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D. G. Garnsey.

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Report No. 759.

HOUSE OF REPRESENTATIVES.

D. G. GARNSEY.

JULY 12, 1848.

Laid upon the table.

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

REPORT:

The Committee of Claims, to whom was referred the petition of Daniel G. Garnsey, make the following report:

That the petitioner claims of the government a balance of \$84 90, as due to him on an account of \$109 90, for services rendered, and expenses incurred by him in collecting together the Cattaraugus Indians, and issuing rations to them, preparatory to their removing west of the Mississippi river.

The petitioner sets forth in his petition, substantially, that in the spring of 1846, he was requested by Abm. Hogeboom, who had been appointed moving agent of the emigrating party of the New York Indians, who were willing to remove west of the Mississippi river, to make the necessary arrangements for collecting together such of the Indians living on the Cattaraugus reservation, in the State of New York, as were disposed to go west of the Mississippi, and furnish the said Indians with the necessary rations. That in pursuance of such request, the petitioner went immediately to the Cattaraugus reservation; and in April, 1846, called the Indians together and made known to them his appointment and mission, and commenced the performance of his duties in that respect; that he was 26 days employed in so collecting the Indians together, and had them assembled at the mouth of Cattaraugus harbor, on Lake Erie, prepared for embarkation on board of a steambot; that at the request of Cook, another agent of the said Hogeboom, he, the petitioner went with said Indians to Erie, where said Hogeboom then was, at which latter place the said Indians were embarked in canal boats on their route west.

The claim for which services, at the rate of \$2 50 per day, and

the expenses incurred in furnishing the Indians with rations, &c., amounted to \$109 90, only \$25 of which account was paid by Hogeboom, the emigrating agent, leaving the balance of \$84 90 as above stated, due to the petitioner, and which he has been unable to obtain from Hogeboom, who, as the petitioner states, died shortly after his return from the west with said Indians, insolvent and without the means of paying his debts, or at least, having, previous to his death, placed his property beyond the reach of his creditors.

The committee, in order to enable it the better to judge of the equity of this claim, felt it to be its duty to send to the Commissioner of Indian Affairs the said petition and the papers, and vouchers accompanying the same, with a request that the commissioner would furnish the committee with such information as might be in his power to give, to enable the committee to decide understandingly in reference to this claim of Mr. Garnsey.

To that communication, the commissioner of Indian affairs made the reply hereto annexed, marked A, (being a letter from W. Medill, dated June 17, 1848, addressed to W. Nelson,) and to which reply the committee refer as part of this report.

In view of the facts set forth in this letter of the Commissioner of Indian Affairs, the committee is of opinion that the petitioner has no legal or equitable claim upon the government, and therefore submit the following resolution:

Resolved, That the prayer of the petition of Daniel Garnsey ought not to be granted.

A.

WAR DEPARTMENT,
Office Indian Affairs, June 17, 1848.

SIR: I return herewith the petition of D. G. Garnsey, enclosed in your letter of the 14th instant; and in answer to your inquiries, I have the honor to inform you that a delegation of Indians from New York, in September, 1845, made known to the President the wish of a portion of the Indians of that State to emigrate to the country set apart for them west of the Mississippi, under the treaty of 1838. The government would not undertake the removal of a less number than 250, and was assured that at least that number would go. The Indians were intelligent and civilized, and in every way competent to make their preliminary arrangements, and prepare for emigration; and the government was to be at no expense prior to their starting. The expense of their transportation and subsistence on the route, were to be paid by government, and hence it was necessary that an agent, usually termed an emigrating agent, should be sent along with the party with funds to meet such expenses. Doctor Abraham Hogeboom was appointed in this capacity, with the distinct understanding that there were to be no expenses incurred prior to the starting of the party—even his own

compensation was not to commence till then. It was considered unnecessary to employ more than one person for this duty, as he was particularly informed; but, on his strong representations afterwards, one assistant and no more was conceded to him—not to aid him in getting the Indians together, and preparing them for removal, for this they were to do themselves—but to assist in conducting them to the West when they were ready to start. He had no authority to employ any but this one person, who was employed accordingly and paid; and none whatever to engage the services of him or any one else, in any capacity, or for any purpose, prior to the starting of the Indians.

It is a well settled principle in this government in reference to pecuniary responsibility, that the acts of a public agent are binding and obligatory upon the government only so far as they are within the scope of the power and authority conferred upon him. If he make expenditures not authorized, the loss falls upon himself; if, without authority, he enter into contracts or engagements for the payment of money by the United States, he alone, and not the government, is bound for their fulfilment and consequences. This principle does no injustice to our citizens; they are free to enter into engagements with government agents or not as they choose; they usually do so for their own profit; and it is a duty which they owe to themselves, if not to their government, first to be satisfied that an agent has authority for his acts, which, in most cases, they can easily do, by ascertaining of the agent himself the character and extent of his powers, or, by inquiring of the proper department of the government. The tendency of the principle is to insure proper care, precaution, and integrity in public disbursing officers, generally, while it is necessary to guard the treasury against the consequences of unauthorized acts of dishonest agents, whether confined to themselves, or growing out of collusion between them and unprincipled individuals.

These remarks have been extended, in order to put the committee fully in possession of the grounds upon which the department feels compelled to act in rejecting such claims as that of Mr. Garnsey, whom Doctor Hogeboom had no authority whatever for employing; and that, with these opinions and views, I could not have made the statements and admissions referred to in Mr. Garnsey's petition. Unintentionally, no doubt, or from his having misunderstood me, he has certainly given a wrong coloring to what I said in his interview with me.

I transmit, with this, for the information of the committee, copies of certain papers showing the action of the department in the case of another person alleged to have been also employed by Doctor Hogeboom, and the understanding with which the latter was appointed.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. W. NELSON,
*Of the Committee of Claims,
House of Representatives.*