

2-4-1885

Report : Claim of Dorsey and Shepard

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Recommended Citation

S. Rep. No. 1147, 48th Cong., 2nd Sess. (1885)

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 948.]

The Committee on Claims, to whom was referred the bill (H. R. 948) for the relief of Dorsey & Shepard, have considered the same, and report as follows:

The committee adopts its previous report, made at the first session of the Forty-seventh Congress:

The Committee on Claims, to whom was referred the bill (S. 214) entitled "A bill for the relief of John M. Dorsey and William F. Shepard," have considered the same, and submit the following report thereon:

This bill has been four times favorably reported in the Senate and once in the House of Representatives. The bill passed the Senate February 17, 1876. No adverse report has ever been made upon it.

The bill directs the payment to John M. Dorsey of \$9,088 and to William Shepard \$3,788, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey & Shepard and by S. B. Wallace in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

The bill is based on the petition of Dorsey and Shepard to Congress, which is sworn to by Dorsey, and is substantially as follows in its statements: That in the spring of 1860 they were engaged in business in said Territory, when great alarm existed among the inhabitants of the western portion of Utah, in consequence of the depredations of the Pi-Ute Indians; that an irregular force of about one hundred of the best citizens was organized, and armed with such weapons as they could procure, and went out from Virginia and Carson Cities to chastise the Indians; that the expedition fell into ambush, and about sixty of the citizens, including Major Ormsby, their commander, were killed, and the others dispersed; that great excitement and alarm followed among the citizens, and it was feared the neighboring towns would be attacked, the Indians having assembled in large force. There were no troops, arms, or government stores or supplies 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 its vicinity united with these volunteers and regular troops and organized a regiment, and selected Col. John C. Hays to take command. The troops, thus organized and commanded, marched against the Indians, and, after some severe fighting, conquered a peace.

The memorial further states that upon the organization of this force it was without quartermaster or commissary supplies, and in order to obtain them Richard M. Snowden was appointed commissary, and as such entered into a verbal contract with said Wallace and the petitioners to furnish certain supplies; that, in conformity therewith, vouchers therefor were issued by said Snowden as commissary. One for the sum of \$1,528 was issued to S. B. Wallace; one to John M. Dorsey, S. B. Wallace, and William Shepard for \$5,050; and a third one to the three last-named parties for \$6,190;

that Wallace died in 1862, but before his death assigned to Dorsey all his right, title, and interest in all of the certified accounts; that Dorsey is the just owner of the first-mentioned account (that for \$1,528) and of two-thirds of the other two, amounting in the aggregate to \$9,088, and that Shepard is the owner of one-third of the last two, amounting to \$3,780. The petitioners close by saying they furnished these supplies for the purposes stated in good faith, believing that they would be paid in a short time, and that the prices charged were low for the time, places, and circumstances.

Mr. Dorsey appended an affidavit to the memorial, and in this he swears that he is one of the claimants therein; that he knows all the statements made therein are true of his own knowledge; that the supplies were actually furnished as stated; that the amount claimed is justly due, the charges reasonable, and that no part thereof has been paid him or any of the other parties; that the amount of money subscribed by the citizens of Virginia City and vicinity had been exhausted, and this fact was the reason and necessity for Colonel Hays and Colonel Snowden making the verbal contract with claimants to furnish said supplies, and had they not, in conjunction with Jordan and McPike, furnished the necessary supplies, the expedition must have failed.

Mr. Dorsey further states in explanation of the long delay in bringing the claim before Congress that it had been duly filed in the War Department, which had finally ruled that there was no law which authorized its payment; that it was then put into the hands of agents, who did nothing; that neither of the claimants possessed the pecuniary means to come to Washington; that about the year 1865 the triplicate vouchers were placed in the hands of Hon. D. R. Ashley, then a member of Congress from Nevada, to present to Congress, but he lost all the papers; that circumstances and sickness in his family prevented him from coming to Washington until recently, and from employing agents. He closes by saying much of his evidence is among the papers in the claim of McPike, which was allowed at the last session of Congress and has been paid.

The following papers are furnished by the War Department in regard to these claims, and sufficiently explain themselves:

The United States of America to S. B. Wallace, Dr.

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

To 600 pounds flour, at 70 cents.....	\$420 00
To 500 pounds sugar, at 60 cents.....	300 00
To 400 pounds barley, at 55 cents.....	220 00
To 125 pounds California bacon, at 80 cents.....	100 00
To 100 pounds Java coffee, at 65 cents.....	65 00
To 510 pounds fresh beef, at 30 cents.....	153 00
To twenty-two (22) days' service of the pack-mules, at \$3.50 per day.....	231 00
To 3 camp-kettles, at \$3.....	9 00
To 3 frying-pans, at \$2.....	6 00
To 2 dozen tin cups, at \$6.....	12 00
To 2 dozen tin plates, at \$3.....	6 00
To 1 dozen sheath-knives, at \$6.....	6 00
Total	1,528 00

I certify, on honor, that the above amount of provisions were furnished the expedition under command of Col. Jack Hays, against the Pi-Ute Indians in the Territory of Utah, by S. B. Wallace; that the prices charged therefor are just and reasonable, and that the same were received by me and were necessary for public service.

Dated at Pyramid Lake, June 3, 1860.

RICHARD A. SNOWDEN,
Commissary Utah Volunteers.

The United States of America to John M. Dorsey, S. B. Wallace, and William Shepard, Dr.

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

To 800 pounds bacon, at 80 cents.....	\$640 00
To 600 pounds coffee, at 45 cents.....	270 00
To 450 pounds soda crackers, at 80 cents.....	364 00
To 30 gallons sirup, at \$5.....	150 00
To 10 gallons pickles, at \$5.....	50 00
To 200 pounds table salt, at 80 cents.....	160 00
To 400 pounds rice, at 45 cents.....	180 00

To 1,000 pounds Orleans sugar, at 51 cents	\$510 00
To 400 pounds beans, at 45 cents	180 00
To 200 pounds soap, at 50 cents	100 00
To 5,000 pounds flour, at 45 cents	2,250 00
To 400 pounds barley, at 44 cents	176 00
Total	5,050 00

I certify, on honor, that the above amount of provisions was actually furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in Utah Territory; that the prices charged therefor by Dorsey, Wallace, and Shepard are just and reasonable, and that the same were necessary for the public service.

Dated at Carson River, June 10, 1860.

RICHARD A. SNOWDEN,
Commissary Utah Volunteers.

The United States of America to Jno. M. Dorsey, S. B. Wallace, and William Shepard, Dr.

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

To 3,500 pounds of flour, at 70 cents	\$2,450 00
To 400 pounds barley, at 55 cents	220 00
To 1,100 pounds sugar, at 50 cents	660 00
To 600 pounds Java coffee, at 70 cents	420 00
To 10 gallons sirup, at \$7	70 00
To 20 sacks (5 pounds each) table salt, at \$3	60 00
To 7,700 pounds fresh beef, at 30 cents	2,310 00
Total	6,190 00

I certify, on honor, that the above amount of provisions was actually furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in the Territory of Utah; that the prices charged therefor by Dorsey, Wallace, and Shepard are just and reasonable, and that the same were necessary for public service.

Dated at Pyramid Lake, June 3, 1860.

RICH'D A. SNOWDEN,
Commissary Utah Volunteers.

WAR DEPARTMENT, *December 10, 1869.*

The Secretary of War, in compliance with the request of the Committee on Claims of the United States Senate, dated April 1, 1869, has the honor to furnish all the information in possession of the War Department relative to the war against the Pah-Utah Indians, in the year 1860, and to return to said committee the list of claims against the United States arising out of said war.

WM. W. BELKNAP,
Secretary of War.

List of claims for the war against the Pah-Utah Indians, 1862.

No. 1. S. B. Wallace	\$1,528 00
2. Dorsey, Wallace & Sheppard	6,190 00
3. Dorsey, Wallace & Sheppard	5,150 00
4. Jordan & McPike	3,093 50
5. Jordan & McPike	9,900 00
6. Jordan & McPike	5,040 00
7. Jordan & McPike	1,440 00
8. John Jordan	360 00
9. C. S. Strong, treasurer, &c	1,105 00
10. C. S. Strong, treasurer, &c	1,000 00
11. Jesse Mayhew	200 00
	35,006 50

I certify that the foregoing are correct copies of papers on file with settlement No. 8711, June 19, 1874, in favor of John McPike.

A. M. GANGEWER,
Chief Clerk, Third Auditor's Office.

From the foregoing papers it will be seen that Richard A. Snowden, the commissary of the Utah volunteers, certifies that S. B. Wallace furnished the expedition with supplies to the amount of \$1,528; that the prices charged were just and reasonable, and that the supplies were received by him and were necessary for public service; and that in like manner Dorsey, Wallace & Shepard furnished the supplies mentioned in the two other vouchers—one calling for \$5,050, the other for \$6,190.

The list of claims seems to be a summary of all the supplies furnished for the expedition, as well by the parties now before Congress as others not now here, amounting in the aggregate to \$35,006.50.

W. F. Shepard made an affidavit, on 10th December, 1874, that he, associated with John M. Dorsey and S. B. Wallace, furnished, in the year 1860, certain supplies for the subsistence of the troops in Utah Territory during that year, who, under the command of Col. John C. Hays, were engaged in suppressing Indian hostilities, for which supplies he and the said Dorsey were about to apply to Congress for payment, and that in the year 1861 Wallace, for a valuable consideration paid to him by Dorsey, sold, assigned, and transferred by written assignment his equal one-third interest in and to said claim and demand to the said Dorsey, who was the legal owner and holder thereof and entitled to receive Wallace's share.

This written assignment is not produced; Dorsey in his affidavit swears it was duly executed but is lost; that Wallace died insolvent, and no administrator was ever appointed to administer upon his estate.

John C. Hays makes affidavit that he was commander of the volunteer force at the Indian outbreak which occurred in 1860, and that he believes that the said Dorsey, Shepard & Wallace faithfully performed the verbal contract made with him as commander and Richard M. Snowden as commissary, and that they furnished flour, bacon, salt, &c., for the use of the volunteers under his command, and that they should have been paid long ago.

On the 17th of February, 1876, Mr. Dorsey made an additional affidavit before John T. C. Clark, a justice of the peace for the District of Columbia. Mr. Dorsey, in his affidavit, states at length and with much particularity, that all the goods charged for in said claim, and which were duly certified to in the month of June, 1860, by Col. R. A. Snowden, commissary of the volunteers, were actually furnished at the terms stated in the vouchers given by Colonel Snowden, and that the prices charged were the actual cash value at the time the goods were furnished.

Mr. Dorsey further states in this affidavit that Colonel Snowden, the commissary, died in 1861, at the Humboldt mines, in Humboldt County, Nevada, and for this reason his affidavit in support of this claim could not be procured.

A. St. C. Denver made an affidavit in support of the claim on the 17th day of February, 1876, in which he states that he was intimately acquainted with the said Dorsey, Shepard, Wallace, Snowden, and Hays; that they were all men of good reputation, whose statements would be believed in the community where they lived.

John M. McPike, of Napa County, California, makes an affidavit, under date of February 25, 1876, in which he states that he knew Dorsey, Shepard, and Wallace in 1860. They were then trading together in what is now the State of Nevada; that he was present when the contract was made between this firm and Richard M. Snowden as commissary of Colonel Hays's expedition against the Pi-Ute Indians; that the prices to be paid were as follows, viz, flour, 70 cents per pound; sugar, 60 cents per pound; bacon, 80 cents per pound; coffee, 65 cents per pound. That the prices to be paid for the other articles to be furnished were reasonable and proper; that all the articles to be delivered had to be carried by the contractors on pack-mules for from two to three hundred miles over mountains covered with deep snows. Mr. McPike also swears that he knows that Dorsey & Co. delivered supplies to Mr. Snowden, but he is not able to state the quantity; and that he was present when Colonel Snowden delivered the vouchers or certificates to Dorsey.

A. E. Shiras, assistant commissary-general of subsistence, writes to J. M. Latta, attorney, at Washington, under date of April 1, 1867, in relation to these claims, which had been filed in the Commissary-General's Office, as follows:

"No records in this office or in that of the Adjutant-General show any authorization by the Government of the regiment or command for which the stores appear to have been procured, or that any law has ever been enacted which would authorize the payment of the accounts."

On June 17, 1874, an act was passed directing the Secretary of the Treasury to pay the sum of \$19,473 50 to John M. McPike, in full settlement for beef and supplies furnished the troops by Jordan & McPike in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in 1860. (See United States Statutes, page 40 of private acts, chapter 296.)

There is no doubt of the existence of the disturbances as alleged in the memorial. The amount and value of the supplies delivered by claimants to Snowden, as commissary, is satisfactorily proven by the vouchers issued by him therefor, by the memorial

of claimants sworn to by Dorsey, and by the affidavits of Colonel Hays, of Denver, of Shepard, of Triplett, and of McPike.

The accounts embodied in this report are the identical accounts filed in the War Department, and Dorsey swears to their correctness; to his ownership of Wallace's portion, and that no part of the account has been paid.

The case of Jordan & McPike differs from this in the fact that there was a written contract made between Jordan and McPike of the one part, and Snowden of the other, fixing the price of the beef to be furnished. The affidavit of Colonel Hays furnished in that case was more full than in this, showing the urgency of the occasion for organizing this military force, and the economy with which the expedition was concluded. He says the volunteers neither asked nor received any pay.

The committee recommend the passage of the bill.

Your committee concurs in its former recommendation.

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