

R. A. HURLEY ET AL.

MAY 21, 1860.—Laid on the table and ordered to be printed.

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

## REPORT:

[To accompany bill H. R. 2416.]

*The Committee on Indian Affairs, to whom was referred the bill (H. R. 2416) for the relief of the heirs of A. F. Hurley, respectfully report:*

This is a claim for \$3,416.35 for supplies furnished, forage, &c., to the Utah Volunteers in June, 1860, in an expedition against the Pah-Utes in that year.

It appears from the records of the War Department that there was a disturbance with the Pah-Utes in 1860; that the Utah Volunteers were engaged in one engagement, in connection with the United States troops, Company H, Third Artillery, Captain Stewart; that no Indians were killed in this encounter, but one or two officers on our side were killed; that these Utah Volunteers were in service only from fifteen to twenty days; that they never were mustered into the United States service; their services were not called for by the United States authorities; and that there are no muster-rolls of said volunteers on file in the War Department. There is consequently no legal liability on the part of this government for the supplies furnished to them.

By the statement of the case hereto appended it will be seen that the claim of Hurley, which this bill proposes to pay, is for forage. Barley, in the bills as rendered, is charged at the rate of 25 cents per pound, or \$15 a bushel, and hay at 20 cents a pound, or \$400 a ton. The War Department informs this committee that it was, at the same time and in the same region, buying barley at \$2 a bushel, and bought hay the next year at \$16.75 a ton. The difference between these rates is so enormous as to justify, in itself, the rejection of the entire claim. We have not the price then current for beef cattle; but, from the prices charged for barley and hay, it is reasonable to conclude that the bill for 23 beef cattle, at \$100 a head, is as exorbitant as the bills for barley and hay.

For these reasons the committee report the bill adversely, and recommend that it be laid on the table and the report printed.

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[In the Forty-sixth Congress. Committee on Indian Affairs, House of Representatives.]

### HURLEY'S CASE.

#### STATEMENT OF THE CASE.

In the year 1860, A. F. Hurley, since deceased, was residing at Virginia City, Utah Territory, now State of Nevada, doing business under the firm name of A. F. Hurley & Co., at that place, the firm being composed of A. F. Hurley and E. F. Storey.

The Indians became troublesome in that part of the Territory early in May of that year, and an expedition was organized by calling out volunteers, which were organized as the Utah Volunteers, under the command of Col. J. C. Hays, composed of companies as follows:

"Virginia Rifles," Capt. E. F. Storey; "Truckee Rangers," Capt. Lance Nightingill; "Sacramento Company," commanded by Col. E. J. Sanders; and "Carson Rangers," Capt. John L. Blackburn.

That Colonel Snowden commanded the department; Maj. B. L. Lippincott was the quartermaster of said regiment, with John Macnish assistant quartermaster. General Havens was also in the expedition. Capt. E. F. Storey was killed during the expedition.

The subsistence and forage charged in the following account was furnished by A. F. Hurley & Co., on the order of the officers who, at the time, gave certified vouchers for the same. These vouchers were certified and approved by the quartermaster of the regiment.

These vouchers have never been paid.

The crowded events following the war of the rebellion—the separation of Nevada from Utah, and the subsequent erection of Nevada into a State, seem in a manner to have obscured the events of the expedition against the hostile Indians in Utah in 1860, and to have divided the responsibility for the time being of paying for the subsistence and forage furnished these volunteers.

Subsequently, in about 1875, A. F. Hurley died, and his estate was administered upon by E. Winter, Silver City, Nev.

The estate being fully settled, except as to the claims herewith still outstanding, the administrator delivered the vouchers to George W. Heish, of Dayton, Lyon County, Nevada, the attorney for the absent heirs of A. F. Hurley, who transmitted the same, in 1878, to R. A. Hurley, Damascus, Montgomery County, Maryland, who, with the other persons named in the bill, are the only heirs at law of the said A. F. Hurley, deceased.

The following are true copies of the original vouchers, certificates, and affidavits made at the time the property was furnished to said volunteers.

Congress is respectfully asked to pass a bill for the relief of claimants.

R. A. HURLEY ET AL.,  
 Brother and Sister, and only heirs of A. F. Hurley,  
 By P. E. DYE,  
 Attorney for Claimant,  
 514 11th street, Washington, D. C.

*A. F. Hurley & Co., in account with the United States Government, for forage, &c., furnished United States troops during the Indian war waged in the Territory of Utah in the spring and summer of the year A. D. 1860.*

CREDIT.

By forage, &c., furnished United States troops, and vouchers received therefor, as follows:

June, 1860. Amount of annexed account as certified to by B. S. Lippincott, quartermaster U. T. V .....	\$313 75
Amount of account as certified to by John Macnish, assistant quartermaster .....	277 50
Amount of account as per voucher of Lance Nightingill, captain Truckee Rangers .....	75 10
Amount of account as per voucher of E. J. Sanders, escort of arms .....	255 00
Amount of account as per voucher of J. L. Blackburn, captain Carson Rangers .....	195 00
Amount of account as per affidavit of A. F. Hurley .....	2,300 00
Amount due .....	3,416 35

STATE OF NEVADA,  
 County of Lyon, ss :

A. F. Hurley, being first duly sworn, deposes and says, that he is a resident of Lyon County, Nevada, and a member of the firm of A. F. Hurley & Co., and is and always has been a loyal citizen of the United States; that the articles of the several accounts hereto annexed, the aggregate of which accounts are set forth above, were furnished by said firm as set forth in said accounts; that the prices charged were reasonable at the time and place of the delivery of the said articles, and that the same were used by the regiment of Utah Territory Volunteers, under command of Col. J. C. Hays, and that said firm has not been paid for the same, nor for any portion or portions thereof.

A. F. HURLEY.

Subscribed and sworn to before me this 18th day of February, A. D. 1867.  
 In testimony, I have hereunto set my hand and the seal of Lyon County, Nevada,  
 the date last above written.

[SEAL.]

DAVID KENDRICK,  
 County Clerk of Lyon County, Nevada.

*Regiment of Utah Volunteers, Col. J. C. Hays commanding, to A. F. Hurley & Co., Dr.*

For forage furnished as below :

		For General Havans:		
June, 1860.	80 pounds barley, at 25 cents per pound .....	\$20	00	
	100 pounds hay, at 20 cents per pound .....	20	00	
	Shoeing horse .....	3	75	
				\$43 75
		For Col. J. C. Hays :		
	80 pounds barley, at 25 cents per pound .....	20	00	
	60 pounds hay, at 20 cents per pound .....	12	00	
				32 00
		For Colonel Snowden, Commissary Department :		
	Hire of horse for express .....	10	00	
	180 pounds hay, at 20 cents per pound .....	36	00	
	102 pounds barley, at 25 cents per pound .....	25	50	
				71 50
		For Quartermaster's Department, Major Lippencott :		
	420 pounds hay, at 20 cents per pound .....	84	00	
	330 pounds barley, at 25 cents per pound .....	82	50	
				166 50
				313 75

QUARTERMASTER'S OFFICE, VIRGINIA CITY,  
 June 20, 1860.

I hereby certify that the annexed bill of Hurley & Co., amounting to \$313.75, was furnished as charged to the regiment of Utah Territory Volunteers, and that the prices charged are just and correct.

B. S. LIPPENCOTT,  
 Quartermaster U. T. V.,  
 By JOHN MACNISH,  
 Assistant Quartermaster U. T. V.

*Virginia Rifles, Company of Volunteers, under command of Capt. E. F. Storey, to A. F. Hurley & Co., Dr.*

1860.	To forage furnished the company :	
May 22.	To 550 pounds barley, at 25 cents .....	\$137 50
	To 700 pounds hay, at 20 cents .....	140 00
		277 50

I certify upon honor that the above forage was furnished the company under my command, prior to the formation of the regiment of Utah Volunteers under the command of Col. J. C. Hays, of which regiment said company afterwards formed a portion ; that at the time said forage was furnished said company was in the field and prepared to take a part in the expedition against the hostile Indians in Utah Territory, and that the prices charged are just and fair.

W. W. CAPERTON,  
 Second Lieutenant, Commanding.

I hereby certify that the within forage was furnished to my knowledge prior to the formation of the regiment under Col. J. C. Hays, and that Lieutenant Caperton's company formed a part of the regiment.

Virginia City, U. T., 22d August, 1860.

JOHN MACNISH,  
 Captain and Assistant Quartermaster U. T. V.

STATE OF NEVADA,  
 County of Storey, ss :

On this the 10th day of September, A. D. 1873, personally appeared before me S. T. Curtis, who, being duly sworn, deposes and says that he was acquainted with W.

W. Caperton, second lieutenant of Virginia Rifles, Utah Territory Volunteers, and with John Macnish, captain and assistant quartermaster for Utah Territory Volunteers, under the command of Col. J. C. Hays, in the expedition in the year 1860 against the hostile Indians in said Territory; that he knows that said Caperton and Macnish were the officers aforesaid; that said Macnish died in the year —; that this deponent is ignorant of the whereabouts of said Caperton; that the prices charged in said certificate and voucher hereto annexed were just, fair, and reasonable at the time the articles therein mentioned are alleged to have been delivered.

And deponent further says that he is acquainted with the handwriting of said Caperton and Macnish, and that to the best of deponent's knowledge the signatures affixed to said certificate and voucher are the genuine signatures of said Caperton and Macnish.

SAM. T. CURTIS,

*Formerly Captain Sacramento Company, Hays's Regiment.*

Sworn to and subscribed before me this the 10th day of September, A. D. 1873.

W. G. THOMPSON, *Clerk,*  
By H. C. THOMPSON, *Deputy.*

*Truckee Rangers, Company of Volunteers, under command of Capt. Lance Nightingill, to A. F. Hurley & Co., Dr.*

1860.	To forage furnished the company:	
June 15.	150 pounds barley, at 25 cents.....	\$37 50
	188 pounds hay, at 20 cents.....	37 60
		<hr/> 75 10

I hereby certify that the above stated forage was furnished the company under my command prior to said company joining Captain Stewart's as a scout and escort, and that the prices charged are just and fair.

LANCE NIGHTINGILL,

*Captain, commanding Truckee Rangers.*

STATE OF NEVADA,  
*County of Storey, ss:*

On this the 10th day of September, A. D. 1873, personally appeared before me Samuel T. Curtis, who, being duly sworn, deposes and says that he was acquainted with Lance Nightingill in the year 1860, and that in the month of June, 1860, said Nightingill was captain commanding Truckee Rangers, Utah Territory Volunteers, in their expedition in the year 1860 against the hostile Indians in said Territory; that the prices charged in the certificate and voucher thereto annexed were just, fair, and reasonable at the time when the articles therein mentioned are alleged to have been delivered.

And deponent further says that he is acquainted with the handwriting of said Nightingill, and that to the best of this deponent's knowledge the signature affixed to said certificate and voucher is the genuine signature of said Nightingill.

SAM. T. CURTIS,

*Formerly Captain Sacramento Company, Hays's Regiment.*

Sworn to and subscribed before me this 10th day of September, A. D. 1873.

W. G. THOMPSON, *Clerk,*  
By H. C. THOMPSON, *Deputy Clerk.*

*Sacramento Company of Volunteers, under command of Col. E. J. Sanders, to F. A. Hurley & Co., Dr.*

1860.	To forage furnished the company:	
May 18.	To 540 pounds barley, at 25 cents.....	\$135 00
	To 600 pounds hay, at 20 cents.....	120 00
		<hr/> 255 00

I certify upon honor that the above forage was furnished the company under my command prior to the formation of the Utah Regiment of Volunteers under the command of Col. J. C. Hays, of which regiment said company afterwards formed a portion; that at the time said forage was furnished said company were in the field and prepared to take a part in the expedition against the hostile Indians in Utah Territory, and that the prices charged are just and fair.

I certify, to the best of my knowledge and belief, that the above account is just and correct.

E. J. SANDERS,

*Commanding Escort and Arms for Utah Territory*

STATE OF NEVADA,  
County of Storey, ss :

I, Samuel T. Curtis, first officer of the company at the time and date when said forage was delivered, do hereby certify that the within forage was delivered to said company, and that the prices therein mentioned is just and reasonable, and the within account is correct.

SAM. T. CURTIS,  
*Formerly Captain Sacramento Company Hays' Regiment.*

Subscribed and sworn to before me this 10th day of September, A. D. 1873.

W. G. THOMPSON, *County Clerk,*  
By H. C. THOMPSON, *Deputy Clerk.*

*Carson Rangers Company of Volunteers, under command of Captain Blackburn, to A. F. Hurley & Co., Dr.*

1860.	To forage furnished the company :	
May 21.	To 380 pounds barley, at 25 cents.....	\$95 00
	To 500 pounds hay, at 20 cents.....	100 00
		195 00

I certify upon honor that the above forage was furnished to the company under my command prior to the formation of the regiment of Utah Volunteers under the command of Col. J. C. Hays, of which regiment said company afterward formed a portion; that at the time said forage was furnished, said company was in the field and prepared to take a part in the expedition against the hostile Indians in Utah Territory, and that the prices charged are just, fair, and true.

JOHN S. BLACKBURN,  
*Captain Carson Rangers.*

I hereby certify that the within forage was furnished to my knowledge prior to the formation of the regiment under Col. J. C. Hays, and that Captain Blackburn's company formed a part of the regiment.

Virginia City, Utah, August 22, 1860.

JOHN MACNISH,  
*Captain and Assistant Quartermaster Utah Territory Volunteers.*

STATE OF NEVADA,  
County of Storey, ss :

On this the 10th day of September, 1873, personally appeared before me, Samuel T. Curtis, who being duly sworn, deposes and says that he was acquainted with John T. Blackburn, captain of Carson Rangers, company of Utah Territory Volunteers, in the expedition against the hostile Indians in said Territory, in the year 1860; that he knows that said John T. Blackburn was captain of said company at the time stated in the certificate hereto annexed; that said Blackburn died at Carson City, Nevada, in the year 1863; that the prices charged in said certificate and voucher hereto annexed were just, fair, and reasonable at the time when the articles therein mentioned are alleged to have been delivered.

And deponent further says that he is acquainted with the handwriting of said Blackburn, and that to the best of deponent's knowledge the signature affixed to said certificate and voucher is the genuine signature of said John T. Blackburn.

SAM. T. CURTIS,  
*Formerly Captain Sacramento Company, Hays' Regiment.*

Sworn to and subscribed before me this the 10th day of September, A. D. 1873.

W. G. THOMPSON, *County Clerk,*  
By H. C. THOMPSON, *Deputy Clerk.*

STATE OF NEVADA,  
County of Storey, ss :

I, W. G. Thompson, clerk of Storey County, Nevada, and *ex-officio* clerk of the district court of the first judicial district of said State, in and for said county, do hereby certify, that on this day (hereinafter mentioned) appeared before me Samuel T. Curtis, whose name is subscribed to the annexed instruments, more particularly known and described herein as claims 1, 2, 3, and 4, and who is well known to me to be the person therein described, and who signed said instruments in my presence.

In testimony whereof I have herewith set my hand and affixed the seal of said district court, on this tenth day of September, A. D. 1873.

[L. s.] W. G. THOMPSON, *County Clerk.*  
By H. C. THOMPSON, *Deputy Clerk.*

*The Government of the United States in account with A. F. Hurley & Co., Dr.:*

1860.

June. To 23 head of beef cattle furnished the regiment of Utah Volunteers, Col. J. C. Hays commanding, during the Indian war waged in the Territory of Utah in the spring and summer of the year A. D. 1860, at \$100 per head..... \$2,300

STATE OF NEVADA,

*County of Lyon, Fourth Judicial District:*

A. F. Hurley, being duly sworn, deposes and says that he is a member of the firm of Hurley & Co.; that the annexed account against the United States for beef cattle furnished the regiment of Utah Volunteers is just and correct; that said cattle were furnished at the demand of the officers of said regiment; that the price charged for said cattle is not in excess of the then market rates at Virginia City, Utah Territory, and that no part of said account has ever been paid.

In witness whereof, deponent has hereunto affixed his hand and seal.

[L. S.]

A. F. HURLEY.

Subscribed and sworn to before me this the 18th day of February, A. D. 1867.

W. HAYDEN,

*Judge Fourth Judicial District.*

STATE OF NEVADA.

*County of Lyon, ss:*

I, David Kendrick, county clerk of said Lyon County, do hereby certify that William Hayden, whose name is subscribed to the foregoing affidavit as the official before whom the same was subscribed and sworn to, was at the time of subscribing the same, and still is, judge of the fourth judicial district court of the State of Nevada in and for the county of Lyon aforesaid, duly commissioned and sworn, and as such judge duly authorized to make said certificate; that his signature thereto is genuine, and that all of his official acts are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said county of Lyon, the 18th day of February, A. D. 1867.

[L. S.]

DANIEL KENDRICK,

*County Clerk.*

WAR DEPARTMENT,

*Washington City, March 3, 1880.*

The Secretary of War has the honor to transmit to the Speaker of the House of Representatives, for the information of the Committee on Indian Affairs, copies of reports and certain papers furnished by the Adjutant-General and Quartermaster-General, U. S. A., upon the requisition of that committee, in relation to the claim of Hurley & Co., for supplies furnished Utah Volunteers in 1860.

ALEX. RAMSEY,

*Secretary of War.*

ADJUTANT-GENERAL'S OFFICE,

*April 9, 1869.*

Case of claims arising from the war against the Pah-Utes in 1860; amount \$35,006.50.

April 1, 1869, the chairman Senate Committee on Claims transmits list of claims arising from the war against the Pah-Ute Indians in 1862 (1860?) and states the committee desire any information which may be found in the War Department touching this service, and whether the exigencies were such that the expenditures so made can in any manner justify the assumption and payment of these claims by the government; also how the expenditures made for the support of this volunteer force compare with the cost of supporting such regular troops as were employed on the same expedition. Referred from War Department to Adjutant-General for report.

The claims inclosed appear to be for stores and transportation furnished and money advanced to an expedition under the command of Col. Jack Hays. in 1860, against the Pah-Ute Indians, receipted for by Richard A. Snowden, commissary Utah Volunteers.

It appears from a report herewith of John C. Hays, colonel commanding Utah Volunteers, dated Virginia City, Utah Territory, June 12, 1860, transmitted to the Secretary of War by the governor of Utah, that a regiment of volunteers was raised for an expedition against the Pah-Utes for the emergency; that they were never mustered into the service of the United States, and were only employed some fifteen or twenty days. This is borne out by the fact that there are no muster-rolls of Utah Volunteers on file in this office for the time in question.

In the record of events for May and June, 1860, on the muster-roll of Company H, Third Artillery, Captain Stewart (on file in this office), it is stated that, in conjunction with other troops, regulars and *volunteers*, this company had an engagement with hostile Indians, supposed to be Pah-Utes, &c. Colonel Hays, in his report, mentioned Captain Stewart's company as being engaged in the expedition, and urged the prompt payment for supplies furnished by patriotic citizens "who relied on the faith of the general government at a most critical moment in the affairs of the Territory."

It also appears that the claims of some of the parties were before the Commissary-General of Subsistence in 1867.

Reports from the commanding officer Department of Utah, for 1860, on file in this office, show that there were Indian disturbances in Utah at that time, and that every effort was made to suppress them, but no mention is made of any volunteers being employed.

Respectfully submitted to the Secretary of War.

W. T. SHERMAN, *General*.

HEADQUARTERS ARMY, April 10, 1869.

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WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
February 12, 1880.

Respectfully returned to the Secretary of War.

The rolls and records of the force referred to (Utah Volunteers) in this letter and inclosed statement are not on file in this office, and there is no record or other evidence that it was in the service of the United States, or that it co-operated with the United States troops in the suppression of Indian hostilities as claimed.

The case would seem to have been before the Secretary of War in 1867 and in 1869, but the action had is not known.

R. C. DRUM,  
*Assistant Adjutant-General*.

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WAR DEPARTMENT,  
QUARTERMASTER-GENERAL'S OFFICE,  
Washington, February 18, 1880.

Respectfully returned to the honorable the Secretary of War, with report that the vouchers herein referred to were presented to this office for settlement in 1878, and the inclosed paper shows the action taken by the War Department at that time.

The records of this office show that the contract price for barley at Camp Floyd, Utah, in May and June, 1860, was \$2 per bushel; that there was no hay purchased in Utah during the year 1860, but in June, 1861, the contract price paid for hay at Fort Crittenden, Utah, was \$16.75 per ton.

M. C. MEIGS,  
*Quartermaster-General, Brevet Major-General, U. S. A.*

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