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S. T. Marshall

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S. T. MARSHALL.

MARCH 7, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 2196.]

The Committee on Claims, to whom was referred the bill (H. R. 2196) for the relief of S. T. Marshall, report that in 1850 one G. M. Marshall took to California for the use of the Government 150 ranch cattle and 75 large American beeves, which were delivered to Redick McKee, United States Indian agent, for which the said agent gave a certificate, of which the following is a copy.

SAN FRANCISCO, December 31, 1851.

This is to certify that in the adjustment of the account of James M. Estel for beef cattle purchased in my late expedition through the Indian country, on the Klamath, there is due to G. M. Marshall as per within order of said Estel, dated 15th instant, the sum of \$6,598.49.

At this time I have not funds in my hands applicable to this claim, but have confidence that Congress, during its present session, will provide the means for its payment at an early day, and, in my opinion, it should be paid out of the first moneys appropriated for such purposes in California.

REDICK MCKEE,
United States Indian Agent.

This certificate was in 1876, by the following instrument, assigned to this claimant:

STATE OF IOWA, Lee County:

For value received, I, G. M. Marshall, hereby sell, assign, and set over to S. T. Marshall the above certificate or paper signed by Redick McKee, Indian agent, and he is authorized to collect, settle, and receipt for whatever may be obtained on the same in as full faith and authority as I could do in my own proper person, having sold and transferred said paper or evidence of indebtedness to said S. T. Marshall in the A. D. 1856, and the original having been lost, or placed in the hands of persons for collection and can not be found, the foregoing be a true copy of the original.

G. M. MARSHALL.

Done and subscribed in my presence this 3d day of January, A. D. 1876.

[SEAL.]

R. M. MARSHALL,
Notary Public.

The full history of the claim was contained in a sworn statement of Redick McKee, disbursing agent of the Government; and in the debate in the House, in the first session of the Forty-fourth Congress, from which we quote as follows:

DISBURSING AGENT'S STATEMENT.

1334 G STBEET, Washington, January 15, 1876.

SIR: I have examined the papers you handed me touching the claim of G. M. Marshall, assigned to his brother S. T. Marshall, of Keokuk, Iowa, and return the same herewith.

My recollection of the transaction is distinct; and I think the copy of the certificate sent is an exact copy of the original issued to Marshall December 31, 1851, calling for \$6,598.49. As the purchasing and disbursing agent of the commission sent to California in 1850 to make treaties with the hostile and discontented Indians of that

State, I made a contract with General Estill, owner of the Sascol Ranch, to send with my expedition to the Klamath and Trinity River country a drove of cattle, to supply my own party—the accompanying escort, of United States troops—and for presents to the Indians. In pursuance of this contract General Estill did send some 100 or 150 ranch cattle and 70 or 75 large American beeves under the direction and charge of G. M. Marshall, as agent; I understood at the time that the same cattle belonged to Marshall, and that he was in some way interested in the contract. We started from Benicia, via Sonoma Valley and Russian River, I think, early in August, and I got back to San Francisco in the last days of December. Estill and Marshall settled their accounts, and the former drew an order on me in favor of the latter for the amount stated in the certificate, \$6,598.49. Of the first appropriation made for the service in California (\$25,000) I had to expend nearly half of it in the purchase of Indian goods in New York, under an assurance from the Department that at the next session of Congress \$100,000 more would be estimated for, and no doubt sent me by mail at San Francisco. Relying on this we commenced operation, and were happily successful in restoring peace in the central part of our field. During the session of 1850-'51, however, Commissioner Lea wrote me that the House Committee on Appropriations had cut down his estimate for the service in California from \$100,000 to \$75,000, and I must be governed accordingly. I obeyed instructions, made no contracts or engagements which I thought would exceed that sum, and none not absolutely necessary for the peace of the country. You can judge of our disappointment, especially my own, on finding that after all Congress appropriated for the service in the whole State but \$42,500, and of this the Department sent me but \$27,500! Of course I was unable to pay Marshall and other contractors, and had to resort to the issuance of certificates of indebtedness. By request of the Department I reported in February, and again in July, 1852, one remaining indebtedness in California, in both of which reports this claim of Marshall's is included. (*Vide* Senate Ex. Doc. No. 4, special session, 1853, pages 285 and 343.)

Mr. Marshall being anxious to return home, I gave him a letter to the Commissioner to the effect that if the appropriation had not been remitted to me he might be paid here. And hearing nothing further from either the claimant or the Department, I took it for granted his claim had been settled. On inquiry at the Department I now find it has never been paid; and as I know it to be a just claim I hope Congress will pay it without any longer delay. If Congress shall treat Mr. Marshall as Col. J. C. Fremont was treated in the settlement of his cattle accounts (10 Stat. L., 804), the interest will give the poor man some amends for being kept out of his money for twenty-four years.

If this statement should fail to satisfy the committee, or if it should be necessary that I verify it by a formal affidavit, let me know.

In haste, but very respectfully, your most obedient servant,

REDICK MCKEE,
Late Disbursing Agent in California.

P. S.—If any question should be raised as to my status as commissioner, disbursing agent, etc., reference may be made to the Document No. 4, published by order of the Senate in 1853, above referred to. On page 8 you will see I was expressly instructed to pay the salaries of my colleagues, "and all other expenses of the commission."

R. MCKEE.

Subscribed and sworn on this, the 26th of January, 1876, before me.

JOHN BAILEY,
Justice of the Peace within and for the District of Columbia.

RELIEF OF S. T. MARSHALL.

The next business on the Private Calendar was the bill (H. R. No. 2695) for the relief of S. T. Marshall, of Lee County, Iowa.

The bill was read. It authorizes and directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to S. T. Marshall, of Lee County, Iowa, whatever sum may be found to be due him on account of beef cattle furnished the United States for the use of the Indian Department in California in 1851, upon a fair and equitable settlement of his accounts (as assignee of G. M. Marshall) with the Secretary of the Interior.

1877. Mr. HOLMAN. I call for the reading of the report.

The report of the Committee on Indian Affairs accompanying the bill was read, as follows:

"As the purchasing and disbursing agent of the commission which was sent to California in 1850 to make treaties with the hostile Indians in California, Redick McKee made a contract with General Estill to furnish beef cattle for the escort of United States soldiers which accompanied said McKee and party; that said Estill did furnish a large number of cattle under the contract in which the claimant seems to have been interested. In December, 1850, at San Francisco, the accounts of Es-

till and Marshall were settled, and the agent, McKee, gave to them a certificate of indebtedness, showing that there was due them on the beef contract the sum of \$6,598.49, which said McKee said, and still says, he had not the money to pay, in consequence of the appropriation for the service in California having been reduced much below what he supposed it would be. As evidence of said indebtedness, however, said McKee gave to G. M. Marshall a certificate of indebtedness. A copy, as sworn to by said McKee, is herewith submitted, together with the other evidence in the case. And, confirmatory of this, said McKee, in his official report to the Committee on Indian Affairs, states that this amount is due to said Marshall, but qualified by an indorsements in these words, 'Subject to credit.' But your committee have not been able to ascertain the amount of the 'credit' to which said claim is 'subject,' nor on what account. Your committee are satisfied, however, that a part at least of this claim is just, and ought to be paid.

"It may be, and your committee believe it is, true that the contract made by said McKee with Estill and Marshall to furnish beef to the expedition was made without authority of law; but the evidence shows very clearly that said McKee was the accredited agent of the Government, and that these parties contracted with him under the belief that he had authority to contract with them for and on behalf of the Government, and that he himself believed he had authority to make the contract with them; and also that these parties, in good faith, furnished the beef cattle, for the use of the Government, and that the Government got the benefit of them. It seems but just and equitable, therefore, that these parties should be paid a fair compensation for their property so furnished the Government. Your committee, therefore, recommend the passage of the accompanying bill, as a substitute for House bill No. 118 referred to them."

The CHAIRMAN. The Clerk will again read the portion of the report showing the date of the transaction.

The Clerk read as follows:

"As the purchasing and disbursing agent of the commission which was sent to California in 1850 to make treaties with the hostile Indians in California, Redick McKee made a contract with General Estill to furnish beef cattle for the escort of United States soldiers which accompanied said McKee and party; that said Estill did furnish a large number of cattle under the contract, in which the claimant seems to have been interested."

Mr. McCRAHY. The only objection that I understand the gentleman from Indiana to raise to the payment of this claim is that it has been due a long time, if due at all. Being familiar with the evidence in the case, I desire to state to the gentleman and to the House that this delay is fully explained by the evidence. The claim was made very soon after it accrued. The papers were placed in the hands of parties here in the city of Washington for the prosecution of the claim. They were held by those parties for some time without the money being collected, the action of Congress being required. When the war broke out the persons who had possession of the papers and charge of the claim went into the Southern army. The claimant has never been able to find them since, and his efforts to find those parties and the original papers have delayed him until within the last year or two, when he has procured duplicates from the original Indian agent himself, which are sworn to and filed in the evidence in this case.

There is some little doubt as to the exact amount which is due to this claimant, as stated in the report. But that he furnished property to the United States for which he has never received a cent is entirely clear; and a fair settlement of his accounts at the Treasury Department will determine exactly what is due him. I hope, therefore, that the bill will not be passed over, but will be laid aside to be reported to the House.

Mr. BOONE. I desire to state, Mr. Chairman, that this bill did undergo a very close examination by the Committee on Indian Affairs. It is true the report does not set forth all the evidence in support of the claim, and it is further true that this claim is an old one. But that is very easily accounted for. Now, there can be no possible doubt about this case. These parties furnished the Government with beef, which was consumed, and the Government got the benefit of it. It was furnished at the instance of an officer of the Government, Mr. McKee, who was the agent of the Government in California to treat with hostile Indians, and the reason he had not money to meet this debt arose from a misapprehension on his part as to what would be the appropriation.

It appearing from the above that the bill for the allowance of the claim was reported favorably in the Forty-fourth Congress, and your committee, being satisfied that the claim is just and ought to be paid, recommend the passage of the bill with an amendment striking out the allowance of interest in the thirteenth line of the bill.