

JEAN LOUIS LEGARE.

FEBRUARY 18, 1890.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 1826.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 1826), for the payment of Jean Louis Legare for money expended and for services rendered in procuring the surrender of Sitting Bull, having had the same under consideration, beg to submit the following report:

This claim grows out of services performed by the claimant for the United States Army and for supplies furnished Sitting Bull and his band of Indians, to induce their surrender to the United States.

After the battle of Little Big Horn, in the year 1876, in which General Custer was killed, Sitting Bull and his followers, being pursued by the army, crossed from the United States into the Territory of Canada, where they were not only an annoyance to the Canadian Government, but were a constant menace to our Government by their raids across the line, making it necessary to maintain a large number of troops on the frontier to prevent trouble from these Indians.

Repeated efforts were made during the years 1877 to 1881 to secure their surrender. But all efforts failed until the claimant, who was peculiarly fitted for the work by his life among the Northwest Indians, at the solicitation of Major Brotherton, undertook to secure their return to the United States, and their surrender to the army at Fort Buford, Dakota. This he accomplished during the year 1881.

Legare undertook this work after an interview with Major Brotherton, commander of the post at Fort Buford, who assured him if he was successful in bringing in these Indians, that the Government would undoubtedly pay him for his services.

After the claimant had brought in the first lot of Indians, Major Brotherton telegraphed General A. H. Terry, commanding the Department of Dakota, at St. Paul, Minn., as follows :

[Copy telegram.]

FORT BUFORD, D. T.,
May 29th, 1881.

General A. H. TERRY,
Commanding Department of Dakota,
St. Paul, Minn. :

I have considered it best to retain Mathey's troop, as sending it away would reduce the garrison to one hundred and eighty-six (186) present for duty. I expect more Indians in very soon—perhaps the greater portion of those at Woody Mountain—and it may be some from Sitting Bull at Lake Qu'Appelle. There[are?] at the two places about sixty (60) lodges, in most cases I am informed, two (2) families to a lodge, and in all about three hundred men, women, and children.

Mr. Legare, a trader at Woody Mountain, who has brought in his last two trips forty-eight (48) Indians, came [brought?] in on the twenty-sixth (26th) instant thirty-two (32); these were sent with the others to Yates. I sent back with him two of those he brought in, after they had seen and talked with their friends here. Mr. Legare tells me that the fact of their friends have [ing?] gone below peaceably, and were so well treated while here, will, he thinks, produce a movement at once of the Indians at Woody Mountain in this direction to surrender, as they are starving where they are, and also that there is now a strong probability that Sitting Bull himself, finding so many of his adherents leaving him, even his own daughter, will have to come in.

I have known Mr. Legare since last summer; he is well known, reliable, and I have every reason, from the way things look now, to believe his impression will be realized. He has been here quite a number of times, but usually very reticent on the subject of Indians company [coming?] in, but is now outspoken, and seems thoroughly convinced that all will come in. With this in view, I thought best to retain Mathey's troop, as I presume all that come in will be shipped to Yates.

The Indians shipped the other day embarked cheerfully and willingly to all appearance. I sent with them Allison and Running Antelope. Mr. Legare left here yesterday with his train for Woody Mountain; said he would return in about two (2) weeks with all the Indians who desired to come in. He brings these Indians in, hauling their plunder on his carts, and has so far fed them on the way. Can not he be re-imbursed in some way?

(Signed) D. H. BROTHERTON,
Major 7th Infantry, Commanding.

[Telegram.]

H'DQ'RS' DEPT OF DAKOTA,
Ft. Snelling, Minn., June 6th, 1881

COMMANDING OFFICER,
Fort Buford:

Department commander regrets he has no funds applicable or available for paying Mr. Legare for bringing Indians into Fort Buford to surrender and feeding them en route.

BRECK,
Assistant Adjutant-General.

H'DQ'RS DEPT. OF DAKOTA,
Ft. Snelling, Minn., June 8, 1881.

Official copies respectfully forwarded to headquarters Military Division of the Missouri.

ALFRED H. TERRY,
Brigadier-General, Commanding.

[1st indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, June 10, 1881.

Respectfully forwarded to the Adjutant-General of the Army.

P. H. SHERIDAN,
Lieut. General, Commanding.

[2nd indorsement.]

HEADQ'RS OF THE ARMY,
Washington, June, 13, 1881.

Respectfully submitted to the Secretary of War with copies for the Departments of State and the Interior.

W. T. SHERMAN,
General.

JUNE 15th, '81.

SIR: I have the honor to transmit herewith copy of a telegram from the commanding officer at Fort Buford, D. T., dated the 29th ultimo, reporting relative to the removal of Indians to Fort Yates, and stating that he expects more hostiles in from Woody Mountain or Sitting Bull's camp, also asking if a Mr. Legare, who has brought in a number of hostiles and fed them en route, can not be re-imbursed.

A similar copy is also furnished this day to the honorable Secretary of State.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

The honorable the SECRETARY OF THE INTERIOR.

While claimant was en route with Sitting Bull and 200 of his followers, Major Brotherton sent out a train to meet him, with the following letter:

FORT BUFORD, DAK.,
Friday, 15th July, 1881.

MR. LEGARE.

DEAR SIR: Your messenger with your good news arrived last night. I sent out a train this morning with rations, at your request. I send a few soldiers to take care of wagons on the road; did not send an officer, as I thought from your letter that you did not want any. The men in charge will be directed to report to you so that you can dispose and issue the rations as is best. Have sent a small present for each of the six chiefs, as you wished, which you can give to them. You can say to them that I am told by the department commander to say to them all, Sitting Bull included, that they will be well treated here, and they need fear nothing in coming in. Wagons will travel as fast as they can towards you. Shall be glad to see you when you get here.

D. H. BROTHERTON,
Maj. 7th Inf'y, Commanding.

Mr. J. L. LEGARE.

On August 30, 1881, Major Brotherton wrote to the Assistant Adjutant-General as follows:

FORT BUFORD, DAK.,
Aug. 30, 1881.

ASST. ADJ'T GENL.,
Dept. Dak., Fort Snelling, Minn.:

SIR: I have the honor to state that I have delayed answering dispatch of the 5th inst., referring to the amount of compensation that should be allowed Mr. Louis Legare for his services in bringing in to this post Sitting Bull and other Sioux Indians until I had again heard from him as to the prospect of his being able to bring in the remainder.

Mr. Legare has been engaged in this business since the early part of May last. It has been followed up by him to the neglect of his business as freighter; he also had to feed these Indians, not only on the way in, but also for some time before they came in. The total number brought in by him, including those under Sitting Bull, numbered two hundred and thirty-five. As to the sum to be allowed him as compensation for his services, taking into consideration the amount expended by him, and the importance of his service to the Government, eventuating in the surrender of Sitting Bull, I do not think that two thousand dollars would be too large an amount to allow him; this would probably cover all loss to him, and allow him a reasonable *bonus* besides, which I certainly think he deserves. My estimate is based not only on my personal knowledge of the facts, but from all that I could learn from others as to the value of the services rendered and the amount of loss incurred by Mr. Légaré.

Very respectfully, your ob't servt,

D. H. BROTHERTON,
Maj. 7th Inf'y, Commanding.

[1st endorsement.]

HEADQRS. DEPT. OF DAKOTA,
Fort Snelling, Minn., Sept. 12, '81.

Respectfully forwarded to Headquarters Military Division of the Missouri, approved. Mr. Legare has performed very valuable services, as stated within by Major Brotherton, in connection with bringing in Sitting Bull and his followers, and I think the sum proposed is a fair and equitable compensation to him therefor. So far as I am aware, no compensation was promised Mr. Légaré.

ALFRED H. TERRY,
Brigadier-General, Commanding.

[2d endorsement.]

HEADQUARTERS MIL. DIV. OF THE MISSOURI,
Chicago, Sept. 15, 1881.

Respectfully forwarded to the Adjutant-General of the Army.

P. H. SHERIDAN,
Lieut. General, Commanding.

[Third indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, Sept. 20, 1881.

Respectfully submitted to the Secretary of War, with copy for the Department of the Interior.

W. T. SHERMAN,
General.

Claimant brought suit in the Court of Claims, and under the rules of that court had the testimony in support of his claim regularly taken. The court dismissed his petition on the ground that no contract existed between him and the United States.

We incorporate the opinion of the court in this report:

[Jean Louis Legare v. The United States.]

OPINION.

Weldon, J., delivered the opinion of the court:

This claim is founded upon a condition of facts incident to return of "Sitting Bull" and his warriors to the United States from Canada in the year 1881, preparatory to their surrender as a part of the force engaged in the battle of "Little Big Horn," in which General Custer was killed. The claimant is a citizen of the Dominion of Canada and resided at the time of said return at Willow Bunch, Wood Mountain, which is situated in the Province of Manitoba, about 150 miles north of Fort Buford, in the Territory of Dakota.

The following are the material allegations of the petition on which the claimant seeks to recover:

2. That during the years of 1881 and 1882, after the escape of "Sitting Bull" and his band of Indians from the United States, petitioner, by the direction of the commander of the post of the United States Army at Fort Buford, Dakota, undertook to secure the return and surrender to the United States of said Indians, which undertaking he accomplished; that for said work he claims from the United States for money expended, stores and supplies furnished, and for services rendered on behalf of defendant, the sum of thirteen thousand four hundred and twelve (\$13,412) dollars. An itemized bill of his claim is as follows:

(1) 1881, April 20. Provisions, tobacco, and pipes furnished "Sitting Bull" and followers	\$350.00
(2) Transportation and board for Indians, from Wood Mountain, Canada, to Ft. Buford, Dakota Territory, 150 miles, at \$32 per Indian:	
1881, April 26, 16 Indians	512.00
1881, May 22, 32 Indians	1,024.00
1881, July 11, 200 Indians	6,400.00
(3) Transportation and board of Indians from Ft. Buford, Dakota, to Wood Mountain, Canada, 150 miles, at \$32 per Indian:	
1881, May 4, four Indians	128.00
1881, June 1, three Indians	96.00
1881, July 19, one Indian	32.00
(4) Provisions furnished 12 lodges of Indians, about 50 or 60 persons, from April 26 to July 2, 1881	990.00
(5) 1881, July 2. Provisions and tobacco furnished "Sitting Bull" and followers, 300 Indians	225.00
(6) 1881, July 3. Twelve sacks of flour furnished "Sitting Bull" and three headmen, at \$12	144.00
(7) 1881, July 11. One revolver to Sitting Bull	15.00
(8) 1881, July 11. One looking-glass for "Sitting Bull"	25.00
(9) 1881, July 11. To one lodge	12.00
(10) 1882, April 12. Board and clothing for one Indian, 9 months, at \$40 ..	360.00
(11) 1882, April 20. One year's services	3,000.00
(12) 1882, April 22. One pony, turned over to scout	45.00
(13) Use of pony from Aug. 25, '81, to Apr. 22, '82	54.00
Total amount claimed	13,412.00

Conceding the right of the post commander to make a contract, binding on the United States, for the services and supplies alleged, the petition is deficient in not alleging such a contract.

But as no point has been made by the defense on the sufficiency of the pleading we have considered the claim on its merits.

In the decision of this case it is not necessary to examine the right of the post commander to make a contract, such as is attempted to be alleged in the petition, as the facts found do not warrant the legal inference that a contract was made.

The eighth finding discloses the negotiations and understanding of the parties. Major Brotherton, acting on behalf of the United States, told said claimant that he (Brotherton) had no authority to contract on behalf of the United States to pay him for services rendered or supplies furnished the Indians during their return; but that he thought the Government would pay him a reasonable compensation for his time and supplies furnished the Indians; and that statement was received by claimant without dissent or objection.

That finding disposes of the claim as a legal demand against the United States, cognizable in this court, in this form of proceeding.

It will also be seen by the date of the services and the furnishing the supplies, that the statute of limitations had barred the most of the claim when the suit was commenced.

It is the judgment of the court that the petition be dismissed.

While it may be true that this case does not constitute a legal demand against the United States, yet your committee is of the opinion, from an examination of the record in the case, that the claimant rendered valuable service to the United States in causing the surrender of these hostile Indians, and in bringing to a close the Sioux Indian war.

It was due to the claimant's services and expenses that Sitting Bull and his band of Indians were induced to quit Canada and return to the United States and surrender to the military authorities.

It was at the instance of Major Brotherton, commander of the post at Fort Buford, Dakota, that claimant undertook the surrender of these Indians to the United States. They had become the subject of diplomatic correspondence between the Canadian Government and the United States.

The President, at the suggestion of the Canadian authorities, appointed a commission to visit these Indians and negotiate their peaceful return to the United States. This commission failed of its purpose. Various agencies were employed to secure the surrender of these hostile Indians by the officers of the United States Army. One, Allison, undertook the work under employment of Major Brotherton, in 1879, but failed. Major Crozier, commander of the Canadian mounted police, in conjunction with Major Brotherton, undertook the work, but failed. Then Major Brotherton sought the services of claimant, who successfully accomplished the delicate mission required of him.

General Terry, in his annual report for the year 1881, found in volume 1, Report of Secretary of War, 1881, p. 100, throws considerable light on the importance of the work Legare accomplished. He says:

My annual reports for the last five years contain a history of these hostilities, and it is unnecessary to do more than to refer to them now.

It will be recalled that at the date of my last report, notwithstanding the fact that large numbers of the hostile Indians had from time to time surrendered at Fort Keogh, a considerable body of them under the leadership of Sitting Bull remained in the northwestern British provinces, just beyond the boundary line, and constituted a constant menace to the peace of the border. Their number was sufficiently great to make them formidable, if not to our troops at least to the settlers in northern Montana and in the valley of the Yellowstone, and to their flocks and herds. Moreover, their attitude and position offered a great temptation to the dissatisfied and turbulent among the agency Indians of their nation to break loose from the control to which they are obliged to submit at their agencies and return to a wandering and predatory life. It was therefore extremely desirable that they should be brought into subjection in some manner. Though parties of them were frequently on our side of the line, it was nearly useless to send troops in pursuit of them, for their safe refuge on foreign territory was always so close at hand that their escape to it was all but certain.

Under these circumstances, in September, 1880, Maj. D. H. Brotherton, of the Seventh Infantry, commanding at Fort Buford, reported that the interpreter employed at his post, Mr. E. H. Allison, possessed great influence with the hostile Sioux, and could go among them with safety, and he suggested that Allison put himself in communication with Sitting Bull and other chiefs, and endeavor to induce them to return

to this country and surrender upon the terms upon which other bands of the hostile Sioux had surrendered.

Authority to send out Allison for this purpose was given, and he made several visits to those of the hostile Indians who were accessible to him. Protracted negotiations followed, and frequent promises to return and surrender were made by the Indians, but many excuses for delay were made, and the specific promises made were broken as often as they were made.

In the mean time, upon the application of the Indian agent at the Poplar River Agency for military protection, two companies of the Eleventh Infantry, under command of Capt. O. B. Read, of that regiment, were sent to that place with orders to establish a cantonment. These companies reached their destination on the 12th of October. They immediately commenced the construction of huts for shelter during the winter that was to follow.

As a consequence of Allison's negotiations, numerous parties of the hostile Indians arrived at Poplar River during the month of November and the early part of December until, finally, a considerable body of them had collected. When they first arrived they professed the most peaceable sentiments and announced their intention to proceed on to Fort Buford and surrender to the commanding officer of that post, but as their numbers were increased by successive arrivals they became turbulent and arrogant; they no longer held out promises to surrender; they even assumed a threatening attitude towards the garrison. Under these circumstances it became necessary to re-enforce the troops at the post.

* * * * *

On the 19th of July Sitting Bull came into Fort Buford and gave himself up. With him surrendered 187 souls, men, women, and children. On the 29th day of July these Indians were sent by steamer to Fort Yates. * * * It is understood that there are still some thirty-five families of Sioux at Wood Mountain and Quappelle. With this exception, all of the hostile Sioux are in the hands of the Government, and those who remain in the British provinces are too few in number and too much broken in spirit to leave room for apprehension of annoyance from them.

Claimant formed his plan to surrender these Indians, to the United States, soon after they came to his place. He then told Sitting Bull that he would feed them if they would surrender.

His statement of his expenses is corroborated by the testimony of other witnesses. He was a man of character and property. DeDonald, the British officer, who was in command of the Canadian police, after an acquaintance of twelve years, says:

Without exception he is the most honest man I ever met. I don't think he is capable of doing a dishonest act.

It is shown that he gave these Indians feasts and made them presents of flour and other articles to induce them to treat. It is a well-known fact that negotiations with the Indians are inaugurated by the giving of presents to the head men, or by feasts. As the claimant expresses it, the only way to get an Indian to do what you want is to feed him well. The Indian is not the only race that a good dinner influences. It is an important adjunct in all diplomatic negotiations, and large co-operative business ventures are generally launched under the good feeling effected by a satisfying meal.

If the amount of his claim seems large, the character of the work he was engaged in and the race of people with whom he was dealing, must be borne in mind.

Major Brotherton, when asked by his superior officer as to the amount Legare should receive, fixed the sum at \$2,000 or \$3,000. But it is clear from the testimony that he did not take into consideration the amount of expense to which claimant had been put in accomplishing the surrender.

Major Brotherton in his report to the adjutant-general Department Dakota, August 30, 1881, says:

That he (claimant) had been engaged in this business since the early part of May last. It has been followed up by him to the neglect of his business as freighter. He also had to feed these Indians, not only on the way in, but also for some time before they came in.

McDonald, who commanded the Canadian police force in the Northwest Territory, says that he depended on claimant's influence with Sitting Bull. That the other traders in the country were trying to prevent the surrender. That previous to Legare taking hold of it, every possible means had been taken to bring about the surrender but failed. That during his negotiations for the surrender Legare fed the Indians, and that from his talk with Major Brotherton he understood that Legare would be liberally dealt with by the American Government.

The large sums that had been spent by the Government and the anxiety of the American Government to end the Sioux campaign, led the claimant to go to the expense he did with the expectation that he would be liberally dealt with.

For these reasons your committee are of the opinion that claimant should be re-imbursed for his expenses and paid for his services.

But they are of the opinion that the prices charged for the supplies furnished and the services rendered are above the average price, and have reduced the amount claimed, and report back the bill with the following amendment: In line three strike out "\$13,412," and insert "\$9,000," and as amended recommend its passage.