

REUBEN A. HURLEY, ADMINISTRATOR, ETC.

MARCH 27, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, of Wisconsin, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 8960.]

*The Committee on War Claims, to whom was referred the claim of the heirs of A. F. Hurley, deceased, late of Nevada, report as follows:*

The Committee on War Claims of the Forty-eighth Congress, to whom was referred the claim of the heirs of A. F. Hurley, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

This claim has been returned with the findings of fact.

The committee are satisfied as to the loyalty of claimants, and that property to the amount specified was taken from the decedent, and that the same was used by the companies and the regiment commanded by Col. J. C. Hays, known as the Utah Volunteers, in said Territory (now Nevada), in 1860, and respectfully call attention to the following findings of fact by the Court of Claims, viz:

[Court of Claims. Congressional Case No. 57. The heirs of A. F. Hurley vs. The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the ———, A. D. 1888, the court filed the following findings of facts, to wit:

(Here follow the findings of the court.)

This case having been referred to the Court of Claims by the Committee on War Claims of the House of Representatives March 11, 1884, under the provisions of the act of March 3, 1883, known as the Bowman act, and having been heard by the court (the Attorney-General, by his assistants, appearing for the defense and protection of the interests of the United States) the court, from the evidence, finds the facts to be as follows:

I.

In the month of May, 1860, four military companies of volunteers, called respectively "The Virginia Rifles," "Carson Rangers," "Gold Hill Scouts," and "Truckee Rangers," were organized in western Utah (now Nevada) for the purpose of protecting the settlements from the attacks of hostile Indians.

They rendezvoused at Virginia City, where they were joined by six companies of California militia, and the whole organized into a regiment under the command of Col. J. C. Hays.

This regiment, in conjunction with certain United States regulars, carried on a short but successful campaign against the Indians.

## II.

While these companies were organizing, and before they were formed into a regiment, they were subsisted in part by contributions from the citizens. Among others, the firm of A. F. Hurley & Co., composed of A. F. Hurley and E. F. Story, furnished some hay and barley; how much does not definitely appear, except as shown by the following bills.

Five bills, made out in the name of this firm and presented to the court as part of the claimant's petition, sum up as follows:

Hay, 2,748 pounds, at 20 cents a pound.....	\$549.60
Barley, 2,212 pounds, at 25 cents a pound.....	553.00
Beef cattle, 23 head, at \$100 a head.....	2,300.00
Horseshoeing, \$3.75, and horse hire \$10.....	13.75
Total claim.....	3,416.75

The four bills, which include the charges for hay, barley, horse hire, and shoeing, have attached to them certificates by the officers of the several companies, whose signatures are shown to be genuine, certifying that these articles were furnished by A. F. Hurley & Co. to the regiment and companies named in Finding I, and that the prices charged are just and fair. The bill for twenty-three head of beef cattle has attached to it the affidavit of A. F. Hurley, made February 18, 1867, in which he states that these cattle were furnished to the regiment of Utah volunteers at the demand of the officers; that the same is just and correct, and that the price charged is not in excess of the then market rates at Virginia City, and that no part thereof had been paid.

This bill for cattle is not otherwise proven.

## III.

July 12, 1860, the Government bought hay at Fort Crook, which is about 130 miles northwest from Virginia City, for \$28 a ton, and barley at \$4.40 a hundred pounds. September 24, 1860, the Government bought beef cattle at said fort, at 5½ cents per pound. At these prices the claim would amount to about \$700.

## IV.

The firm of A. F. Hurley & Co. was composed of A. F. Hurley and E. F. Story, trading under the firm name as above, at Virginia City, in 1860.

E. F. Story died June 2, 1860, leaving A. F. Hurley the surviving partner. A. F. Hurley died on or about February 20, 1874, in Lyon County, Nev.

His estate was settled by his administrator, Eben Winters; and the vouchers, the subject-matter of this claim, were administered as a part of the personal estate of the said decedent by the court having jurisdiction thereof, and were so distributed by a decree passed in the cause on the 5th day of January, 1876, in the following words:

"It is therefore adjudged and decreed that the said claim against the Government of the United States is set over to the heirs of said A. F. Hurley, deceased, to wit, to George E. Hurley, J. Mortimer Hurley, Reuben A. Hurley, John W. Hurley, Mrs. L. J. Delashmutt, and Mrs. Josephine Humrichouse for their sole use and benefit."

## V.

These volunteer companies were not called out by authority of the United States, nor were they at any time in United States service, nor under the control of United States military authority.

By what authority of law they were called out and by whom paid and subsisted other than is stated in Finding II does not appear.

The counsel for the claimant refers to Senate Ex. Doc.—second session Thirty-sixth Congress, vol. 2, 1860-'61, for the condition of the Territory, the hostility of the Indians, and the necessity for and usefulness of these volunteers.

BY THE COURT.

Filed February 20, 1888.

A true copy.

Test, this 1st day of March, A. D. 1888.

[SEAL.]

JOHN RANDOLPH,  
Assistant Clerk Court of Claims.

It is also shown that Colonel Hays, also the quartermaster and commissary, are dead.

Your committee also add the following summary of facts from the report of the honorable Secretary of War to the second session of the Thirty-sixth Congress, dated December 3, 1860, and found in Senate Docs., vol. 2, 1860-'61.

The Pah-Utes, a powerful tribe of warlike Indians about the region of Carson Valley, in the Utah Territory, now Nevada, early in April, 1860, broke out into open hostility to the whites and committed many atrocious murders. As early as the 12th of that month the governor of the Territory called the attention of the officer of the United States stationed at Camp Floyd, in command of the Department of Utah, to the threats made against the whites by bands of Indians encamped at Box Elder, Bear River, etc., and against all emigrants attempting to pass by the northern Humboldt route.

These Indians threatened to kill every man that traveled the road.

Great excitement prevailed among the settlers, as the United States had not at that time sufficient forces at hand to protect the settlements from the large body of Indians about to take the war-path.

A party of volunteers from the vicinity of Washoe Silver Mines was organized, under the command of Mr. Ormsby, for pursuit.

The Indians, who were very numerous, numbering from 1,500 to 2,000 warriors, well armed for war, succeeded in drawing the volunteers into an ambuscade, driving them back with a loss of 40 men. Among the killed in the unfortunate affair was the leader, Mr. Ormsby, himself. This incident created the greatest excitement and alarm throughout all the mining country of Carson Valley, then rapidly filling up from the flattering reports of rich silver deposits there, and it became necessary to send a sufficient force promptly to chastise the Indians, and thus restore quiet and confidence amongst the inhabitants.

The Ormsby affair had served only to embolden the Indians, and their movements up the valley had already cut the citizens off from communication with Governor Cumming, executive at Salt Lake, the only outlet left open being over the mountains to California.

On May 10 the citizens' committee of Carson City informed General Clark, commanding at Camp Floyd, that we are threatened with a general Indian war, and on the 11th General Clark writes General Scott as follows: "It is greatly feared that an Indian war of a serious nature in Sierra Nevada is on the eve of commencement," etc.

There was but a small force of United States troops, 144 rank and file, and these 500 miles away, that could possibly be made available in this emergency for the defense of these settlers in Carson Valley, but before these could reach the spot the people of the country determined to organize a force, which they did, aided by the governor of California, of sufficient strength to pursue and chastise effectually the savages.

A body of 550 daring, active, and enterprising men, and 50 laborers rallied under the command of the celebrated Texan ranger, Col. J. C. Hays, for this purpose.

They were furnished arms and ammunition by the United States on the requisition of Governor Dewey, of California, which were transported on muleback over the mountains and almost impassable trails to the volunteer camp near Virginia City.

Thus armed and equipped the volunteers set out in pursuit of the Indians, whom they found at no great distance in large force near Pyramid Lake, and in conjunction with the small detachment of regular troops commenced at once the attack. The Indians were very powerful in

numbers and strong in position, and were assisted greatly, if not commanded, by white men.

But the practiced eye of the cool and daring leader enabled him to lead the assault with such skill that the vastly superior number of the Indians availed nothing.

They were driven from their strong position after a severe conflict, and finally put to complete rout.

The Indians dispersed in every direction, carrying off or secreting their dead and wounded.

"Our losses embraces," says Colonel Hays in his report to Governor Cumming, "eleven killed and wounded, seven volunteers and four regulars; of the latter, none are supposed to be mortally, although severely, injured. Of the killed, we mourn the loss of Captain Story, of the Virginia Rifles, and three of his men shot dead while leading them." This battle took place on June 2, 1860, on the Truckee River, north of Pyramid Lake.

Night coming on the volunteers and regulars bivouacked, and the next day 200 mounted volunteers, under Colonel Hays, made a reconnaissance down the valley for 40 or 50 miles to make certain that the work had been effectually done.

The numerous trails of the Indians showed that they had fled to regions so distant and inaccessible, except for a force well provided in its commissariat and means of conveyance, as to defy further efforts to bring them to action. At Pyramid Lake were found abundant evidence that the Indian force had at least 1,500 to 2,000 warriors, and that they had abandoned their camp in great haste and confusion.

The honorable Secretary made the report of the expedition, furnished by Colonel Hays to the governor of Utah, and by him sent to the War Department, part of his report to Congress.

General N. S. Clark, speaking of the affair under date of August 4, 1860, says:

The outbreak in Carson Valley had been put down for the time by the prompt action of the citizens from this State, armed by me, and the troops thrown rapidly into the valley, and the establishment of a post on the river subsequent to the punishment inflicted, will, I trust, give security to the route for some distance.

The agitation among the Indians on the Klamath has ceased, whether due to the rumors which may have reached them of the affair at Pyramid Lake, or to other causes, I can not say.

The citizens, or Utah volunteers, as they are called, were in the field on this campaign only about twenty days, although some of the companies were in active service for nearly three months. But it was believed that their prompt and energetic action saved the Territory from the horrors of a general Indian war and to the Government millions of dollars and many valuable lives.

It is true that the regiment was never regularly mustered into the United States service, but muster rolls of the companies composing the regiment, together with the reports of the officers, were furnished to Governor Cumming by Colonel Hays, along with his own report under date of July 12, 1860, and your committee are of opinion that said troops ought to be considered as having been in the service of the United States for the time being, the same as if formally mustered in.

They were never paid for their said service, and are not now asking pay.

The stores and supplies mentioned in this claim were furnished for the use of these volunteers on the faith that the General Government would pay for the same, and have not been paid for. The prices of all commodities ruled enormously high at Virginia City, owing to the al-

most impassible condition of the roads leading to California and the inability of parties inclined to furnish the needed subsistence to these volunteers and remain creditors of the Government for a long period.

These facts are of record and from part of the history or the sources of the early history of Utah, now Nevada, and, together with the facts found by the Court of Claims in the findings of fact in this case, justify your committee in reporting a bill for the relief of the Hurley heirs with a recommendation that it do pass.

The testimony before the Court of Claims proved that the price of the hay and barley was not in excess of the price of those articles at the time and place; and while the twenty-three head of beef cattle are not established by strictly legal proof, your committee are nevertheless morally satisfied they were taken as charged, and recommend that they be paid for at \$50 per head, and have reported the bill accordingly.

H. Rep. 1436—2

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