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E. Douglass.

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E. DOUGLASS.

JULY 11, 1894.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany S. 1319.]

The Committee on Claims, to whom was referred the bill (S. 1319) for relief of E. Douglass, after fully investigating the same, report it back to the House with the recommendation that it do pass, and adopt the report hereto attached made by the Senate.

H. Rep. 4—17

Senate Report No. 303, Fifty-third Congress, second session.

Mr. MITCHELL, of Oregon, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1319.]

The Committee on Claims, to whom was referred the bill (S. 1319) for the relief of E. Douglass, late Indian agent at White Earth Agency, having had the same under consideration, beg to submit the following report:

This is a claim presented by Mr. Ebenezer Douglass, late Indian agent at White Earth Indian Agency in the State of Minnesota, for the sum of \$608, for money alleged to have been paid out and services alleged to have been performed by him at the request of the Commissioner of Indian Affairs in closing the accounts of said agency after his term had expired.

The sum was made up of two items, one for moneys alleged to have been paid out by him to his clerk, Charles H. Burwell, for services in preparing the accounts of the Chippewa Agency, commencing July 1 and ending September 11, 1874, two and one-third months at \$100 per month, amounting to \$233.33; the other item is for services alleged to have been rendered by Mr. Douglass in making up the accounts of the Chippewa Agency, commencing July 1 and ending September 30, 1874, three months at \$125 per month, amounting to \$375, making a total of \$608.

This account of \$608 was approved by the then Commissioner of Indian Affairs, under date of November 8, 1875, and the claim was then certified as correct and just to the Second Auditor of the Treasury. The Auditor refused to allow the claim, and a bill for Mr. Douglass's relief was introduced in the Fifty-second Congress. No action, however, was taken by the committee, but the claim was at that time referred to the Secretary of the Interior, and on February 3, 1893, was returned by the Acting Secretary, Hon. George Chandler, together with the following letter from the then Commissioner of Indian Affairs, Hon. T. J. Morgan, and also the following papers, including the Commissioner's certificate to the Second Auditor, a copy of the certified claim as made originally by Agent Douglass, and an extract from Agent Douglass's explanations on file in the Auditor's office, all of which are made a part of this report:

DEPARTMENT OF THE INTERIOR,
Washington, February 3, 1893.

SIR: This Department begs to acknowledge the receipt of a copy of Senate bill No. 2807, "for the relief of E. Douglass, late Indian agent at White Earth Agency," with request that any papers on file here relating to the claim be forwarded for use of the committee, together with opinion as to the merits thereof.

Your attention is invited to the inclosed copy of a report from the Commissioner of Indian Affairs on the subject.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

Hon. JOHN H. MITCHELL,
Chairman Committee on Claims, U. S. Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 31, 1893.

SIR: I have the honor to return herewith, in compliance with your instruction of 24th instant, bill S. 2807, for the relief of Mr. E. Douglass, ex-agent White Earth Agency, Minn., and to report that from records in this office it appears that under date of November 8, 1875, the then Commissioner of Indian Affairs certified the claim named in the bill as correct and just to the honorable Second Auditor of the Treasury.

I do not know of any reason to change this decision, and would respectfully suggest that the Treasury Department, if asked, may explain the necessity for withholding the money.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Commissioner's certificate to the Second Auditor.]

Account of E. Douglass for services rendered in third quarter 1874, in making up his quarterly accounts, and for amount paid clerk in same quarter, \$608.33.

Examined, allowed, and respectfully referred to the Second Auditor of the Treasury for settlement in connection with the agent's final accounts.

Charging appropriation. Contingencies Indian Department, 1875, \$608.33. Payment to be made to claimant, Minneapolis, Minn. Department of the Interior, Office Indian Affairs, November 6, 1875. Edw. P. Smith, Commissioner.

[Agent Douglass' claim as made originally.]

The United States, to E. Douglass, Dr.

WHITE EARTH, MINN.

1874. For personal services in making up the accounts of the Chippewa Agency, commencing July 1 and ending September 30, 1874, three months at \$125.....	\$375.00
For salary paid Chas. H. Burwell for services as clerk in preparing the accounts of the Chippewa Agency, commencing July 1 and ending September 11, 1874, two and one-third months at \$100.....	233.33
Total	608.33
(Receipt herewith)	

I hereby certify, on honor, that the above account is correct and just, and that I have actually this 30th day of September, 1874, paid Chas. H. Burwell \$233.33, in full of his claim, as above.

E. DOUGLASS,
Late U. S. Indian Agent.

Received at Chippewa Agency ———, 187—, of E. Douglass, U. S. Indian agent, ——— dollars, in full of this account, \$——.

Witness:

I certify, on honor, that the above account is correct and just, and that I have actually this ——— day of ———, 187—, paid the amount thereof.

U. S. Indian Agent.

One copy retained in Indian Office.

[Clerk's receipt filed with claim.]

Received of E. Douglass, late U. S. Indian agent, \$233.33 in full of account for services as clerk in preparing the accounts of the Chippewa Agency for presentation to the Department at Washington, commencing July 1, 1874, and ending September 11, 1874, (2½ months at \$100, \$233.33).

CHARLES H. BURWELL.

MINNEAPOLIS, MINN., *September 30, 1874.*

[Extract from Agent Douglass's "Explanations" on file.]

Third Quarter 1874. Special Account.

In remarks upon special accounts for services in making up accounts after being relieved as agent, you say:

"The agent's account should have been in such shape that they could have been completed and ready to be forwarded to the Department in three days after he ceased to be agent, etc."

Judging only by the few vouchers forwarded in my second quarter's accounts, this might seem plausible. To those not conversant with the condition of affairs at the agency at the time of my taking charge and the amount of work done during my term of service, it may not be easy at this distance and on paper to make it appear otherwise. But if you will take your map of the different reservations belonging to Chippewa Agency in 1873 and 1874 you will discover that the Indians belonging to that agency were scattered over a territory 500 miles from east to west, and 200 miles from north to south. That employés were scattered from Oak Point on the Mississippi River on the east to White Earth on the west 200 miles apart, and from (leaving out Smoke River Indians where considerable money was expended) Mille Lacs on the south to Leach Lake, Cass Lake, and Winnebagoishish on the north 150 miles apart, Government property was as scattered as employés.

To settle with these employés, without personal inspection of all their work, involved travel of more than 500 miles through a wilderness country with teams and camp equipage and supplies for camping. I arrived at the agency the 6th of June, 1873, in the midst of spring work. For several months previous to my arrival no resident agent had been on the ground. M. S. Cook, whose ability and efficiency is known at the Indian Office, was employed as clerk, not acting agent, and in endeavoring, in the absence of an agent, to superintend the various operations at that point the office work had unavoidably fallen far behind.

The season of plowing and seeding, already advanced, required the immediate, constant, and vigorous attention of the agent. The writing was largely increased at this time by the issuance of Red Lake and Pembina half-breed scrip, all of which passed through that office. New and extensive enterprises had been projected by the Commissioner which I was expected to carry forward and many improvements commenced and unfinished for me to complete. More than 40 Indian houses and several houses for employés were built. The schoolhouse, industrial hall, agent's house and office, all unfinished, had to be completed for winter. A gristmill was built and prepared for grinding at White Earth. A sawmill transported 100 miles to Leach Lake and set up and put in operation at that place. In view of the proposed removal of additional bands to White Earth, new claims had to be selected and located, breaking and fencing done, besides the construction of roads and bridges. All this work received largely my personal supervision.

M. S. Cook remained after my arrival two months and nine days, until August 15; but work required upon account for the first quarter and the scrip business left her but little time on my accounts.

Upon the retirement of Miss Cook A. G. Douglass was appointed clerk, accounts were opened with every employé, immense quantities of stores were distributed, many of them transported great distances; funds were placed in my hands for settlement of all accounts and payment of employés from April 1, almost an entire quarter before my arrival at the agency, and all these accounts left for me to examine, settle, and make up. For six weeks and to October 1 A. G. Douglass worked constantly upon these accounts. On the 1st of October we commenced the annuity payments. To make these payments required over 1,500 miles of travel, mostly by teams where teams could go, by boats where teams could not go, and at one place walking 14 miles through swamp and marsh where neither could go. These payments, and the removal of Indians from Gull Lake 150 miles east and Pembina 300 miles northwest, and a brief trip to St. Paul to attend the investigation of Commis-

sioner Smith, occupied the entire fourth quarter and up to January 1, 1874. As this required all our available force, office work had to remain *in statu quo*, except by being largely increased by the work we were doing. New Year's, therefore, found us with all the accumulated writing of third and fourth quarters behind. After payments all settled down to office work again.

Alex Smith, my issue clerk, who had been an efficient helper, had been discharged for want of funds, and his work fell upon my clerk. The newly removed Indians had to be subsisted from the warehouse, and keeping all the issue accounts added considerably to the writing. I was reminded by Commissioner Smith, and felt the delinquency of my accounts, and tried to give them my personal attention, but this I found impossible. My Indians were so scattered; the turbulent and excited state of the Pillagers that year, owing to their pine lands having been sold contrary to their wishes, required me to go frequently to Leech Lake to look after the Indians and interest of the Government there. The additional labor on account of the removal of Indians kept me constantly on the move and away from the office. I made strenuous efforts to get additional help, but without success until March, 1874, when C. H. Burwell was appointed. He went to work immediately upon the accounts and worked incessantly until September 11, when he was paid and relieved. I was informed of the probable transfer of the Indians to the care of the Episcopal Church, and the transfer was made at the commencement of the third quarter. This required the taking of an accurate inventory of Government property, which of itself would not be an easy three days' job.

All employes had to be settled with, and all 22 accounts, scattered as they were, must be settled and closed up. Allow me to say here that the few vouchers forwarded in my second quarter's accounts do not represent by any means this labor. As for want of funds, nearly all were paid in certified vouchers, which do not appear in the accounts, and, besides, the third and fourth quarters' accounts were hardly completed at the beginning of the third quarter, 1874. To these settlements and making up accounts I gave my undivided attention for three months, and during no other three months was my time more closely occupied, and Mr. Burwell worked also constantly, and was paid up to September 11. My accounts were closed and forwarded to the Department at the earliest possible moment. If you will take the trouble to inquire at the Indian Office I venture the belief that from the time the agency was established at White Earth down to my retirement from office you will find in no year, when there was as much done as during the years I was there, a single quarter's accounts closed up and forwarded to the Department sooner than from two to three months after the close of the quarter. I say this with some knowledge of the facts and with the knowledge, also, that with a single clerk it could not possibly be done sooner. Miss Cook, who has had personal experience and also personal knowledge of many facts here stated, would, I have no doubt, verify every statement so far as it came under her observation.

Without making this more prolix I trust these facts, which are "undisputable," may be sufficient to show that it was impossible for my clerk to make up these accounts in less time than he did, and that, owing to the great amount of work, it was impossible for me to give it my personal attention while in office without suffering far greater loss to the Government and service by the neglect of other important duties, and that the amount paid my clerk for services actually rendered and my own time actually required and given to the service will be allowed.

Subscribed and sworn to before me, a notary public for Rice County, Minn., this 11th day of January, A. D. 1879.

[SEAL.]

D. W. MARKELL,
Notary Public.

The bill was then referred to the Secretary of the Treasury for report, and he on February 13, 1893, returned the same with the following communication, covering a communication from the Second Auditor, Hon. J. N. Patterson:

TREASURY DEPARTMENT, February 13, 1893.

SIR: In reply to your communication of the 4th instant, inclosing S. 2807, "For the relief of E. Douglass, late Indian agent at White Earth Indian Agency," and asking information upon the merits of the same, I have the honor to transmit herewith the report of the Second Auditor in the matter, of the 10th instant.

The inclosures to your letter are herewith returned.

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

Hon. JOHN H. MITCHELL,
Chairman Committee on Claims, U. S. Senate

TREASURY DEPARTMENT, OFFICE OF THE SECOND AUDITOR,
Washington, D. C., February 10, 1893.

SIR: In compliance with the request of Hon. John H. Mitchell, chairman of the Senate Committee on Claims, dated February 4, and received from your office by reference of the honorable Assistant Secretary John H. Gear, dated February 7, I have the honor to report as follows on the claim of Ebenezer Douglass, former Indian agent at White Earth or Chippewa Agency, Minn.:

Agent Douglass held his position from May 17, 1873 (on which date also he was bonded), to June 30, 1874, at a salary of \$1,500 per annum. On July 1, 1874, he was relieved by Lewis Stowe as agent. In rendering his accounts, Agent Douglass filed a claim for \$608.33, consisting of two items: \$375 as compensation for his own services "in making up the accounts of the Chippewa Agency, commencing July 1 and ending September 30, 1874," and \$233.33 for "salary paid Charles H. Burwell for services as clerk in preparing the accounts of the Chippewa Agency commencing July 1 and ending September 11, 1874, two and one-third months, at \$100." He filed Burwell's receipt therefor.

In the original settlement of the accounts this claim, which had been allowed by the Commissioner of Indian Affairs, was disallowed by the accounting officers for the following reasons:

"Mr. Douglass had a clerk in his employ during the entire time of his administration of the agency. His accounts should have been in such shape that they could have been complete and ready for forwarding to the Department within three days from the time he ceased to be an agent. His accounts for the second quarter, 1874, are small; the clerical labor in making them up could not have consumed the time of a competent clerk for more than two or three days."

(The above is an extract from "Statement of differences," in settlement 2847, of January 15, 1877.)

There were two subsequent settlements of Agent Douglass's accounts, viz, No. 428, January 19, 1880, and No. 1802, August 26, 1880; on the latter a balance of \$295.30 was found due the agent, which was paid him, thus closing the account. On both these settlements the claim for \$608.33 above named was still disallowed. The agent filed in 1879 an elaborate explanation of various items to which exception had been taken, from which the accompanying Exhibit D is taken, relating to the claim in question. This explanation is rather a history of the difficulties of the agent's position during his term of service than a specific showing why his accounts required three months' extra work afterwards. These difficulties were largely such as are encountered by every Indian agent, but they are not usually regarded as any reason for allowing compensation for subsequent labor in making up the returns. The disallowance was continued on settlement 428 in the following terms: "The agent's compensation is presumed to cover the rendering of his accounts in due form, and there appears no appropriation from which such extra compensation is payable." In explanation of this it is remarked that the succeeding agent's salary having commenced on July 1, 1874, the outgoing agent could not be paid from the appropriation "pay of Indian agents;" and by reason of section 3682, Revised Statutes, which was then in full force, providing that "no moneys appropriated for contingent, incidental, or miscellaneous purposes shall be expended or paid for official or clerical compensation," pay for the services claimed could not be charged to the appropriation "contingencies of the Indian Department," as had been done by the Indian Office, so that the law did not permit payment, without regard to the alleged equities of the case.

Upon the papers now submitted, and the relief act proposed, the following comments are submitted:

(1) The question of relief and the measure thereof should depend, not on the general difficulties of his position, as alleged by the agent, but on the point, how far the unexpected difficulties arising from the action of the Indian Office in changing the status of the agency in the spring of 1874 operated to prevent the agent from making his returns within the usual time. Many of the excuses stated by him might be, with equal truth, asserted by every Indian agent; but the effect of any general allowance of claims like this would be to put a premium on delinquency. It is noted, further, that Agent Douglass admits that he was notified of the proposed changes in May, several weeks prior to the termination of his service; and that he states that after two months and twenty days' work on the accounts "the needful work was completed and the papers were forwarded to Washington." It is thought that this should modify his claim for three months' salary at \$125 per month. No written authority to go to Minneapolis and make up his accounts appears on file; nor does he allege in his explanations that he received a verbal direction to that effect from the then Commissioner of Indian Affairs, though the allegation is in accordance with the known practice of that officer.

This office, however, does not desire to imply that there is not an equitable claim on the agent's part to a fair compensation for such service as the duties of the

agency prevented him from completing within his term of service and for reimbursement of the sum paid his clerk. It is noted that Burwell claims to have worked to September 22, though his original receipt, signed by him September 30, 1874, states the services as terminating September 11. On the agent's showing the claim should stand thus:

Agent Douglass, two months and twenty days, at \$125	\$333. 33
Amount paid Burwell.....	233. 33
Total.....	566. 66

(2) Should the committee conclude to report favorably, it is suggested that the act be amended by substituting "the Secretary of the Treasury" for "the Secretary of the Interior," in the third line, for the reasons (1) that the Indian office has already acted on the case, as required by section 464 of the Revised Statutes; (2) that no "moneys not otherwise appropriated" are in the hands of the Secretary of the Interior.

The papers (4 in number) inclosed, with Senator Mitchell's letter, are herewith returned.

Respectfully, yours,

J. N. PATTERSON,
Auditor.

The SECRETARY OF THE TREASURY.

The claimant has also filed with your committee the following affidavits of himself and his clerk, Charles H. Burwell:

The Senate and House of Representatives of the United States of America in Congress assembled:

The following account against the United States and verified statement of facts and the annexed affidavit are respectfully submitted, to accompany or explain any bill or resolution that may be presented to your honorable body in relation thereto:

The United States to E. Douglass, of Minneapolis, Minn., Dr.

To services rendered in preparing the accounts of the White Earth Indian Agency, immediately subsequent to his removal as agent at that place in the summer of 1874, viz:

The amount of cash paid Mr. Charles H. Burwell for clerical work from July 1, 1874, to September 22, 1874, two months and twenty-two days, at the rate of \$100 per month.....	\$270. 00
For my own personal services for the same time, at \$125 per month.....	338. 00

Total amount claimed..... 608. 00

It becomes necessary for me to give reasons for the necessity for this service, and my authority for rendering said service.

This claim would have been allowed and paid by the Government but for the fact that I had no *written authority* from the Department to do the work. My authority being simply a verbal request, made in person by the honorable Commissioner of Indian Affairs, Mr. E. P. Smith, while on a visit to White Earth Reservation.

Mr. Smith well understood the situation of affairs there, as he was U. S. Indian Agent of the Chippewas of Minnesota at the very opening of the reservation in 1872-'73, and as my immediate predecessor had laid the foundation of the agency, previous to his appointment as Commissioner.

The reservation was without an agent for several months previous to my appointment, and the accounts of the agency rapidly accumulated in his absence, so that upon my entrance upon the work there were turned over to me this large accumulation of clerical work, and in addition thereto the immense amount of business incident to the further opening of the reservation and the settling of the Indians upon their new lands.

The bands of Indians then under my supervision and which it was the purpose of the Government ultimately to locate upon the reservation were scattered and widely separated from each other, so that in making the annual payment it became necessary for me to travel more than 1,000 miles, and to transfer the goods to be distributed among these scattered tribes. Nearly two months were consumed in making this required payment.

It was absolutely necessary for me to take from the home office my bookkeeper, which, of course, took his time from the accounts in his hands.

Pembina, Leach Lake, Winnebegoshish, White Oak Point, Pokegema, Pine City, Gull Lake, and Mille Lac bands were visited and paid during this long and tedious pilgrimage.

Meanwhile the great work of settling the thousands who had located at White Earth was being pushed vigorously under the supervision of the several heads of the departments, as farmer, carpenter, blacksmith, miller, etc. More than 40 Indian houses were erected, also an Industrial hall. A steam sawmill and various other improvements made as the construction of roads and bridges, in short everything to render the Indians contented and self supporting. Immense tracts of land were broken up, and the progress of the Indians was simply marvelous. All these things increased the necessity of clerical work.

Early in the spring of 1874, in May, I think it was, I was notified by the Hon. E. P. Smith that the agency would soon be transferred to the jurisdiction of the Episcopal Church from that of the Congregational, and that I must expect to be relieved and an Episcopalian put in my place. He instructed me to proceed with all possible dispatch with my accounts, as my successor would probably decline to take the control and settle my accounts. This proved to be as predicted, and Mr. Stowe, my successor, positively refused to have anything to do with my accounts.

The change of administration was most abrupt, and I had nothing left for me to do but to box all the papers and take them with me to Minneapolis, my home, and here, with my efficient clerk, Mr. Charles H. Burwell, whose affidavit accompanies this, worked incessantly upon these accounts for two months and twenty-two days, when the needful work was completed, and the papers were forwarded to Washington.

I would further state that I have never been paid for said services, nor for the moneys paid by me to my said clerk, as set forth in my account, nor for any part thereof, but the same is wholly due and owing to me by the United States.

E. DOUGLASS.

STATE OF MINNESOTA, *County of Hennepin, ss:*

On this 19th day of March, 1892, before me personally came E. Douglass, to me personally known, and, being duly sworn, doth depose and say that he has read the foregoing statement by him subscribed, and that the same is true, of his own knowledge, except as to those things therein stated upon information and belief, and as to those matters he believes them to be true.

E. DOUGLASS.

Subscribed and sworn to before me this 19th day of March, 1892.

[SEAL.]

RICH'D D. ARTHUR,
Notary Public, Hennepin County, Minn.

I herewith transmit an affidavit of my clerk, Mr. Charles H. Burwell, the gentleman mentioned in my statement, who was perfectly conversant with all the circumstances of the case.

I also respectfully refer to Miss Minnie S. Cook, now in the employ of the Indian Bureau at Washington, and who was the efficient clerk of the Hon. E. P. Smith aforesaid at White Earth Reservation during his administration as agent and subsequently for a season.

Respectfully,

E. DOUGLASS.

STATE OF MINNESOTA, *County of Hennepin, ss:*

I, Charles H. Burwell, of the city of Minneapolis, Minn., hereby certify that I was employed by Maj. E. Douglass, then U. S. Indian agent at White Earth, Minn., as his office clerk, from March, 1874, until July 1, 1874, at \$100 per month, the appointment having been ratified by the Interior Department at Washington.

I also certify that it was impossible for me to close the books of the agency as Maj. E. Douglass' term of service was attended with an unusual amount of business requiring clerical service and was abruptly terminated; that, as I understood it, Commissioner E. P. Smith, the predecessor of Maj. E. Douglass, had personally directed said Douglass to remove all the books and accounts of the agency to his home in Minneapolis, and there complete the necessary work of preparing the accounts for presentation to the Indian Department at Washington.

That I was thus employed by Agent E. Douglass, at the dictation of Commissioner E. P. Smith, at the residence of Maj. E. Douglass, in the city of Minneapolis, Minn., from July 1, 1874, to September 22, 1874, upon said accounts, two months and twenty-two days, and that I received therefor, from said Douglass, the sum of \$270 in cash, which was at the rate of \$100 per month.

That Maj. E. Douglass worked with me constantly on the same accounts until the work was done.

I would further state that I have read the annexed statement of Maj. Douglass in relation to his said claim, and most of the facts therein stated are within my own knowledge, and are personally known to me to be true, and as to the other matters therein set forth by him, I believe them to be strictly true and correct.

CHARLES H. BURWELL.

Sworn and subscribed to before me, this 19th day of March, 1892.

[SEAL.]

RICH'D D. ARTHUR,

Notary Public, Hennepin County, Minn.

Your committee are unwilling ordinarily to recognize a claim of an ex-official for services rendered or moneys paid out subsequent to the expiration of his term of service, yet in view of all the exceptional circumstances of this case—of the fact that the payment in this case and services rendered were at the instance of the Indian Department, and the account was approved by the Commissioner of Indian Affairs, your committee are disposed to recommend the passage of this bill with the amendments suggested by the Second Auditor as follows:

In line 3, strike out the word "Interior" and insert in lieu thereof the word "Treasury."

In line 6, strike out the words "his hands," and insert in lieu thereof the words "the Treasury."

In line 7 strike out the words "six hundred and thirty-two dollars and seventy-five," and insert in lieu thereof the words, "five hundred and sixty-six dollars and sixty-six."