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Daniel T. Hedges and Edward B. Spalding.

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DANIEL T. HEDGES AND EDWARD B. SPALDING.

MAY 29, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ALLEN, of Michigan, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 167.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 167) for the relief of Daniel T. Hedges and Edward B. Spalding, executors of Charles E. Hedges, deceased, having had the same under consideration, report as follows:

The claim which this bill proposes to pay was referred to the Court of Claims by the Committee on Claims of the Forty-eighth Congress for a finding of facts under the act of March 3, 1883, commonly called the "Bowman Act." That court has found the facts as follows:

[Court of Claims. Congressional Case No. 130. Daniel T. Hedges and Edward B. Spalding, executors of Charles E. Hedges, vs. The United States.]

FINDINGS OF FACT.

The claim in the above-entitled suit having been transmitted to this court by the Committee on Claims of the House of Representatives, on the day of January, 1887, and the Attorney-General having appeared for the defendants, and the suit having been brought to a hearing on the day of April, 1887, the court, upon the proofs and evidence, and after hearing William B. King, esq., of counsel for the claimant, and F. P. Dewees, esq., of counsel for the defendants, finds the following facts:

I.

Daniel T. Hedges and Edward B. Spalding are executors of Charles E. Hedges, deceased, who was in the year 1866 and 1867 a licensed trader at the Yanktown Sioux Indian Agency, in the Territory of Dakota.

II.

From November, 1866, until May, 1867, there were no provisions at said agency for the subsistence of the Indians, belonging either to the United States or to said Indians. The corn planted by the Indians in the spring of 1866 was a failure in consequence of the destruction of the same by the grasshoppers. The distribution made to the Indians some time in the summer previous was by the 1st day of November exhausted, so at that time the Indians were without provisions or the means of purchasing the same.

III.

On the 1st day of November aforesaid P. H. Conger was, as he had been for some time previous, the Indian agent at said place, and had in his hands as such between \$1,000 and \$2,000, a sum very inadequate to the wants and necessity of said Indians.

In order to relieve the hardship of the situation the said agent requested said deceased to furnish said Indians provisions, consisting of flour, coffee, sugar, and bacon. Some time after the 1st day of November, and during the winter of 1866 and 1867, the said agent visited the city of Washington in order to confer with the Government in relation to the condition of said tribe. Upon the faith of and request so made by said agent, the deceased, between the 1st day of November, 1866, and May 10, 1867, furnished said Indians flour, coffee, sugar, and bacon amounting to the sum of \$11,329. The said agent continued absent at Washington the most of said winter, and the provisions were furnished during his absence, as they had been before his departure and after his return.

IV.

Up to the winter of 1866 the United States had not furnished regular supplies of provisions to the Yankton Sioux Indians; they had to rely upon the small balance which was left of their annuities, after having purchased their clothing, and upon what they could raise upon the agency lands by farming, for subsistence. In the years 1866 and 1867 they were in very destitute circumstances. There were about 2,500 dependent upon the money in the hands of the agent for support. At the time the agent left said agency to confer with the authorities at Washington as to the condition of said Indians the deceased was assured by said agent that if he would advance provisions for said Indians during his absence that he (the agent) would use his official influence to induce the Government to pay decedent. The supplies furnished by Charles E. Hedges were necessary to the support of the Indians, and without such supplies they would have died of starvation. The money mentioned as being in the hands of the agent as aforesaid was exhausted by him for the support of the Indians before he left for Washington. The said provisions were issued to the head-men of the bands and distributed by the head-men among the Indians. It does not appear that the deceased or his administrators have received any pay for said provisions, either from the Government or from any other source.

As it appears from these findings that the claim is for provisions furnished the Indians at the request of the Indian agent in order to prevent actual starvation, the committee think that the claim should be paid.

The Yankton Sioux Indians are now in receipt of an annuity of \$25,000 per annum under the provisions of Article IV of the treaty of April 19, 1858 (11 Statutes at Large, page 744). As this claim is for subsistence actually furnished to the Indians, and used by them under pressing necessity, it would seem proper that their annuities should be charged with the amount thereof. The committee therefore report the following amendment:

Provided, That the above amount shall be charged to and deducted from the annuity account of the said Indians.

And recommend that the bill so amended do pass.