

2-17-1880

On the Case of Dr. Appel

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1075.]

The Committee on Military Affairs, to whom was referred the bill (S. 1075) to authorize Dr. Daniel M. Appel, of the United States Army, to receive pay for discharging the duties of physician to the Mescalero Apache Indian Agency, New Mexico, have considered the same, and beg leave to submit the following report:

This is a bill to authorize Asst. Surg. Daniel M. Appel, of the United States Army, to receive pay for services rendered as a physician at the Mescalero Apache Indian Agency, New Mexico, from January 1, 1877, to March 31, 1879, at the rate of \$50 per month.

From the evidence presented it appears:

1. That the services were rendered in good faith by Dr. Appel under an agreement with the agent at the Mescalero Apache Indian Agency.

2. That it was impracticable to obtain the services of any other physician, and that Dr. Appel was compelled to travel thirty-five or forty miles from his regular station, Fort Stanton, New Mexico, through a dangerous country, at his own expense, in order to render this service.

3. That notwithstanding this arduous service, Dr. Appel at no time neglected his duty as a medical officer of the Army, but made professional visits to the Indian agency *only* at such times as would not interfere with his duties at Fort Stanton, and *always* with the *permission* and *approval* of the commanding officer of that post.

The just and equitable right to payment for such services has already been recognized and determined by Congress in similar claims of Asst. Surg. Thomas F. Azpell, United States Army, by act approved January 16, 1877, and Asst. Surg. J. A. Fitzgerald, United States Army, by act approved March 1, 1879.

The Army Regulations, which are sanctioned by and have the effect of law, prescribe the duties of medical officers of the Army as follows:

Medical officers, *where on duty*, will attend the officers and enlisted men and the servants and laundresses authorized by law, and at stations where other medical attendance cannot be procured without great expense or inconvenience, and on marches, the *hired men of the Army* and the families of *officers and soldiers*.

The committee recommend that the claim of Dr. Appel be allowed, as in addition to *all* of the duties devolving upon him as a medical officer of the Army he responded to the calls made upon him for his professional services at the Indian agency, thirty-five or forty miles distant from his station, in the same manner as any private physician would have

responded, and as medical officers are frequently called upon when serving at frontier posts in cases of emergency and in the interests of humanity.

The location or residence of the nearest private physician to the Mes-calero Agency was about 140 miles distant.

The services rendered by Dr. Appel, at great personal risk and at his own expense, and for which this moderate compensation is asked, would have cost the government at the lowest calculation twice the amount claimed if a physician had been appointed for service at the agency, and at the least calculation five times the amount had the nearest private physician been called.

For all these reasons it seems just that the bill should pass, and Dr. Appel be allowed to receive the pay agreed upon, notwithstanding the provisions of section 1765 of the Revised Statutes.

