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George T. Newman

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GEORGE T. NEWMAN.

APRIL 20, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

R E P O R T :

[To accompany bill H. R. 5400.]

The Committee on Claims, to whom was referred the bill (H. R. 5400) for the relief of George T. Newman, would respectfully report as follows :

April 27, 1883, the Indian Office entered into contract with the claimant for the delivery at Blackfeet Agency, Montana, for the fiscal year, of 180,000 pounds of beef. The Indian Office report:

In making said contract the amount appropriated by Congress, in addition to other supplies purchased was exhausted. In the fall of 1883 reports as to the starving condition of the Blackfeet Indians reached this office, and on the 4th of October, 1883, the Department authorized this office to call on the contractor for the additional 25 per cent. of beef provided for in the contract, and also to purchase in open market additional beef to an amount not to exceed \$3,000. Funds for the payment of said beef were diverted from other funds, under section 4 of the act of Congress approved May 1, 1883 (22 Statutes at Large, page 450). In making his deliveries, the contractor, it is understood, at the request of the then agent, and on account of the starving condition of the Indians, delivered more beef than the 25 per cent. additional and the \$3,000 worth in open market. The claim for the additional beef delivered, amounting to \$935.37, was allowed by this office, but the Second Comptroller of the Treasury disallowed the amount, claiming that under section 3 of the act of Congress approved March 1, 1883 (22 Statutes at Large, page 350), no more than \$3,000 worth could be purchased in open market. This office has contended, and contends, that section 3709, Revised Statutes, fully covers this case, as it is there provided that, when immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract at the places and in the manner in which such articles are usually bought or sold or such services engaged, between individuals; but the Second Comptroller, whose decision under section 191, Revised Statutes, is final, does not agree with this, and hence I see no way for claimant to obtain payments except through action of Congress.

The Indians were starving. The claimant in the emergency furnished supplies. The amounts and prices are not disputed. The Indian Office has recommended payment. Upon a technicality, the existence of which, even, is denied by the Indian Office, payment is refused.

We recommend the passage of the bill.

APPENDIX.

[Senate Ex. Doc. No. 91, Forty-eighth Congress, second session.]

Letter from the acting Secretary of the Treasury transmitting an estimate of appropriation received from the Secretary of the Interior to pay G. T. Newman for beef delivered at Blackfeet Agency.

TREASURY DEPARTMENT,
February 20, 1885.

SIR: I have the honor to transmit herewith, for the consideration of Congress, an estimate of appropriation received from the Secretary of the Interior to pay George T. Newman the sum of \$935.37 for beef delivered at Blackfeet Agency under conditions therein stated.

Very respectfully,

CHARLES E. COON,
Acting Secretary.

The PRESIDENT OF THE SENATE PRO TEMPORE.

DEPARTMENT OF THE INTERIOR,
Washington, February 18, 1885.

SIR: Under the direction contained in the second section of the act of July 7, 1884, I have the honor to transmit herewith, for presentation to Congress, an item of appropriation prepared in the Office of Indian Affairs to pay George T. Newman the sum of \$935.37 from the balance of the appropriation for the relief of Indians at Crow, Blackfeet, Fort Belknap, and Fort Peck Agencies, being the amount due him for beef delivered at Blackfeet Agency in 1883.

I also inclose copy of letter of 17th instant from the Commissioner of Indian Affairs, with inclosures noted therein, in relation to the matter of this account, which appears, for reasons stated in the correspondence, to have been disallowed by the Second Comptroller of the Treasury, as in excess of the amount allowed to be purchased in open market.

The Commissioner recites the circumstances attending the purchase of this beef, and cites the law which in his opinion justified this action, and he recommends that the item in question be attached to the deficiency or sundry civil appropriation bill now pending in committee.

Concurring in his views, I respectfully recommend the matter to the favorable consideration of the committee and Congress.

Very respectfully,

H. M. TELLER,
Secretary.

The Hon. SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 17, 1885.

SIR: By your reference of the 13th instant I am in receipt, for report and recommendation, of a letter from R. B. Harrison, president of the Montana Cattle Company, in relation to a disallowance of \$935.37 made by the Second Comptroller of the Treasury in the claim of George T. Newman for cattle delivered by him at the request of the agent at Blackfeet Agency, Montana, in excess of the amount authorized to be purchased in open market, and which the Comptroller claims is limited by law to the sum of \$3,000. In reply to your request for report and recommendation, I would state that on the 27th day of April, 1883, this office entered into contract with George T. Newman for the delivery at Blackfeet Agency, Montana, for the fiscal year 1884, of 180,000 pounds of beef. In making said contract the amount appropriated by Congress, in addition to other supplies purchased, was exhausted. In the fall of 1883 reports as to the starving condition of the Blackfeet Indians reached this office, and on the 4th of October, 1883, the Department authorized this office to call on the contractor for the additional 25 per cent. of beef provided for in the contract, and also to purchase in open market additional beef to an amount not to exceed \$3,000. Funds for the payment of said beef were diverted from other funds, under section 4 of the act of Congress approved May 1, 1883 (22 Stats., page 450).

In making his deliveries the contractor, it is understood, at the request of the then agent, and on account of the starving condition of the Indians, delivered more beef than the 25 per cent. additional and the \$3,000 worth in open market. The claim for the additional beef delivered, amounting to \$935.37, was allowed by this office, but the Second Comptroller of the Treasury disallowed the amount, claiming that under section 3 of the act of Congress approved March 1, 1883 (22 Stat., page 350), no more than \$3,000 worth could be purchased in open market. This office has contended, and contends, that section 3709 Revised Statutes fully covers this case, as it is there provided that "when immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought or sold, or such services engaged, between individuals;" but the Second Comptroller, whose decision under section 191 Revised Statutes is final, does not agree with this, and hence I see no way for claimants to obtain payments except through action of Congress. The amount due has been reserved by this office from the funds appropriated by Congress during the fiscal year 1884 for the "relief of the Indians at Crow, Fort Belknap, Fort Peck, and Blackfeet," and I respectfully recommend that the inclosed amendment be forwarded, through the proper channel, to the House Committee on Appropriations, to be attached to the deficiency or sundry civil bill now pending before that committee, with a favorable recommendation from you.

Very respectfully,

H. PRICE,
Commissioner.

Hon. SECRETARY OF THE INTERIOR.

That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to George T. Newman the sum of \$935.37, from the balance appropriated for the relief of Indians at Crow, Blackfeet, Fort Belknap, and Fort Peck Agencies, the same being amount due him for beef delivered at Blackfeet Agency on account of the starving condition of the Indians, in excess of the amount authorized by law to be purchased in open market.

[Montana Cattle Company, incorporated 1880.]

HELENA, MONT., September 20, 1884.

SIR: On the 27th day of April, 1883, George T. Newman was awarded a contract for the delivering of 180,000 pounds of beef at Blackfeet Agency. On the 4th day of October, 1883, the Commissioner called upon Newman to deliver 25 per cent. additional, making a total of 225,000 pounds to be delivered under the contract. On the same day the Commissioner authorized the agent at the said agency to purchase \$3,000 worth of beef in open market. All of said beef was furnished to said agent at the said agency by the Montana Cattle Company, and in the delivery thereof an excess over and above the amount above mentioned was delivered to and received by said agent at said agency, for the use of said agency, to the amount of \$935.37. The Montana Cattle Company, knowing the necessities of the Indians at the agency, and their starving condition, supposed the agent had authority to receive and account for all the beef so delivered, and was never informed to the contrary until the receipt of notice from the Second Auditor's Office, under the date of January 2, 1884, by which the contractor is informed that this amount, viz, \$935.37, is "suspended, as recommended by the Commissioner of Indian Affairs," as being in excess of the amount authorized to be purchased. Afterward a notice was sent to the contractor, under date of July 17, 1884, informing him that the claim for \$935.37 for beef cattle furnished the Blackfeet Agency, under contract of April 27, 1883, and suspended in settlement 942, was allowed by this office March 7, 1884, and was disallowed by the Second Comptroller July 5, 1884. After the Indian Department issues the requisition, the United States Treasurer will send a draft for the amount. It appears from this notice that there is a difference of opinion in the Departments as to the propriety of allowing this claim, as it is allowed by the Second Auditor and disallowed by the Second Comptroller.

The beef which this excess of \$935.37 represents was furnished Mr. Young, their agent, at said agency, in good faith, upon the credit of the Government of the United States at said agency, and we feel that the amount should be paid. If there is no appropriation out of which it can be met, we respectfully suggest that it might be provided for in the deficiency bill for your Department at the ensuing session of Congress.

Believing that justice and equity can only be done by a speedy adjustment of this claim, and that you will coincide with us in this view, we submit the matter for such action as it is entitled to at the hands of your Department.

Very respectfully,

R. B. HARRISON,
President Montana Cattle Company.

To the SECRETARY OF THE INTERIOR,
Washington, D. C.

[Montana Cattle Company, incorporated 1880.]

HELENA, MONT., *February 6, 1885.*

SIR: I would respectfully call your attention to my letter dated September 20, 1884, in regard to a disallowance of \$935.37 in the beef contract of George T. Newman for the Blackfeet Indians, under contract of April 27, 1883, and ask if my request to have this disallowance submitted to present Congress in your deficiency estimates has been complied with. I herewith hand you a copy of a letter from the Second Auditor of the United States Treasury (original mailed to Hon. J. K. McCammon, attorney-general of the Interior Department), quoting one from the Second Comptroller of the Treasury on this same subject. It appears from these letters that there is no way whatever to secure payment of the beef furnished except through a deficiency appropriation. Our company was a subcontractor under Newman, who will not pay us until he receives the money from the Government. I trust your Department, if you have not already done so, will submit at once an estimate to cover this claim.

Yours, truly,

R. B. HARRISON, *President.*

Hon. H. M. TELLER,
Secretary of the Interior, Washington, D. C.

[Montana Cattle Company, incorporated 1880.]

WASHINGTON, D. C., *December 6, 1884.*

SIR: Your letter to the Secretary of the Interior dated September 20, 1884, transmitted to this office for action, relating to a disallowance of \$935.37 in settlement (No. 942, January 5, 1884) of claim of George T. Newman for beef delivered at the Blackfeet Agency, has been referred to the Second Comptroller, who made the suspension, and has been returned with the following indorsement:

"SECOND COMPTROLLER'S OFFICE,
" *November 20, 1880 [1884].*

" Respectfully return to the Second Auditor, and his attention is invited to the fact that this case has been twice considered and decided, and no reason is seen for any further action in the matter.

" JAS. S. DELANO,
" *Acting Comptroller.*"

As under provisions of section 191 Revised Statutes the decision of the Comptroller is "final and conclusive," no further action can be taken in the case by this office. Your letter is filed with settlement 1982 of July 5, 1884.

Respectfully,

O. FERRISS, *Auditor,*
Per G. S. A.

R. B. HARRISON,
President Montana Cattle Company, Helena, Mont.