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Report : Petition of J. Monteith

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IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1884.—Ordered to be printed.

Mr. BOWEN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 516.]

The Committee on Indian Affairs, to whom was referred the bill (S. 516) to adjust the accounts of John B. Monteith, deceased, have had the same under consideration, and report thereon as follows:

This bill authorizes and directs the Secretary of the Treasury, in the adjustment of the accounts of John B. Monteith, deceased, late Indian Agent at the Lapwai Indian Agency, in Idaho, for the Nez Percé Indians, to allow the administrator of his estate the sum of \$875.75, as follows, to wit:

To fees paid J. M. Howe, attorney for Government employés, as per itemized statement	\$440 00
To rent paid W. G. Langford, in the names of the various employés, by Agent Monteith, as per itemized statement	152 00
To justices' fees paid, as per itemized statement	33 75
To amounts disallowed in the final settlement of late Indian Agent John B. Monteith's account before the Treasury Department	250 00
Total	875 75

This claim has been repeatedly recommended for payment by the Indian Office and Interior Department, to wit, on December 14, 1876; on March 1, 1887; on January 11, 1882; on March 18, 1882, as set forth in official papers from the Indian Department.

This bill, introduced in the Forty-seventh Congress, was submitted to the Department of the Interior for examination and report, and was reported favorably upon in a communication of March 18, 1882. Six hundred and twenty-five dollars and seventy-five cents of this account was for money paid by John B. Monteith in defending the United States Indian agency in actions in ejectment brought in the United States Territorial courts, and \$250 of the amount was allowance made by the Indian Department for additional clerical service at said agency. The sum total aggregates \$875.75.

The following is a report and recommendation of the Interior Department:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 18, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of March 7, 1882, transmitting for report and office views thereon House bill No. 4741, Forty-seventh Congress, first session, "to adjust the accounts of Jno. B. Monteith, deceased," with accompanying papers.

The payment of the claim of Mr. Monteith has been repeatedly urged upon Congress, and was the subject of a favorable report (copy herewith) to the Hon. Secretary of the Interior, under date of December 14, 1876, recommending that Congress be requested to appropriate the sum of \$625.75 to reimburse Mr. Monteith for the money actually expended and paid out by him in the ejectment suit of W. G. Langford *vs.* Employés of the Nez Percé Indian Reservation at Lapwai, Idaho.

It was further urged in a communication to Senator Windom (copy herewith), dated March 1, 1877, requesting the insertion in the sundry civil appropriation bill, then pending, an amendment making an appropriation covering said claim.

The justness and the merit of the amount (\$250) disallowed in the final settlement of Agent Monteith's accounts by the accounting office of the Treasury Department for additional pay for services rendered on account of authorized increase of salary as agency clerk has never been questioned; but as there was no authority of law for its allowance or payment, relief can only be had through Congress.

Concurring in the views of my predecessors as to the justness of the whole claim of eight hundred and seventy-five dollars and seventy-five cents, I *urgently recommend favorable and prompt action on the bill submitted*, which is returned herewith with accompanying inclosures as requested.

Very respectfully,

E. L. STEVENS,
Acting Commissioner.

Hon. M. C. GEORGE,
House of Representatives.

The following is a copy of a letter from the former Commissioner of Indian Affairs:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 14, 1876.

SIR: I have the honor to invite your attention to the claim of John B. Monteith United States Indian agent, for certain expenses of rent, costs, and fees unavoidably incurred by the employés in their defense at the trial of the ejectment suits of W. G. Langford *vs.* Employés of the Nez Percé Indian Reservation at Lapwai, Idaho Territory. These expenses were necessarily incurred, owing to the distance from the agency of the proper United States district agency, as well as the difficulty of prompt communication with him or the Department, and to the exigencies of the case, which have been duly and fully reported to this office.

From these facts and the circumstances of the parties who were mulcted with the costs, who are hardly able to bear the same, and in view of the fact that by this course of action they were enabled to hold the agency buildings and thereby avert their total destruction by the Indians, who would undoubtedly have burned them rather than allow them to pass into Mr. Langford's possession, I respectfully recommend that Congress be requested to appropriate the sum of \$625.75 to fully reimburse Mr. Monteith for all moneys actually expended and paid out by him in said defense.

For your further information I submit herewith duplicate copies of an itemized statement of the expenses incurred, which were furnished by Mr. Monteith under office instructions of the 19th of July, 1875.

I also submit the draft of a bill for the purpose above indicated.

I have the honor to be, respectfully, your obedient servant,

J. Q. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

From the papers on file in this case it appears that Mr. Langford made attempt by seven actions in ejectment in the justice, district, and supreme courts of Idaho to recover possession of the land upon which the Government agency buildings had been erected; that he was successful in the actions in the justice court and in the district court, but was finally defeated in the supreme court. These expenses were unavoidably incurred by Mr. Monteith to save the occupancy of the Government buildings after judgment rendered in the justice courts, and until the Department could be heard from, and for the expenses of an appeal to the district court, and to the supreme court, where the cases were finally decided in favor of the Government. It is quite evident from the proofs on file that had Mr. Monteith not expended these sums

the Government would have been the loser of much valuable property, both through the result of the trials establishing the right of Mr. Langford and the frenzy of the Indians, who would have doubtless burned the buildings rather than to have seen them come into the possession of Mr. Langford.

It will be remembered that this agency was then situated in an isolated section, more so probably than any other portion of the United States at that time, and communication with the Department was exceedingly difficult. Mr. Monteith's action in thus saving the Government property and looking after its interest in a time of emergency entitles him to the gratitude of his country; and the least it can do is to reimburse him for the sum of money which he necessarily expended during the emergency in the Government's behalf. Time has proven that it was a wise action on his part, and that he was faithful to the interest of the Indians and of the Government. In regard to the sum of \$250 expended by Mr. Monteith for additional clerical assistance, as shown by vouchers Nos. 7, 11, 12, 16, and 30, on file now in the Second Auditor's Office, the following was the authority under which the expenditure was made:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., May 27, 1875.

SIR: In reply to your communication of the 6th instant, in which you ask authority to increase the salary of your clerk from \$1,000 to \$1,200 per annum, you are informed that your request is granted, the amount involved to be paid from funds that are now or may hereafter be placed in your hands from the appropriation for "incidental expenses Indian service in Idaho."

Very respectfully, your obedient servant,

EDW. P. SMITH,
Commissioner.

J. B. MONTEITH, Esq.,
United States Indian Agent, Lapwai, Idaho.

In view of the foregoing, your committee believe this claim to be just and proper, and recommend that it be allowed and paid as set forth in the bill.