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Charles R. Allen

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Report No. 410.

[To accompany bill H. R. No. 360.]

HOUSE OF REPRESENTATIVES.

CHARLES R. ALLEN.

MARCH 28, 1848.

Mr. CROWELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of Charles R. Allen, report:

That they have examined the claim of the petitioner, and find his charges reasonable and just, and have, therefore, reported a bill for its payment and recommend its passage. Concurring in the report made from this committee, January 28th, 1845, the same is appended hereto, and, with the accompanying papers, are directed to be printed.

HOUSE OF REPRESENTATIVES.—January 28, 1845.

The Committee of Claims, to whom was referred the petition of Charles R. Allen, report:

That it appears that the petitioner was employed by the United States Indian agent, James Stryker, and by their commissioner, to make a treaty with the Seneca Indians, Hon. R. H. Gillét, to secure the services of two deputy sheriffs or marshals, and three other men, to preserve the peace and maintain order at the council, and to protect the council-house from those Indians hostile to the projected emigration; that the petitioner hired the five persons, paid to them their wages, liquidated their board bills, and kept their horses, for which he claims the sum of \$211 50.

About the amount of his bill, or about the justice of its payment,

there is no dispute. Nor about the necessity of incurring the expense, or the legality of the order directing it, is there any difference of opinion. All these points are conceded.

The commissioner, Mr. Gillet, says: "I know the guard was kept, and the civil officers in attendance, for the purposes mentioned; and such services were useful and proper, and ought to be paid. As the funds intrusted to me to be used in the negotiation have all been expended, I refer the claimant to the Commissioner of Indian Affairs for payment." The certificates of Mr. Stryker and of Mr. Gillet are appended hereto; also the communications of the Commissioner of Indian Affairs.

The Commissioner of Indian Affairs, it appears, had made some "agreement," or effected some kind of "understanding" with an association of persons which he calls the "Ogden land company," by which he expected to obtain from that association a portion of the money necessary to defray the expenses of making a treaty between the United States and the Seneca Indians. Hence, when the commissioner, Mr. Gillet, who treated with the Indians, referred the petitioner to the Indian bureau for payment, in consequence of the exhaustion of the funds committed to him for disbursement, the petitioner was told by the Commissioner of Indian Affairs, in a letter to him, dated August 1, 1841, that "the appropriation for expenses attending the negotiation of the treaty with the New York Indians *having all been expended*, (as you were informed by the endorsement on the account, 22d March, 1839,) *there appears to be no alternative but to apply, as before suggested, to the Ogden land company for payment.*"

It by no means appears clear to your committee, that because the Commissioner of Indian Affairs has exhausted the funds placed at his disposition by Congress to make a treaty, he can therefore refer the employees of the government to individuals or to companies, by whom said employees were not employed, and with whom they never had anything whatever to do. On the contrary, the Indian agent and the commissioner, after the destruction of the council-house by the hostile Indians, having found it absolutely necessary to employ a guard, the government is bound, in honor, in the opinion of your committee, to pay the men employed, and *not* refer them for payment to a company, *to them wholly irresponsible*. If the Commissioner of Indian Affairs has effected an "understanding"—most especially if he has consummated an absolute "agreement"—with the Ogden land company, by which that company, for a valuable consideration, has become responsible to the United States for the payment of one-half of the expenses incurred in making the treaty above referred to, it is undoubtedly his duty to take measures to see that that company complies with its engagements; but such agreement cannot authorize him to force upon the public creditor, to the extent of his claim, the office of collector of governmental demands against either individuals, companies, corporations or States, American or foreign; and this the more especially when employees are made creditors of the government without notice that they must look elsewhere for the liquidation of their

demands: That the petitioner was legally employed by duly authorized government officers, and that they would have paid him but for the lack of funds, is expressly proved; and, hence, should be promptly paid. A bill for the amount of the claim is herewith reported, and its passage recommended.

The United States,

To Charles R. Allen, Dr.

1838.

Sept. 29.	For the board and lodging of two deputy sheriffs or marshals, (who were in attendance to preserve the peace and maintain order at the council held on the Buffalo creek reservation with the Seneca Indians by R. H. Gillet, commissioner, &c.,) 39 days, at 75 cents each per day.....	\$58 50
	For keeping and feeding their horses, and other contingent expenses during that time, (being from the 21st August to the 30th September, 1838,).....	6 75
Oct. 2.	For the services and board of three men employed as a guard to protect the council-house in which the said council was held; one council-house having been burnt by the party opposed to emigration, and an attempt made to fire the other, (from 24th August to 2d October, 1838,) three men 39 days, at \$1 25 each per day, including pay and board.....	146 25
		<hr/>
		\$211 50
		<hr/>

I certify that the foregoing account is correct; that the expense was necessary; and that there is due to Charles R. Allen the sum of \$211 50, which you will please pay on this my requisition.

JAMES STRYKER,
United States Agent.

Hon. R. H. GILLET,
Commissioner, &c.

The above account was made, as I understand, upon the express arrangement with the agent, James Stryker. I know the guard was kept, and the civil officers in attendance, for the purposes mentioned; and such services were useful and proper, and ought to be paid. As the funds entrusted to me, to be used in the negotiation, have been all expended, I refer the claimant to the Commissioner of Indian Affairs for payment, which he is requested to do as soon

as an appropriation authorizing it shall be made. Dated November 28, 1838.

R. H. GILLET,
Commissioner, &c.

OFFICE INDIAN AFFAIRS,
March 22, 1839.

According to the understanding between the department and the Ogden Company, the expenses in holding a treaty with the New York Indians were to be borne by each party paying a share, as is more fully endorsed upon a settlement given to Mr. Gillet, for the purpose of enabling him to collect the sum of \$1,244 57 expended by him as commissioner, over and above the sum of \$4,000 paid by the government. The annexed claim of pay to be on account of the same negotiation, and, according to the agreement before referred to, is to be paid by the company; the department refusing to recognise the claim, or to make any further payment of the expense. The claim annexed is \$211 50.

T. HARTLEY CRAWFORD.

WAR DEPARTMENT,
Office Indian Affairs, August 9, 1841.

SIR: I have received your letter of the 5th instant; also yours of the 2d June, addressed to the Secretary of War, enclosing an account for expenditures incurred in 1838 at the council with the New York Indians, amounting to \$211 50. The latter was placed among the claims, and thus overlooked until now.

The appropriation for expenses attending the negotiation of the treaty with the New York Indians having all been expended, (as you were informed by the endorsement on the account, 22d March, 1839,) there appeared to be no alternative but to apply, as before suggested, to the Ogden Land Company for payment. In the meantime, the papers will be retained, as you wish it, to be hereafter disposed of as you may request.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

C. R. ALLEN, Esq.,
Richmond, Virginia.

To the honorable the Senate and House of Representatives of the
United States in Congress assembled:

The memorial of Charles R. Allen

RESPECTFULLY REPRESENTS:

That the account hereto annexed, marked A, constitutes a fair and just claim, to which he is entitled, and which, though small in amount, he is constrained to submit to Congress, in full confidence that, through their instrumentality, justice will be awarded to him.

By reference to an endorsement made on the paper herewith submitted, it will appear that the commissioner of the United States government admits that an understanding did exist between the War Department and the "Ogden Company," that the expenses in holding a treaty with the New York Indians were to be defrayed by each party paying a share thereof; and that the annexed account, marked A, appears to have been incurred for, and on account of, the same negotiation.

The certificate of the United States Indian agent sustains the correctness of the account; admits the sum due to your memorialist to be two hundred and eleven dollars and fifty cents, which he requested, by his written order, the Hon. R. H. Gillet, commissioner, &c., to pay.

The written statement of the last named officer of the government shows that a positive arrangement was made between the parties interested for the payment of the expenses thus incurred. It further shows, that the guard and officers employed were for the objects and purposes mentioned in the said account; that their services were useful and proper, and ought to be paid, and that he would have settled the same, but that the funds entrusted to him to be used in the negotiation, had been all expended before this claim was submitted to him for payment. As a further evidence of the obligation of the United States government to pay the same, their officer, the Hon. R. H. Gillet, referred your memorialist to the Commissioner of Indian Affairs to have his claim settled, or, more properly, paid; for, as to the amount, there is no dispute, and therefore no adjustment is necessary to be made. This officer of your own government, who was familiar with the whole subject, with a full knowledge of all the circumstances attending the case, and in the discharge of a high public duty, admits the liability of the United States government, and recommends your memorialist to apply to the War Department for the payment of the small sum still due him and unsatisfied.

Your memorialist further represents that he has hitherto made application to the "Ogden Company" for payment of his claim, which they have refused, on the ground that the subject involved the liability of the United States government; that the guard referred to in the said account was kept for the protection of officers and property of the United States, and that the liability of the government was therefore manifest and proper.

Your memorialist also shows that, for the keeping of the guard, the sum now claimed by him has been paid out of his own pocket, for the use of the government, and he did not suppose that any difficulty could arise, or hesitation be made in regard to its payment, whenever demanded; but, contrary to all his just and reasonable expectations, the Commissioner of Indians Affairs, and the proper officers of the government to whom he has applied, have refused to do him that justice to which he thinks himself entitled, and he is therefore driven to make this appeal to your candor and liberality. And, as in duty bound, will ever pray, &c.

C. R. ALLEN.

DEPARTMENT OF WAR,
Office Indian Affairs, June 13, 1846.

SIR: Your letter of the 10th instant, enclosing the claim of Charles R. Allen, and requesting information as to its true merits, and a copy of any important evidence in relation to the same, has been received.

In reply, I have the honor to state, that the view which is taken of the claim by the department, is shown in the endorsement (March 22, 1839) on Mr. Allen's account, herewith returned, and in the enclosed copy of a letter addressed to the claimant, August 9, 1841. There is no evidence on file in this office in relation to the claim, and if there ever was any other than what is appended to the account—though this, after a careful examination, does not appear—it must have been handed to Bacon Tait, esq., to whom, at Mr. Allen's order, the claim was delivered, as per receipt on file, of January 29, 1842.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. JOS. VANCE,

Chairman Committee of Claims.

WASHINGTON CITY, January 28, 1845.

DEAR SIR: Enclosed I send you a copy of a bill, which I have succeeded in getting the Committee of Claims to report for your relief. I fear, however, that the numerous important subjects which remain to be acted on may prevent its passage at the present session of Congress. I shall continue to use my best exertions to have it finally disposed of.

Very respectfully, your obedient servant,

J. W. JONES.

CHARLES S. ALLEN.

A BILL for the relief of Charles R. Allen, of Richmond, Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and required, out of any money in the treasury not otherwise appropriated, to pay to Charles R. Allen, of the city of Richmond, in the State of Virginia, the sum of two hundred and eleven dollars and fifty cents; it being in consideration of money paid by him for the hire and board of two civil officers and three guards, and for the keeping of their horses, at the request and by the authority of the Indian agent of the United States for the Seneca Indians, in 1838, and when a treaty was being held with the said Indians.