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Report : Mr. Underwood

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Recommended Citation

S. Rep. 274, 30th Cong., 2nd Sess. (1849)

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IN SENATE OF THE UNITED STATES.

JANUARY 29, 1849.

Submitted, and ordered to be printed.

MR. UNDERWOOD made the following

REPORT

[To accompany bill S. No. 410.]

The Committee of Claims, to whom was referred the petition of the heirs of Joseph Watson, deceased, report:

That said Watson, in his lifetime, presented an account against the government for \$9,048 01, and petitioned Congress to provide for its payment. This claim has been renewed by his heirs, and constitutes the matter for the disposal of the committee. The claim consists of the following items, to wit:

1. For services as secretary to the Indian Department within the superintendence of the governor of the Territory of Michigan, from the 1st September, 1806, to 16th August, 1812, at \$600 per annum.....	\$3,576 67
2. Rations for 2,175 days, at three rations per day, being 6,525 rations, at 20 cents per ration.....	1,305 00
3. For services as storekeeper from 1st September, 1806, to 16th August, 1812, at \$40 per month, being 71 months and 16 days.....	2,861 34
4. For rations for 2,175 days, at three rations per day, being 6,525 rations, at 20 cents per ration.....	1,305 00
	9,048 01

According to this account, Mr. Watson claims from the government for services rendered as secretary to the Indian Department, and as storekeeper between the 1st September, 1806, and the 16th August, 1812, at the rate of \$1,080 per annum for salaries, and at the rate of \$1 20 cents per day, or \$538 per annum for rations—thus making the annual compensation claimed amount to \$1,618. There is, in the opinion of the committee, no foundation either in law or equity for any such demand. There is no act of Congress known to the committee which authorized the appointment and employment of Mr. Watson upon a fixed annual salary. Had there

been, he would have been paid as other salaried officers. If he was not duly appointed to fill some office known to the law, the only just claim he can have against the government is for valuable services rendered voluntarily, or at the instance of some officer of the government. It is certain, in the opinion of the committee, that Mr. Watson did not hold and perform the duties of an office for which any annual salary or fixed compensation was provided by law. Whatever services Mr. Watson may have performed as secretary to the Indian Department or as storekeeper, may be a valid foundation for a *quantum meruit* claim, but for nothing more. What amount of service he rendered in either of these capacities is not shown by proof. On the 31st December, 1810, General Hull stated, in a certificate under that date, that "Mr. Watson has occasionally acted as my private secretary, and as secretary to the Indian Department, since the first day of September, 1806, to this day, inclusive." On the 16th December, 1809, Wm. Hull, as superintendent of Indian Affairs, gave a commission to Mr. Watson, appointing him "secretary to the Indian Department;" and in this commission he is charged with the duty of receiving "licenses to trade with the Indians, and for licenses to purchase horses in the Indian country, and thereupon to report said applications to the superintendent, together with the name or names of the person or persons offered as surety or sureties; he is then to prepare the necessary bonds and licenses ready for the signature of the superintendent; he is diligently to inquire into and ascertain breaches of the aforesaid laws and regulations, (referring to the laws and regulations concerning trade and intercourse with the Indians,) and to report all such as may come to his knowledge to the superintendent; he is to keep correct records of all licenses issued, and to preserve all the bonds carefully on file, in order that at all times he may be enabled to ascertain the number of traders' licenses; he is to countersign all proclamations, licenses, and other official documents, relative to trade and intercourse with the Indians, which shall hereafter be signed by the superintendent; he is to perform all other duties properly appertaining to this appointment, and in all cases he is to follow the directions of the superintendent." It might be shown, if the records had been kept by Mr. Watson, as required in his commission, and presented, how much service he had rendered in regard to licenses, and probably other matters. But the committee have received no such evidence, nor do they know that any such record has been kept, or, if kept, what has become of it. This record book, if in existence, would doubtless furnish important evidence in regard to the claim. But in the absence of all evidence showing the amount of service rendered, the committee are altogether opposed to making the commission the basis upon which to provide for Mr. Watson as a salaried officer. Governor Hull, as superintendent of Indian Affairs, had no authority in law to create any such office or officer as "secretary to the Indian Department." But even if he had such authority, the commission would not sustain the whole charge made in that character, inasmuch as it could not properly go further back than

its date on the 16th December, 1809. A year after that date, to wit: in December, 1810, Governor Hull states that Mr. Watson has "*occasionally acted*" as private secretary and secretary to the Indian Department. This negatives the idea that he was fully occupied as *secretary*, after his appointment by Governor Hull. What services he rendered as storekeeper, what goods were placed under his charge, and where and how they were kept, the voluminous papers furnish no information. Upon the examination of the whole case, the committee think that Mr. Watson's account, as made out and presented, is without foundation; but they are further of opinion that he did render some services, but to what extent is not shown; and as it is just to pay his heirs or legal representatives the value of the services actually rendered, the committee have deemed it proper to refer that matter for settlement to the Treasury Department. It appears that the appropriations made for the contingent expenses of the Territory of Michigan from 1807 to 1812, inclusive, were not fully expended. The committee think that all such services as were rendered by Mr. Watson, at the instance of Governor Hull, and which should properly be charged to the government, ought to have been paid out of these appropriations; and they have, therefore, limited the compensation to be made by the unexpended balances of those appropriations. The idea that any superintendent of Indian Affairs, or the governor of a Territory, can, without authority of law, create offices and commission persons to fill them, fix salaries, and regulate the number of rations to be allowed, is wholly inadmissible. To carry out the foregoing views a bill is herewith reported.