

SHERMAN MILES

FEBRUARY 26, 1926.—Committed to the Committee of the Whole House and ordered to be printed

Mr. HILL of Maryland, from the Committee on Military Affairs, submitted the following

REPORT

[To accompany H. R. 9775]

The Committee on Military Affairs, to whom was referred the bill (H. R. 9775) for the relief of Sherman Miles, having considered the same, report thereon with the recommendation that it do pass.

A similar bill was considered by the committee in the Sixty-eighth Congress and was favorably reported to the House February 12, 1925 (Rept. No. 1470), which report is made a part of this recommendation.

[House Report No. 1470, Sixty-eighth Congress, second session]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4713) for the relief of Sherman Miles, having considered the same, report thereon with a recommendation that it do pass.

This is a bill to authorize the Secretary of the Treasury to pay to Maj. Sherman Miles the sum of \$380.55 as taken from his pay at the rate of \$25 per month as a result of a decision of the Comptroller General (1 Comp. Gen. 213). This decision of the comptroller made it necessary for the War Department to enter a stoppage in the sum of \$380.55 against the pay of Major Miles.

This officer was a military attaché at Sofia, Bulgaria, in 1914. He was ordered to Russia as military attaché and observer. On account of the war he was unable to take his furniture and had to store it in Sofia. The cost of storage was \$380.55. This was paid from public funds. The payment was afterwards disallowed by the Auditor for the War Department, because there is no law providing for the storage of personal property of military attachés. On appeal, the auditor's decision was upheld by the Comptroller General. This opinion is made a part of the report for the information of the House.

As the amount was expended by reason of his official duties, the War Department is in agreement with the effort to afford him relief.

The letter of the Secretary of War is made a part of this report, as follows:

MARCH 8, 1922.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,

House of Representatives.

SIR: Referring to your request for a report on H. R. 10177, for the relief of Sherman Miles, the following is submitted:

Major (then First Lieutenant) Miles, while stationed at Sofia, Bulgaria, received orders in October, 1914, to go at once to Russia as military attaché. He was unable on account of the war then existing to ship his household goods to his new station, so his property was stored in Sofia and the amount of \$380.55 was paid from public funds for storage. The Auditor for the War Department disallowed the amount in the accounts of the disbursing officer who made the payment and the Comptroller General (1 Comp. Gen. 213), on appeal, sustained the action of the auditor for the reason that there was no express provision of law for the storage of the personal property of military attachés, such officers being entitled, while on duty, to quarters in kind or to commutation of quarters.

In view of this decision a stoppage of the sum of \$380.55 has been entered against the pay of Major Miles for collection at the rate of \$25 per month. Reimbursement of the full amount disallowed has not yet been made by Major Miles and it is recommended that the language of the bill be changed as follows:

In line 6 eliminate the fifth and sixth words "the sum" substituting therefor "so much of the amount" and inserting after the figures "\$380.55" in line 6, the words "as has been refunded by him."

This officer was, by War Department orders, placed in a place where he was compelled to pay from personal funds a sum of money which should be paid by the Government, and favorable action on the bill is recommended, subject to the change above noted.

This proposed legislation has been submitted to the Director of the Bureau of the Budget, as required by Circular No. 49 of that bureau, and the director advises that this requested legislation is not in conflict with the financial program of the President.

Respectfully,

J. M. WAINWRIGHT,
Acting Secretary of War.

The comptroller's decision in this case is as follows:

GENERAL ACCOUNTING OFFICE,
Washington, October 13, 1921.

C. E. Gray, captain, Finance Department, applied September 29, 1921, for revision of the action of the Auditor for the War Department in disallowing in settlement No. 63924, dated March 21, 1921, items in his disbursing accounts aggregating \$380.55 as payments made to Schenker & Co., Sofia, Bulgaria, for the storage of the household effects of Sherman Miles, military attaché, from January 1, 1917, to June 30, 1918.

It appears that Sherman Miles, then a first lieutenant, Field Artillery, was stationed at Sofia, Bulgaria, in October, 1914, as a military attaché when he received cable orders to go at once to Russia as military attaché. On account of war then prevailing in Europe, it is alleged that the household goods could not be shipped to Russia, and as Bulgaria entered the World War against Russia in 1915 that the military attaché could not return to Sofia to dispose of his property. Miles sublet his house and his property remained therein until in September, 1915, when it was packed and removed under the superintendency of his friends to a place of storage, where the charge therefor was \$16.38 a month. It further appears that on August 5, 1916, Sherman Miles, then a lieutenant colonel, on duty in the United States, addressed the Quartermaster General of the Army to the effect that his property was stored in Sofia by reason of the conditions of the military service and that he thought the Government should bear the cost of the storage. This communication was referred to the Secretary of War, who, apparently, approved the payment of the storage from public funds, and the claimant, as disbursing officer, paid the storage for the period January 1, 1917, to June 30, 1918, from the War Department appropriations for barracks and quarters.

It has been held (24 Comp. Dec. 673) that an Army officer on duty as a military observer and entitled to quarters in kind or commutation in lieu thereof is not entitled to have his personal property stored at the expense of the United States even though the exigencies of the service may have necessitated such storage.

There is no express provision of law for the storage of the property of military observers or military attachés when they are ordered to make a permanent change of station any more than there is an express provision of law providing for the storage of the personal property of any other Army officer who is ordered to make a permanent change of station. The Government, under certain conditions, either furnishes quarters in kind or pays commutation in lieu thereof and transports when a permanent change of station is made, the regulation allowance of baggage. Otherwise, the officer himself must bear any expense connected with his quarters or his personal property.

The authority of the Secretary of War to lease buildings or parts of buildings for military purposes in time of war or when war is imminent contained in the act of July 9, 1918 (40 Stat. 861), only extends to the District of Columbia and hence does not apply to his approval in August, 1916, of the lease of storage space in Sofia, Bulgaria. Neither does the act of March 4, 1915 (38 Stat. 1063), authorize such approval for the rental of the storage space, for the storage of a military attaché's personal property is not necessary for obtaining military information when that military attaché is entitled to either quarters in kind or commutation in lieu thereof.

Upon review of the matter no differences are found and the settlement is sustained.

J. R. McCARL, *Comptroller General.*

A true copy.

C. E. GRAY,
Captain Finance Department.

Inasmuch as the amount of \$25 per month was taken from Major Miles's pay, he has completed payment of the full amount. Accordingly the amendments suggested in the War Department letter written in 1922 are not necessary, according to the information from the office of the Chief of Finance.

Under the circumstances, your committee believe the relief afforded by this bill should be granted.

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