

3-4-1874

## Report : Claim of Jordan and McPike

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IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1874.—Ordered to be printed

Mr. MITCHELL submitted the following

REPORT :

[To accompany bill S. 563.]

*The Committee on Claims, to whom was referred the claim of Messrs. Jordan and McPike, having considered the same, herewith submit the following report :*

This is a claim which was favorably considered by the Senate Committee on Claims during the third session of the Forty-first Congress. Its report, No. 274, submitted through the Hon. Mr. Willey, on the 21st day of December, 1870, is so clear a statement of the facts in this case and of the law applicable thereto that your committee have incorporated the same in full in this report.

[Senate report No. 274, Forty-first Congress, third session.]

DECEMBER 21, 1870.—Ordered to be printed.

Mr. WILLEY made the following report :

*The Committee on Claims, to whom was referred Senate bill No. 59, for the relief of Jordan & McPike, having considered the same, beg leave to submit the following report :*

In the spring of 1860, great alarm was excited among the inhabitants of Virginia City and its vicinity, then in Utah Territory, by the depredations of the Pi-Ute Indians. An irregular force of about one hundred persons, consisting of many of the best citizens, was organized, armed with such weapons as they could procure, and went out from Virginia City to chastise the Indians. The expedition was unfortunate, falling into ambush, where some sixty of said citizens were killed by the Indians and the others dispersed. This greatly increased the alarm, and there was good reason to fear that the settlements around Virginia City, if not the town itself, would be attacked by the Indians in large force. There were no troops or arms or government nearer than Salt Lake, five or six hundred miles distant. Under these circumstances the governor of California and the United States officer in command of the Department of the Pacific sent forward to Virginia City arms and ammunition, in charge of proper officers. Two or three hundred volunteers also came along with the United States troops. The citizens of Virginia City and vicinity, together with the United States troops and volunteers from California, organized a regiment, and selected Col. Jack Hays, who happened to be there at the time, to take command thereof. Thus organized and thus commanded, this improvised regiment marched against the Indians, and, after a hard-fought battle, whipped them severely, and secured peace and safety.

It became necessary to organize a provisional quartermaster and commissary department to accompany this expedition. Accordingly, one Richard N. Snowden was appointed commissary, and as such entered into a contract with said Jordan & McPike to furnish certain supplies. Said contract is hereunto appended and is marked A. In conformity with this contract the said Jordan & McPike did furnish supplies amounting, in the aggregate, to the sum of \$19,473.50. Their accounts therefor are hereunto appended, marked B, C, D, E.

The evidence shows that this expedition against the Indians was necessary for the preservation of the lives and property of the people of Virginia City and vicinity, and that its organization and success perhaps preserved the people there from destruction. The Government had no troops there; the danger was instant; there were no means of preventing destruction excepting those adopted. The people themselves did what the Government should, perhaps, have been prepared to do. Under these circumstances the committee think there is a moral and equitable obligation resting on the Government to pay the necessary expenses of the expedition.

The prices charged for the supplies seem to be high, but the testimony is all to the effect that, under the adverse circumstances of the case, they could not have been furnished for less. And considering that it is now ten years since the supplies were furnished, the committee recommend the passage of the bill. They invite attention to the affidavit of Colonel Hays, hereunto appended, marked F.

## A.

This agreement, made this 22d day of May, in the year 1860, at Virginia City, Utah Territory, between John Jordan and John M. McPike, doing business under the firm name of Jordan & McPike, in said Territory, parties of the first part, and Richard N. Snowden, commissary of the Utah Volunteers, under command of Col. John C. Hays, for an expedition against the Pi-Ute Indians, in said Territory, party of the second part, witnesseth: That the said parties of the first part hereby agree to furnish fresh beef for the use of said expedition, at 30 cents per pound, and to drive the necessary number of beef-cattle with said command during such expedition; and the said party of the second part, as commissary as aforesaid, in consideration of the said agreement on the part of the said parties of the first part, hereby agrees to furnish the said parties of the first part on demand with proper certificates of the amounts of beef so furnished as aforesaid, and the just value and price thereof at the times and places where the same shall be delivered, to enable the said parties of the first part to present in proper form and with due vouchers their claim therefor against the Government of the United States; and further agrees that said cattle so driven with said command shall be guarded on the road and in camp by guards from said volunteer force.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first above mentioned.

JORDAN & McPIKE, [SEAL]  
 RICH'D N. SNOWDEN, [SEAL]  
 Utah Volunteers

Sealed and delivered in the presence of—

H. TALER BOAMEN.

Approved May 22, 1860.

JOHN C. HAYS,  
 Colonel Commanding

## B.

THE UNITED STATES OF AMERICA

TO JOHN JORDAN AND JOHN M. McPIKE,

DR.

To supplies furnished the expedition under command of Colonel Hays against the Pi-Ute Indians, in Utah Territory, as follows:

33,000 pounds of beef, (furnished at Camp Hays, Carson River; camp at Big Flat, Carson River; camp at Williams's ranch, at Cattle Crossing of Truckee River, at 30 cents per pound..... \$9,900

I hereby certify on honor that the above amount of provisions was actually furnished the expedition under command of Colonel Hays against the Pi-Ute Indians, in Utah Territory; that the price charged in the within bill is just and reasonable, and that the provisions charged for therein were necessary for the public service.

RICH'D N. SNOWDEN,  
 Commissary Utah Volunteers.

SILVER CITY, June 11, 1860.

C.

THE UNITED STATES OF AMERICA

To JOHN JORDAN AND JOHN M. MCPIKE,  
(Doing business under the firm-name of Jordan & McPike,)

Dr.

To supplies furnished the expedition under command of Colonel Hays against the Pi-Ute Indians, in the Territory of Utah, as follows:

To 100 pounds crackers, at 80 cents.....	\$80 00
To 120 pounds loaf-sugar, at 60 cents.....	72 00
To 10 gallons brandy, (medicinal,) at \$10 .....	100 00
To 1 dozen camp-kettles.....	30 00
To 1 dozen frying-pans.....	20 00
To 1 dozen coffee-pots.....	20 00
To 1 set butchers' tools.....	30 00

*At Williams's ranch, Carson River.*

To 350 pounds coffee, at 65 cents.....	227 50
To 2,500 pounds flour, at 70 cents.....	1,750 00
To 305 pounds bacon, at 80 cents.....	244 00
To 200 pounds salt, at 50 cents.....	100 00
To use of one wagon and two horses for transportation, 21 days, at \$20.....	420 00

3,093 50

I hereby certify on honor that the amounts of provisions and services in the within bill set forth were actually furnished the expedition under the command of Colonel Hays against the Pi-Ute Indians, in the Territory of Utah, and that the same were necessary for the public service, and that the prices charged therefor are just and reasonable.

RICH'D N. SNOWDEN,  
*Commissary Utah Volunteers.*

SILVER CITY, June 11, 1860.

D.

THE UNITED STATES OF AMERICA

To JOHN JORDAN AND JOHN M. MCPIKE,  
(Doing business under the firm and name of Jordon & McPike,)

Dr.

To supplies furnished the expedition under the command of Colonel Hays against the Pi-Ute Indians, in Utah Territory, as follows:

16,800 pounds of fresh beef, furnished at camp at Big Meadows of Truckee; camp at Pyramid Lake, and relieving at Lanee crossing of Truckee, and at camp at Williams's ranch.....	\$5,040
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I hereby certify on honor that the above amount of provisions was actually furnished by Jordon & McPike to the expedition under command of Colonel Hays against the Pi-Ute Indians, in Utah Territory; that the prices charged in the within bill are just and reasonable, and that said provisions were actually necessary for the public service.

RICH'D N. SNOWDEN,  
*Commissary Utah Volunteers.*

SILVER CITY, June 11, 1860.

E.

THE UNITED STATES OF AMERICA

To JOHN JORDAN AND JOHN M. MCPIKE,  
(Doing business under the firm name of Jordan & McPike,)

Dr.

To supplies furnished the expedition under command of Colonel Hays against the Pi-Ute Indians in Utah Territory, as follows:

4,800 pounds of fresh beef, furnished at the camp near Virginia City, at 30 cents per pound.....	\$1,440
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I hereby certify on honor that the above amount of provisions was actually furnished the expedition under command of Colonel Hays against the Pi-Ute Indians, in Utah

Territory; that the price above charged is reasonable and just, and that said provisions were necessary for the public service.

RICH'D N. SNOWDEN,  
Commissary Utah Volunteers.

SILVER CITY, June 11, 1860.

F.

I was temporarily in the Territory of Utah, on private business, when the Indian outbreak spoken of in the annexed papers occurred. The outbreak was believed by the inhabitants to be of a formidable character, the danger great and imminent. I considered it my duty, at the unanimously expressed desire of the volunteers, to accept the command of the expedition, and did so with great reluctance and not a little personal sacrifice. The campaign was conducted to a successful termination with dispatch, and with as much economy as possible in that *then* almost inaccessible country. The volunteers neither asked nor received any pay. I believe the annexed contract, entered into with Jordan & McPike, was a reasonable and proper one, and was faithfully executed on their part.

I recognize the annexed contract as the one at that time made with Jordan & McPike, and approved by myself as the commanding officer. I informed them at the time the contract was made that I believed there would be no difficulty in their receiving their pay from the Government. I think the claim a just one, and believe it should be paid.

JOHN C. HAYS.

Sworn and subscribed before me this 3d day of May, 1870.

N. CALLAN,  
Notary Public.

Your committee, however, find, as a difference worthy of attention from the written contract between Richard N. Snowden and the claimants, (Jordan & McPike,) that beef was the only article furnished in pursuance of the terms of the written contract; and that all other articles were furnished in pursuance of a verbal understanding.

It appears that the claimants furnished 54,600 pounds of beef, at a contract-price of 30 cents a pound, amounting to \$16,380. Also, though not called for by the written contract, that they supplied the expedition with salt, bacon, flour, and coffee, (the item for flour being the chief one, to-wit, \$1,750,) besides other articles of light value; such commodities amounted to \$3,093.50. Although these latter articles were high in price, it is found that the amount claimed for them is reasonable, considering the condition of the country at that time and the circumstances under which they were supplied.

From the affidavit of John M. McPike, filed with the papers in the case, it appears that his partner, John Jordan, named as one of the claimants herein, deceased in the year 1861; but that prior to his demise he assigned to the deponent, McPike, now the sole claimant herein, his interest in this claim, which interest is still the property of the said John M. McPike. This affidavit is corroborated by the written receipt and assignment of John Jordan, dated 13th November, 1860, on file in the case.

Your committee, notwithstanding the difference cited in their present report from the report of Mr. Willey, fully concur in the conclusions of law, and also as to the justice of the amount of the petitioner's claim; as heretofore considered and favorably reported upon to the Senate. We therefore report back the accompanying bill as a substitute for Senate bill No. 354, and recommend its passage.