for 4 days, from the 2d to the 5th November, 1840.

3d, dated 2d November, 1840, for 20 bushels corn and 560 lbs. fodder, for the use of 16 horses for 5 days, from 1st to 5th November, 1840.

4th, dated 7th November, 1840, for 33 bushels corn and 924 lbs. fodder, for the use of 33 horses for 4 days, from 6th to 9th November, 1840.

5th, dated 9th November, 1840, for 87½ bushels corn and 2,450 lbs. fodder, for the use of 70 horses for 5 days, from 5th to 10th November, 1840.

Captain Robb's company consisted of 68 non-commissioned officers and privates; and allowing six horses for the three commissioned officers, would make 74 horses entitled to forage. From the two last named receipts it would appear that forage was required for 103 horses, from the 6th to the 9th November, 1840, being 29 more than belonged to the company.

The following papers are also filed in support of the claim, viz: A letter from Lieut J. H. Heck, dated "Fort Tarver, East Florida, Nov. 4, 1840," addressed to Capt. W. S. Ketchum, A. Q. M., Florida Militia, Fort Fanning, East Florida, "in which he encloses forage requisitions for corn and fodder," which "he has drawn from Mr. William Turner, at this post, by order of Colonel Dancy, of the 1st regiment Florida militia," and that he has been ordered to "draw on Mr. Turner until further orders." A letter from Captain W. S. Ketchum, A. Q. M., United States army, dated 27th November, 1840, at Tallahassee, Florida, addressed to claimant "Mr. W. G. Turner, Fort Tarver, East Florida," and stating that "he has received his

letter of the 4th instant, also a requisition from Lieutenant J. H. Heck, for his command to include the 31st ultimo;" that this was the proper course, and he had written to Colonel Dancy, and given him his views, and requested him to give the necessary orders in relation to supplying Captain Robb's company; that if he was continued on duty with the Florida militia, and received the proper requisitions, he would settle for the forage he (Turner) might furnish Captain Robb's company, and should he be relieved, he would turn over to the officer ordered to relieve him all the necessary papers and information necessary to a final settlement of said account.

An extract from a letter of the Quartermaster General, dated 21st September, 1841, addressed to "Captain W. S. Ketchum, A. Q. M., Port Leon, Florida," as follows: "To the claim of Turner, to be paid for 24 bushels of corn and 672 lbs. of fodder, there appears to be no objection, as Captain Heck, of the Florida militia, acknowledges to have received it."

A letter from W. S. Ketchum, A. Q. M., dated 6th January, 1842, addressed to Captain S. P. Heintzelman, at that time a member of the Board of Examination, submitting a statement and sundry papers to him, "in order that he may be in possession of all the papers touching Mr. Turner's claim."

And, finally, a letter from the claimant, Turner, dated 15th of February, 1842, addressed to Captain W. S. Ketchum, requesting to be informed who will pay him for the forage furnished by him to Captain Robb's company of Florida militia, and complaining that "it is hard that he should lay out of his money so long, and then lose it." Upon which Captain Ketchum made the following endorsement: "I respectfully refer this letter to Captain Heintzelman, with a request that it may be filed with my letter of the 6th January, 1842, and the letter and requisition therein enclosed, and recommend that the value of the forage be deducted from the pay of Captain Robb and Lieutenant Heck, unless properly accounted for. 10th March, 1842. W. S. Ketchum, Captain, and A. Q. M."

The claim in question was received from the quartermaster general's office, as before stated, with a large number of others; and accompanied by a report thereon from Captain S. P. Heintzelman, a member of the board of examination. It is numbered 20, package O, in said report; and Captain Heintzelman speaks of it as follows: "The annexed receipts show that the forage charged in this account was furnished Captain Robb's company, and should be paid for. If Captain Robb has not accounted for it, the value should be deducted from his pay. No. 238, accompanying this, is an account with requisitions covering the items, dated 26th October, 1840, on the first account. The annexed letters fully explain the transaction." It appears, from the rolls on file in the office of the second auditor, that Captain Robb's company was mustered into the service of the United States on the 20th September, 1840; and discharged on the 18th of January, 1841. That, when paid off by the paymaster, in addition to other allowances of pay, &c., it received the legal commutation in money for 3,739 rations of forage alleged to have been furnished by themselves during their period of service.

The accounts of the officers of the quartermaster's department on file in this office show that, after deducting the rations paid for on the rolls above mentioned, the company was not only fully supplied with forage at the expense of the United States, but that it has *actually received*, upon regular requisitions from officers of the quartermaster's department, 628 $\frac{3}{4}$ bushels of corn, and 3,626 pounds of *hay more than* it was *entitled* to whilst in service.

There does not appear to be a doubt that the claimant furnished the corn and fodder to Captain Robb and Lieutenant Heck in good faith, and that he was at least encouraged to do so, and induced to believe that the United States would pay him for it, by Captain Ketchum, as is shown by his letter of the 27th of November, 1840. It was probably under a conviction of this fact, that Captain Heintzelman, in his report before referred to, which was concurred in by the quartermaster general, recommended the allowance of the claim, and "that the value should be deducted from the pay of Captain Robb." But with the knowledge of the fact, that the company has already been supplied, at the expense of the United States, with more forage than by law and regulations it was entitled to, I do not see how the recommendation of Captain Heintzelman and the quartermaster general can be concurred in by me; and I am therefore of opinion that the claim is inadmissible as against the United States.

All the papers accompanying said claim are herewith transmitted to the second comptroller of the treasury for his decision thereon.

The second comptroller remarks, under date of the 2d February, 1844:

"It is an inflexible principle, in the settlement of accounts for supplies to militia and volunteers in the service of the United States, not to allow and pay for more forage and subsistence than they were entitled to by law and regulation. If it appears, as stated by the auditor, that Captain Robb's company was fully supplied with forage by the United States, nothing further can be paid."

ASSISTANT QUARTERMASTER'S OFFICE,
Port Leon, Florida, 10th March, 1842.

SIR: Your letter of the 15th ultimo has just been handed to me. In reply thereto, I have to state that the *only* requisition received by me from Lieutenant J. H. Heck, was acknowledged in my letter to you, dated 27th November, 1840. I never received any from Captain Robb.

I kept the requisition of Lieutenant Heck in my possession till the 6th January last, when, finding that you had presented your account to Captain Heintzelman, I enclosed said requisition, and my letter of the 27th November, 1840, to that officer, in order that the whole amount of your claim might be in his hands.

I wrote to you twice, informing you that I would pay you for the forage received by Lieutenant Heck, but never received any reply. I supposed you had been killed by the Indians, as such was

currently reported, till I saw your evidence in Captain H.'s possession.

Captain H. has all the papers touching your claim, with the exception of your letter this day received, which I shall immediately refer to him, and recommend that the value of the forage be deducted from the pay of Captain Robb and Lieutenant Heck, unless satisfactorily accounted for.

You need not apprehend a loss, for Captain H. will see that you are satisfied.

Respectfully, your obedient servant,

W. SCOTT KETCHUM,

Captain, A. Q. M.

Mr. W. J. TURNER,

Micanopy, East Florida.

I, Andrew Robb, of Hogtown, Alachua county, East Florida, do depose and say: That on the ninth day of November, 1840, while at Fort Tarver, and in command of a company of mounted volunteers, being part of Brigadier General Reid's brigade, and agreeable to the orders of Colonel Dancy, did make a requisition on William Turner, esq., for forage for seventy horses for five days, commencing on the 10th, and ending on the 14th November, 1840; that I am enabled to be thus particular, from the fact of having now in possession a memorandum, made by my orderly sergeant in a book given to him for that purpose at the time; part of said forage was used at Fort Tarver, and part on the way to Fort Fanning. I was ordered to report to Captain Ketchum the amount of forage drawn every month, before the month elapsed. I was ordered off to another part of the territory, and afterwards supplied by a territorial quartermaster.

TALLAHASSEE, *Middle Florida,*

March 14, 1842.

SIR: Your letter of the 15th February to Captain Ketchum, has been referred to me; also the requisition for the forage delivered by you on the 26th October to Lieutenant Heck. This is the only one he has.

I will thank you to send me all the receipts you have, to enable me to put the matter in train for you to receive your money.

I am, sir, respectfully, your obedient servant,

S. P. HEINTZELMAN,

Captain, and A. Q. M.

W. J. TURNER, Esq.,

Micanopy, East Florida.