

7-9-1850

Report : Petition of J. Goff

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IN SENATE OF THE UNITED STATES.

JULY 9, 1850.

Submitted, and ordered to be printed.

Mr. NORRIS made the following

REPORT:

The Committee of Claims, to whom was referred the petition of James A. Goff, report:

That the petition states that John H. Beall, James Stewart, and the petitioner, each furnished a horse for the use of certain members of Captain Belamy's company of Florida volunteers; that the horses were appraised by competent authority at \$355, all of which was assigned by the parties to the petitioner; and he refers to evidence in the office of the Third Auditor of the treasury. This petition was sent to the auditor by the direction of the committee, with the request that he would furnish such information as his office contained, calculated to throw any light upon the merit or demerit of the claim.

His answer (marked A) with the accompanying papers, (marked B and C,) are hereto annexed and made a part of this report.

Volunteers were required by law to furnish their own horses, for the use of which they were allowed a stipulated compensation. It does not appear that the purchase of these horses was made by any person having authority to make the purchase on the account of the United States; and before the government should be held to refund any money for which they might have been sold, the testimony of the officer of the United States who sold them, under proper authority, or equivalent testimony, should be produced to explain the transaction. It is important to know also in this and similar cases how it happens that private property deteriorated by service was placed in the hands of the United States officers to be sold.

In accordance with these views, and concurring in the views expressed by the auditor in the annexed papers, the committee report adversely to the claim, and recommend the adoption of the following:

Resolved, That the claimant is not entitled to relief.

A.

TREASURY DEPARTMENT,
Third Auditor's Office, April 27, 1850.

SIR: I have the honor to acknowledge the receipt of a letter addressed to me, by direction of the Committee of Claims of the Senate, enclosing

the petition of James A. Goff, and requesting to have furnished the papers mentioned therein, or copies thereof; and also all other information contained in this office, calculated to throw any light upon the merit or demerit of his claim.

As indicated in the petition, three claims have been preferred—one made out in the name of the petitioner, another in the name of John H. Beall and the other in the name of James Stewart. The two last mentioned appear to have been assigned by endorsements to the petitioner, and he in the first instance, is shown to have presented the whole to a board of examination, by which the same were, with numerous others, forwarded to the office of the Quartermaster General, and afterwards referred to this office.

Colonel Churchill, of the United States army, was subsequently commissioned by the President to proceed into the States of Georgia, Alabama and Florida, and to take testimony anew as to all claims for the loss of horses, &c., by the mounted volunteers of those States; and, during his sittings in Florida, other claims in these cases were presented to him on duplicate vouchers; and before him depositions were made by Major Richard Haywood, of Leon county, Middle Florida, in which he has declared that these duplicates were placed in his hands by the petitioner; the one as to the claim in the name of John H. Beall for collection, the proceeds to pay an execution which the deponent held against the petitioner; and each of the others as collateral security for a claim or demand which the deponent held against the petitioner; and in each case Major Haywood claimed to be entitled to the compensation which might be allowed.

The claims are all alike in character, and my predecessor, in acting thereon, disallowed them, and addressed a letter, as to each, to Major Haywood, describing the case, and the reasons for its disallowance.

These letters are substantially to the same effect as to every case, and I enclose a copy of one of them, (that as to the claim in the name of J. H. Beall,) and a copy also of a report made on the 6th inst. to the Committee of Claims of the House of Representatives, in consequence of a call therefrom, as to another case of precisely the same class, and wherein further information as regards such claims is communicated.

As the office is laboring under an excessive pressure of business, I refrain from causing any copies to be made of the papers relating to the claims referred to in the petition, till the committee shall signify a further desire for them.

The petition is returned, as desired.

With great respect, your most obedient servant,

JOHN S. GALLAHER, *Auditor.*

The Hon. M. NORRIS, *Chairman of the
Committee of Claims, S. nate.*

B.

TREASURY DEPARTMENT,
Third Auditor's Office, April 6, 1850.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th ult., transmitting an official transcript of depositions, &c., on file in this office, in support of a claim in the name of L. B. Harbour,

amounting to \$140, for a horse, saddle, and bridle, described as having been purchased of him on the 29th December, 1835, by order of Captain A. Bellamy, for the use of his company of mounted volunteers. Your letter is expressed to have been written on behalf of the Committee of Claims, and it asks this question: "Why cannot this claim be settled at the Third Auditor's office, under the existing laws?"

The case is one of a considerable number presented at this office, and disallowed, because of the irregularity of the transactions, and the want of adequate authority in the parties expressed to have been engaged in them to subject the United States to any liability in respect thereof. I send herewith a copy of the communication addressed by my predecessor, on the 23d September, 1846, to Joseph T. Walker, esq., the agent or attorney of the before-named claimant, in relation to the case, and assigning the reasons for disallowing it. And as a reply found to have been written by my predecessor to an applicant who had referred to him a letter of Darius Williams, esq., as to another case of the same description, appears to exhibit additional information bearing upon the subject, an extract from it will be here introduced: "Mr. Williams's letter as to the second case of Sledge represents that in 1835, when the Indian war broke out, a company of volunteers was raised, commanded by Captain Abraham Bellamy, since deceased, and horses were necessary, were appraised by two men, and were taken possession of; that when the company returned, the horses were turned over to Quartermaster John B. Collins, since deceased, who turned them over to Quartermaster Willis Alston, since deceased, who had them sold as United States horses, and, report says, put the money in his pocket and went to Texas, where he was killed; that Sledge does not know how to lay in his claim for this horse; that he was not a volunteer in Bellamy's company; that the horse was purchased for private George W. Smith, by order of Captain Bellamy; that ample testimony of all these facts can be had; and that if you can do anything in this horse claim, the writer thinks he can get ten or fifteen more of the same kind, sold at the same time, under same circumstances. Under no law have the United States to supply horses for the purpose of mounting militia or volunteers, but have to pay for the use and risk of each horse while in service, at the rate of forty cents per day. To provide for cases in which mounted militia or volunteers had not horses of their own, and were furnished therewith by other persons, the 7th section of the law of January 18, 1837, [see printed copy of rules enclosed] appears to have been enacted, and by which the owners of the horses are placed in the situation the riders would have been in, had the horses been their property, and been lost while in service, in one of the ways designated in the law. From the circumstances described, it is obvious that no such loss occurred in the present case. No proof has ever been adduced of any adequate authority in either Captain Bellamy to purchase horses on United States account, or in Quartermaster Alston to either receive or sell the same on their account. He was not an officer of the regular army, but of Florida militia or volunteers, and he has never rendered any returns, or accounted to the United States for the proceeds of any sales. Hence sundry claims for horses procured for mounting volunteers of Captain Bellamy's company, and others analogous thereto, have had to be disallowed. Several are now on file in this office which were presented to the board of officers appointed to examine claims in Florida, and trans-

mitted by them to the office of the Quartermaster General, by whom they were referred to this office. One of Green Sledge, for the use of George W. Smith, is found to be among them, with an endorsement made in the Quartermaster General's office, expressing it to be 'inadmissible,' for the reason that '*volunteers are by law required to furnish their own horses, and are allowed a per diem of forty cents for the risk and use thereof while in service. The claimant must, therefore, look to the person for payment to whom he sold his horse, and not to the United States.*'"

Several cases of the kind have been heretofore presented to Congress and been made the subject of reports by the Committee of Claims of the House of Representatives, concluding with resolutions that the petitioners were not entitled to relief. Three of such reports may be seen in vol. 4, Reports of Committees, H. R., 2d session 25th Congress, Nos. 834, 836, and 837.

The transcript received from you is herewith returned.

With great respect, your most obedient servant,

JOHN S. GALLAHER, *Auditor.*

Hon. C. L. DUNHAM, *Committee of Claims,*
House of Representatives.

C.

TREASURY DEPARTMENT,
Third Auditor's Office, April 18, 1846.

SIR: In the course of the investigation of claims for horses and other property lost and destroyed in the Florida campaign, one is found to have been transferred to this office by the Quartermaster General on 9th of November, 1841, for a horse valued at \$110, and furnished by John H. Beall for Stephen Murphy in Captain A. Bellamy's company of Florida mounted volunteers, the testimony in support of which consisted of an account in favor of said John H. Beall, dated "Monticello December 29, 1835," in which the United States are debited with the sum of \$110 "for one black mare for Stephen Murphy," at the foot of which are two certificates, the first dated "29th December, 1835. at Monticello," signed "Wilkins C. Smith and D. S. Graham, appraisers," certifying that they "being appointed by James S. Parrish, colonel of 9th regiment of Florida militia, to appraise and value the horses and other property required for and taken into the public service for the use of the volunteers in the Seminole campaign, had examined the above-mentioned mare bought from John H. Beall, valued at the sum of \$110;" the other of same date, signed by "John B. Collins, assistant quartermaster, and approved by James S. Parrish, colonel commanding 9th regiment Florida militia," certifying "that the above mentioned mare, bought from John H. Beall and valued at \$110, was required for and had been received into the public service, and that he believed the foregoing valuation to be just and true;" and on the back thereof is an assignment of the within account to James A. Goff for value received, dated "June 14, 1836, and signed J. H. Beall," and attached thereto is an affidavit made by said James A. Goff on the 18th June, 1841, "that he knows John H. Beall actually furnished one horse as charged in the

annexed account standing in his name, by request of Captain A. Bellamy, for the use of Stephen Murphy, who also belonged to Captain Bellamy's company, and that said account had been assigned to him." And the additional testimony presented by you to Colonel Churchill consists of the duplicate of the foregoing account and certificates, and the deposition of yourself, wherein you merely claim to be entitled to any allowance that might be made on this account as the assignee of James A. Goff. But I know of no authority that either Colonel Parrish, Quartermaster Collins, or Captain Bellamy, had for purchasing horses on the credit of the United States; and the act of Congress approved 18th January, 1837, which authorizes payment for horses furnished to volunteers, merely places the persons furnishing them in the situation the volunteers would have been had the horses been their own property and lost in one of the ways therein specified, and no such loss is alleged in this case, and no allowance can be made on the claim; and, had it been provided for by law, other testimony would have been requisite to obtain its allowance.

Respectfully, your obedient servant,

PETER HAGNER, *Auditor.*

Major RICHARD HAYWOOD,
Tallahassee, Florida.