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Report : Petition of J. Spencer and J. Mead

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1882.—Ordered to be printed.

Mr. COKE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 412.]

The Committee on Indian Affairs, to whom was referred Senate bill No. 412, for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians, beg leave, after full consideration of the facts and testimony in the case, which are clearly set forth in Report No. 72, Forty-sixth Congress, third session, of the Committee on Indian Affairs of the House, which report is hereunto annexed and adopted as the report of the Committee on Indian Affairs of the Senate, to report the bill back favorably, and recommend its passage.

[H. R. Report No. 72, Forty-sixth Congress, third session.]

Mr. HASKELL, from the Committee on Indian Affairs, submitted the following report (to accompany bill H. R. 6854).

The Committee on Indian Affairs, to whom was referred the claim for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians, respectfully submit the following report :

On the 12th of March, 1878, Mr. Beebe, from this committee, reported as follows :

This claim was carefully considered during the last two Congresses. On February 9, 1874, Hon. D. P. Lowe, then a member of the House Committee on Indian Affairs, in behalf of his said committee, submitted the following report :

“Joab Spencer and James R. Mead were authorized Indian traders with the Kansas Indians, and in 1866 and 1867 furnished to the Indians of the tribe the provisions and goods for which payment is sought. An itemized and verified account of the articles accompanies the claim and proofs. It appears that the articles were furnished in the years 1866 and 1867; that the annual hunt of the tribe in the fall of 1866 was entirely unsuccessful, owing principally to the hostility of Cheyenne Indians, and the tribe were compelled to resort to unusual purchases, which could not be met by their ordinary annuities. The payment of the claim in the sum of \$7,509.83, with interest, is asked for by the Indians in a petition of its chiefs and headmen. E. S. Stover, the agent of the tribe, in a report to Thomas Murphy, superintendent of Indian affairs, of November 15, 1867, speaking of the accounts, says: ‘I have also examined and am satisfied of their correctness, and that they should be paid. The Indians also acknowledge the correctness of the claim, and request the government to pay it out of any moneys except their regular annuities.’

“Thomas Murphy, superintendent of Indian affairs, in a communication to the Commissioner of Indian Affairs, says: ‘I believe the account of Spencer & Mead to be correct and just * * * and respectfully refer the matter to the department, with the recommendation that the account be paid out of any funds applicable for that purpose.’

“The Commissioner of Indian Affairs, in a report upon the case, says: ‘From the

papers presented in the claim, I am satisfied that the articles named in the account were actually furnished, and that the claimants, Messrs. Spencer & Mead, have a just claim for the amount thereof, and should be paid.'

"The committee are of the opinion that the correctness and justice of the account are fully established by unquestionable proofs, and that payment should be made as provided in the bill. It appears that the lands in Kansas reserved for these Indians, being over 117,000 acres, are being sold for their benefit under an act of Congress of 1872, from which an ample fund will be derived for the subsistence and civilization of these Indians, and to pay all their obligations; and the effect of this bill will be to enable payment to be made of this claim out of the funds of the Indians, and as requested by themselves.

"The committee recommend that the bill do pass."

During the Forty-Third Congress a bill, of which the following is a copy, passed both the House and Senate:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to pay, or cause to be paid, to Joab Spencer and James R. Mead, late the firm of Spencer and Mead, the sum of seven thousand five hundred and nine dollars and eighty-three cents, and interest on said sum at the rate of seven per centum per annum from the sixth day of August, eighteen hundred and sixty-seven, until paid, out of any money now due and owing, or that may at any time hereafter become due and owing, the Kansas tribe of Indians in the State of Kansas, from the proceeds arising from the sale of lands owned by the said tribe of Indians in said State of Kansas, in full compensation for the goods and provisions furnished said Indians by said Spencer and Mead during the years eighteen hundred and sixty-six and eighteen hundred and sixty-seven.

Passed the House of Representatives February 27, 1874.

Attest:

EDWARD MCPHERSON, *Clerk.*

The foregoing bill failed to become a law in consequence of the President's returning it without his approval, for the reasons stated in his message, of which the following is a copy:

To the House of Representatives:

I return herewith, without my signature, a bill (H. R. 1331) entitled "An act for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians."

I withhold my approval of said bill for reasons which satisfy me that the claim should not be allowed for the entire amount stated in the bill, and which are set forth in the letter of the Acting Secretary of the Interior, dated the 7th instant, a copy of which, with its accompanying papers, is herewith transmitted.

U. S. GRANT.

EXECUTIVE MANSION, *May 12, 1874.*

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 7, 1874.

SIR: I have the honor to return herewith engrossed bill H. R. 1331, entitled "An act for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians," and to state that said bill was the subject of a report made to the department by the Commissioner of Indian Affairs on the 11th ultimo, with which he submitted letters from Enoch Hoag, superintendent of Indian affairs, and Mahlon Stubbs, Indian agent, representing that the justness and correctness of the claim of Spencer & Mead had not been established, and suggesting that further proceeding in the premises be deferred until a thorough investigation of the facts and circumstances of the case could be had.

The suggestion of the Indian agent received the concurrence of the Commissioner of Indian Affairs and the approval of this department, and on the 17th ultimo the attention of Congress was invited to the subject in a letter addressed to the Speaker of the House of Representatives by the Secretary of the Interior. At the latter date, the bill appears to have been pending in the Senate, of which fact this department at that time was not informed.

On the 5th instant, the engrossed bill (H. R. 1331) was received by reference from the Executive Office, and forwarded to the Commissioner of Indian Affairs for a further report on the subject, and on the 6th instant that officer returned said bill to this department, with a letter presenting his views in relation to the matter, and suggest-

ing that the rights of the Indians and of Messrs. Spencer & Mead would be fully protected by a modification of the bill authorizing the Secretary of the Interior to pay such amount of their claim as might be found to be due. The suggestion meets the approval of this department.

Copies of the papers connected with this claim are herewith submitted.

I have the honor to be, very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., April 11, 1874.

SIR: I have the honor to invite your attention to the inclosed bill (H. R. 1331) "for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians," by which it is proposed to authorize the payment of their claim against said tribe, amounting to \$7,509.83, with interest.

I also present, in connection with the above, a letter from Superintendent Hoag, of the 2d instant, inclosing a report from the agent having immediate charge of said Indians, Mr. Mahlon Stubbs, by which it will appear that the justness and correctness of said claim have not been established.

The agent's suggestion that further proceedings in the premises be deferred until a thorough investigation of the facts and circumstances of the case can be had is concurred in by this office.

Very respectfully, your obedient servant,

EDWARD P. SMITH,
Commissioner.

HON. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 17, 1874.

SIR: A bill (H. R. 1331) "for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians," is now pending before Congress, which requires the Secretary of the Interior to pay, or cause to be paid, to said parties the sum of \$7,509.83, and interest on said sum at the rate of 7 per cent. per annum from the 6th day of August, 1867, until paid, out of any money now due or owing, or that may at any time hereafter become due and owing, the Kansas tribe of Indians, in the State of Kansas, from the proceeds arising from the sale of lands owned by the said tribe of Indians in said State of Kansas, in full compensation for the goods and provisions furnished said Indians by said Spencer & Mead during the years 1866 and 1867.

I have the honor to transmit herewith, in relation to the subject, a copy of a letter dated the 11th instant, with accompanying papers, being copy of a letter dated the 2d instant, from Enoch Hoag, superintendent of Indian affairs, and report of Mahlon Stubbs, the agent having charge of the Kansas Indians, from which it appears that the justness and correctness of the claim of Spencer & Mead have not been established.

The suggestion of the agent, concurred in by the Commissioner of Indian Affairs, that further proceedings in the premises be suspended until a thorough investigation of the facts and circumstances of the case can be had, meets the approval of this department, and the attention of Congress is respectfully invited to the subject.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

The SPEAKER of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., May 6, 1874.

SIR: I have the honor to invite your attention to the inclosed bill of Joab Spencer and James R. Mead, providing that the sum of \$7,509.83, and interest at 7 per cent., be paid to Spencer & Mead out of the fund belonging to the Kansas tribe of Indians, for goods furnished by said Spencer & Mead, and also to invite attention to the inclosed correspondence between this office and Superintendent Hoag and Agent Stubbs.

While the bill was pending in Congress, Agent Stubbs's attention was called to it by Superintendent Hoag, and in reply he states his reasons why action provided in the bill should not be taken until further investigation is made as to the correctness of the claim against the tribe. From the statement of Agent Stubbs, there seems to be considerable doubt as to the entire correctness and justness of this bill; and while there is no question but that there may be indebtedness on the part of the Indians to this firm, the amount of such indebtedness should not be fixed in this summary manner.

If the bill can be so modified as to allow the Secretary of the Interior to pay such amount thereof as may be found due, it is believed that the rights of both the Indians and traders will be fully protected.

Very respectfully, your obedient servant,

EDWARD P. SMITH,
Commissioner.

Hon. SECRETARY OF THE INTERIOR.

Upon the receipt of the above-mentioned message of the President, the claim was again referred to the Committee on Indian Affairs, which instructed Mr. Lowe to make the following report:

"The Committee on Indian Affairs, to whom was referred the message from the President of the United States, returning, without his approval, the bill (H. R. 1331) for the relief of Joab Spencer and James R. Mead, for supplies furnished the Kansas tribe of Indians, submit the following report:

"The message of the President gives the following as his reason for returning the bill: 'I withhold my approval of said bill for reasons which satisfy me that the claim should not be allowed for the entire amount stated in the bill, and which are set forth in the letter of the Acting Secretary of the Interior, dated 7th instant, a copy of which, with its accompanying papers, is herewith transmitted.'

"From the papers accompanying the President's message, it appears that, from communications made to the Secretary of the Interior subsequent to the passage of the bill through the House, doubt in his mind was thrown upon the correctness of some of the items of the original claim in respect to which relief was sought, and the Acting Secretary, in his communication to the President, suggests 'that the rights of the Indians and of Messrs. Spencer & Mead would be fully protected by a modification of the bill authorizing the Secretary of the Interior to pay such amount of their claim as might be found to be due.' For the nature of the original claim, and the evidence upon which it was founded, your committee refer to the former report upon said bill by this committee, being House Report No. 93 of the present session. It appears that the claim had been approved by the chiefs and headmen of the tribe, by the agent of the tribe, by the superintendent of the superintendency within which the tribe was, by the Commissioner of Indian Affairs, and by the Secretary of the Interior. Your committee, believing that the claim is substantially just, believe that the rights of the claimants and the Indians will be secured by leaving the amount due upon the original account to be determined by the Secretary of the Interior upon the evidence and any further facts that may be shown; and they therefore recommend the passage of the accompanying bill as a substitute for the former bill, authorizing the Secretary to pay out of the proper tribal fund to the claimants such amount as may be found due, with interest."

The following is a copy of the bill thereupon reported by the committee:

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to pay, or cause to be paid, to Joab Spencer and James R. Mead, late the firm of Spencer & Mead, whatever sum he may find due, not exceeding the sum of seven thousand five hundred and nine dollars and eighty-three cents, and interest on said sum at the rate of seven per centum per annum from the sixth day of August, eighteen hundred and sixty-seven, until paid, out of any money due and owing, or that may at any time hereafter become due and owing, the Kansas tribe of Indians in the State of Kansas from the proceeds arising from the sale of lands owned by said tribe of Indians in said State of Kansas, in full compensation for the goods and provisions furnished said Indians by said Spencer & Mead during the years eighteen hundred and sixty-six and eighteen hundred and seventy-seven."

The foregoing bill was on the House calendar at the close of the then session of Congress, but was not reached for any action. In this condition, this claim was reintroduced during the Forty-fourth Congress. Enoch Hoag, superintendent of Indian

affairs, meantime sent to the Commissioner of Indian Affairs an important communication, of which the following is a copy:

OFFICE OF INDIAN AFFAIRS, CENTRAL SUPERINTENDENCY,
Lawrence, Kans., Twelfthmonth 21, 1875.

Hon. J. Q. SMITH, *Commissioner*:

I invite attention to a claim of Spencer & Mead, as indicated in printed report of the Committee on Indian Affairs, No. 93, accompanying House bill No. 1331, Forty-third Congress, first session. Said report refers clearly to all the necessary papers bearing upon the claim; embracing the indorsements of Ex-Superintendent Thomas Murphy, Ex-Agents Stover and Farnsworth, and the Indians. I recommend that Congress be asked to make provision to pay to the claimants such amount as the Secretary of the Interior may find to be justly due.

Very respectfully

ENOCH HOAG,
Superintendent Indian Affairs.

On the 7th of July, 1876, Mr. Boone, from the House Committee on Indian Affairs, by the direction of that committee, submitted a report upon this claim, which, after setting forth the foregoing facts, concluded as follows:

"Your committee find the facts in this case correctly stated in the two foregoing committee reports made during last Congress, and as Messrs. Spencer & Mead are willing to resubmit their claim for the reinvestigation of the Secretary of the Interior, and as this action has been recommended by the late Commissioner of Indian Affairs and the Secretary of the Interior, and the present superintendent of Indian affairs, having charge of the Kansas tribe of Indians, and the payment of this claim will not take any money out of the United States Treasury, and as the said Kansas tribe of Indians have asked to have their above-mentioned indebtedness paid, with interest, out of their own money, your committee therefore recommend the passage of the accompanying bill, authorizing the Secretary of the Interior to pay, out of the proper tribal fund, to the claimants such amount as he may find due, with interest."

The present bill is identical with the one last above referred to, and after a careful examination of all the facts we fully concur with the conclusions reached by the committee of the last House. We, therefore, report this bill back to the House and respectfully recommend its passage.

Your committee find the facts in this case correctly stated in the foregoing committee reports, and after a careful examination of all the facts fully concur with conclusions reached by former committees of the House, with certain amendments noted on the bill.

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