

2-25-1871

Redick McKee. Memorial of Redick M'kee, late disbursing agent of the Indian Department in California, praying certain allowances.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Misc. Doc. No. 102, 41st Congress, 3rd Sess. (1871)

This House Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

REDICK MCKEE.

MEMORIAL

OF

REDICK M'KEE,

LATE DISBURSING AGENT OF THE INDIAN DEPARTMENT IN CALIFORNIA,

PRAYING

Certain allowances.

FEBRUARY 25, 1871.—Referred to the Committee of Claims and ordered to be printed.

To the Senate and House of Representatives in Congress assembled :

A joint resolution, No. 81, approved June 23, 1870, for the relief of M. A. Estill and Pablo de la Toba, also directed the Secretary of the Interior to examine and settle an old claim of the undersigned as disbursing agent of the Indian Department in California.

The two first named were liquidated and certified claims for supplies which remained unpaid only because Congress had failed to appropriate funds. The connection of my case with others of an entirely different character, though doubtless intended to facilitate a long-deferred settlement, proved unfortunate for me, as one clause in the resolution restricted the honorable Secretary from paying either of the parties named any sum greater than that stated in the accounts which were before the Committee.

In my case it seems that the only detailed account acted on by the Committee was a memorandum, or "statement of differences," from the Second Auditor's Office, made in August, 1865, aggregating \$7,424 59, the exact amount of some remaining items of account, suspended or disallowed through a misunderstanding of a former Commissioner of the Indian Bureau. This amount was promptly allowed, but the honorable Secretary (Mr. Cox) could go no further. He was not at liberty to examine or decide on my claims for mileage, exchange, or interest, on money borrowed and disbursed for the public service in California, rendered necessary by the neglect or failure of the Department to remit funds actually appropriated by Congress.

Unusual pressure of business before the committee and lack of time deprived me of an opportunity to make personal explanations, or to verify these items of claim; otherwise I think their recommendation would have been very different.

Although the resolution contains the usual imposed stipulation that

the claimants in each case shall accept the sums specified as "in full discharge of the entire claim," I cannot think that Congress will plead *res adjudicata* if I succeed in showing that equity and justice require the case to be reëxamined and the account restated.

What I still claim, though scarcely an appreciable sum in the transactions of a Treasury sustained by forty millions of people, is, nevertheless, a matter of great importance to an individual citizen, now far advanced on the journey of life, upon whom the Government almost literally forced a responsible office, with a promise of support, which its administrators failed to give.

To detail all the vexations, embarrassments, and losses resulting from my connection with the public service in California, would extend this memorial to an inconvenient length; but I wish it distinctly understood that I am not here a claimant for shoddy or supplies of any kind on which a profit has been or could be made. On none of my purchases, contracts, or disbursements for Government account have I ever charged one dollar profit. What I ask is to be reimbursed for hard cash paid for traveling expenses, and for interest on money borrowed to pay Government debts. As the Department can do nothing further, and as by statute I am shut out from the Court of Claims, my only hope of redress is in a plain statement and appeal to the National Legislature.

Soon after the admission of California, in 1850, I was appointed by President Fillmore one of three commissioners to proceed to that State to gather and report information as to the numbers and condition of the various Indian tribes; to settle, if we could, then existing difficulties between them and the whites who had invaded their country in quest of gold; to make treaties, and generally to report such measures as the Government should adopt for their protection and welfare in the future. As the disbursing agent I was instructed to pay my two colleagues their salaries, "with all other expenses of the commission." (Sen. Doc. No. 4, 1853, pp. 8-9.)

As the Department at that early day had no fiscal agent on that coast, to save the expense of a special appointment the Commissioner of Indian Affairs and the Secretary of the Interior urged me to accept also the office of "purchasing and disbursing agent for the commission." This I repeatedly declined; but after a delay of nine or ten days, to relieve the embarrassment and get away, I yielded, filed a bond in a large amount, with approved security, drew the appropriation, and after purchasing a large quantity of goods in New York for presents, &c., sailed for the Pacific.

It was well understood that the first appropriation (\$25,000) was wholly inadequate; but I was assured that soon after the next meeting of Congress \$100,000 more would be remitted to me at San Francisco.

Our arrival in California was regarded as highly opportune, for the whole southeastern frontier was suffering from Indian raids. Murders, burnings, and stealing of cattle, &c., were reported by every mail, and confirmed by delegations from the settlers imploring aid and protection from the State authorities. After full consultations with the civil authorities, and with General Smith, in command of the military department, the commissioners, with an escort of four companies of mounted infantry, under command of Captains Keyes and Burton, started on their first expedition to the headwaters of the San Joaquin. This movement reassured the settlers and intimidated the Indians. Several troublesome and warlike tribes were conciliated by a liberal supply of provisions and other presents, and probably a protracted and expensive war was averted. Our success, and the treaties made, were highly approved by the authori-

ties of the State, and also by the Department in Washington. We soon became satisfied, and endeavored to impress upon the Government, that it would be infinitely better and cheaper to feed than to fight those Indians. Our advice was acted on, and a vast expenditure saved. Our funds, however, were exhausted, and the commission left in debt. (Sen. Doc. 4, p. 15.)

While at San Francisco awaiting the receipt of funds to resume operations, I was advised by Commissioner Lea that the committees of Congress had reduced his estimate for the service in California to \$75,000, and our plans must be laid accordingly.

Fresh difficulties having broken out on the Klamath, I was preparing, with an escort under Major H. E. Wessels, to set out for that river, when a report reached us that Congress had finally appropriated but \$25,000 for general purposes, so that, including usual allowances for salaries, pay of interpreters, &c., we could not expect more than \$40,000 to \$42,000 for the entire State. However this might eventuate, I immediately suspended all purchases or contracts for future supplies; and, obtaining an advance of \$5,000 from the collector of the port, Mr. King, (for salaries and expenses of my colleagues in other parts of the State, I started north, fully expecting to meet, on my return, checks for whatever sum Congress, in its wisdom, had appropriated.

This expedition was also crowned with success, but involved great expense. On my return I found that the appropriations for California, were—

For holding treaties, &c.	\$25,000
For arrearages of salaries	6,750
For salaries of commissioners, each \$3,000.....	9,000
For pay of interpreters, in three districts.....	1,500
	<hr/>
In all	42,250
	<hr/>

(9 Stat. L., pp. 545, 572, 575.)

Now, every dollar of this should have been promptly remitted to me for disbursement, but only \$27,500 were ever so remitted. Had even one half of the residue been sent out, my subsequent embarrassments and final sacrifice of property would have been avoided; my accounts could have been settled at the Department, and my frequent appeals to Congress rendered unnecessary.

What disposition was made of the remaining \$14,750 by the Department I cannot say; but this I know, the amount sent me was that much less than Congress appropriated, and was wholly insufficient to pay pressing debts outside of my own salary and personal expenses.

The loan from Mr. King, and many small sums due to merchants for flour and other supplies, and to my employés, (interpreters, vacqueros, &c.,) were regarded as debts of honor which could not be postponed.

Trusting that as soon as my reports reached the Department and my necessities were known, funds would be sent out by an early mail, I borrowed from the banking-house of Sather & Church, for sixty days, \$5,000, at 2½ per cent. per month interest; paid off our most pressing debts, and for balances issued certificates of indebtedness, payable when in funds. These balances have all been paid here, as I am informed; some of them quite recently.

Getting no satisfactory response from the Department, (a change of administration having intervened,) in order to obtain an extension of time from the bank, I was under the necessity of mortgaging my homestead property, (four valuable city lots, dwelling, &c., worth to-day

probably \$30,000,) and for some five years continued to pay the monthly interest (\$125 gold) in advance, amounting to more than \$7,000. At length, unable longer to pay even the interest promptly, and almost despairing of ever getting relief from the Government, the mortgage was foreclosed and my property sold by the sheriff to pay debt, interest, and costs—some \$7,100. From that time to the present your memorialist, the late disbursing agent of the Indian Department in California, has had the honor of living in a rented house. I ask, Is it any wonder that I feel aggrieved and indignant at such requital of arduous and faithful services? If I had not confidence in the disposition of Congress to redress real grievances when satisfied of their existence, I, too, should "lose all faith in human nature." My experience will, I hope, prove a warning to future disbursing agents, not, under any circumstances, to advance one dime for "Uncle Sam," unless prepared, as I was *not*, to make the old gentleman a donation of the amount.

My accounts with accompanying vouchers were sent quarterly to the Department, so it could not have been ignorant of my necessities and embarrassments; yet no word of sympathy or of dissent, or disapproval of any of my disbursements ever reached me till some three or four years after I had retired from the service; then I was informed that almost all my payments required explanation, some of them being flatly disallowed. My friends in Washington, sureties on my bond, hearing that, by the books of the Government, I appeared to be a debtor to over \$50,000 instead of a creditor for \$10,000 or \$12,000, naturally felt some uneasiness. To protect them and avoid being reported in the next Blue Book as a defaulter, I came on at the close of the war to obtain a settlement on some terms.

Though, at a large expense of both time and money, I have been partially successful. Most of the suspensions and disallowances have been removed from my accounts by the accounting officers. My official bond is canceled, and at different times the Department has paid me the following sums in currency, viz:

In August, 1865.....		\$2, 234 57
In June, 1866.....	560 26 }	7, 424 59
In July, 1870.....	6, 864 33 }	
Making.....		9, 659 16

Which approximates the amount I always claimed as due on my salary and disbursement accounts; and the payment of which is, I submit, a clear, though tardy, admission of the substantial correctness of my accounts as originally rendered in 1852-'53. It is, moreover, an admission that I had been wrongfully deprived of the use of that large sum for many long years, and thereby subjected to the sacrifice of valuable property.

The question now presents itself, Am I not entitled to some reparation for this great injustice? If yea, in what manner can it be allowed?

I beg leave to suggest the following:

1. An allowance for mileage, same as paid to other Indian commissioners at or about the same time.

2. An allowance for the difference in value between the gold paid out and the currency received. (*Vide* decision of the Supreme Court of the United States.)

3. An allowance for the interest I had to pay on money borrowed for the payment of Government debts; or, interest, at the legal rate in California, on the amount admitted and paid. At no time since the transactions occurred has the use of money in California been worth less than two to three per cent. per month.

On the subject of the payment of interest by the Government on private claims, or claims of individuals, there is, I know, a diversity of opinion. All admit that the Government is careful to exact interest from delinquents, or their sureties, and I submit to your consideration whether it might not let the same rule operate when it happened to be itself delinquent; but such is not the practice.

The holders of 5-20 bonds, claimants for return duties improperly collected, sovereign States, &c., may all get interest, but an individual with a claim just as good, perhaps a citizen of a favored State, who has for years been delayed and denied justice, if he asks for interest he is told at all the Departments, and possibly may hear on the very floor of Congress, "That is quite a different case; Government never pays interest on private claims; and to do so in your case would be setting a dangerous precedent."

Now, is this a correct statement or a mere subterfuge, which should be abandoned? I think, for the credit of republican government, it should be abandoned; and I propose to show that Congress has, by numerous acts, recognized the duty of paying interest to individuals in exceptional cases, and I have no doubt will continue so to do. I cite—

1. The case of Colonel James Reeside, for postal services, amounting to \$188,496 06, on which he was allowed interest, at 6 per cent., to the amount of \$138,005 64; making his total claim \$326,501 70. (Stat. L., v. 11, p. 495.)

2. John C. Frémont, claim for cattle said to have been delivered for California Indians, amounting to \$183,825; interest allowed from June 1, 1851, at 10 per cent., \$58,211 25; total, \$242,036 25. (Ibid., vol. 10, p. 804.)

3. Dr. Anson Dart, superintendent of Indian affairs in Oregon, had to borrow money to a large amount for the public service, and was reimbursed for interest to the amount of \$4,389. (Ibid., vol. 12, p. 860.)

4. Thomas J. Henley, one of my successors in charge of Indian affairs in California, was, like myself, left without money, and had to borrow from the banking-house of Saunders & Brenham some \$3,000, at 2½ per cent. per month. Interest on this loan, amounting to \$750, was allowed him in the settlement of his accounts by order of Congress. (Ibid., vol. 11, p. 185.)

5. E. G. Montana, a merchant of Lima, in Peru, had a claim amounting to \$24,151 29, with interest at 6 per cent. from September 2, 1851. Congress, in July, 1870, appropriated, to pay this debt, in coin, \$57,040. (Laws U. S. 1870, p. 313.)

Other cases might be cited, but these will, I hope, satisfy all who in voting are governed by precedents. In the report of the Senate Committee on Claims, No. 20, 2d session Forty-first Congress, this matter is alluded to in a brief note; and the only reason assigned why the "Government should not be held for interest" was the circumstance that the Department had "suspended" or "disallowed" sundry charges in my accounts. If that argument ever had any force, it certainly has none now; since the Department has acknowledged its error, and paid the suspended items.

I have now given briefly the principal facts and circumstances upon which my appeal is based. You will judge if they do not present an exceptional case of great hardship; one, perhaps, without a parallel; and deserving, if fairly reported, special investigation and redress at the hands of the National Legislature.

That it has remained unsettled till near the close of a second decade,

and that Congress has already granted partial relief, may be urged as objections to its further consideration; but the delay has not been the result of any negligence or lack of importunity on my part, as the records and correspondence of the Indian Bureau will abundantly prove.

In conclusion, I beg that, by joint resolution or otherwise, the honorable Secretary of the Interior may be authorized to reëxamine this whole case, and if satisfied that I have been subjected to large pecuniary losses and gross injustice, mainly by the neglect or improper action of the Indian Department in former years, that he shall make such allowances and grant such further relief as may be equitable and just.

Very respectfully, your fellow-citizen,

REDICK MCKEE.